

**MANAGEMENT AGREEMENT  
FOR THE  
ANCHORAGE MUSEUM OF HISTORY AND ART**



This Agreement is made as of December 19, 2005, by and between the MUNICIPALITY OF ANCHORAGE, an Alaska municipal corporation (the "Municipality"); and ANCHORAGE MUSEUM ASSOCIATION, an Alaska nonprofit corporation ("AMA");

WHEREAS the Municipality owns and operates the Anchorage Museum of History and Art (the "Museum") located on the following described property:

Lot 1, Block 73A, ANCHORAGE TOWNSITE, according  
to Plat No. 2004-3;

situated in the Anchorage Recording District, Third Judicial District, State of Alaska (the "Land");

WHEREAS AMA changed its organizational structure as of June 3, 2005, and since then has managed the Museum under Municipality supervision;

WHEREAS AMA has for many years prior to its change in structure raised substantial funds in support of the Museum, operated the Museum shop, café, and other commercial activities within the Museum, and participated in management of Museum operations;

WHEREAS it is in the best interests of the Municipality and the community to consolidate management and operation of the Museum under a board of directors broadly representative of the community and with authority to establish long-term plans and policies for the Museum; and

WHEREAS the parties desire to work cooperatively in accordance with the terms and conditions set forth herein to provide ever improving Museum experiences to the community, subject to approval of the Anchorage municipal assembly ("Assembly");

ACCORDINGLY IT IS HEREBY AGREED AS FOLLOWS:

1. **Definitions.** In addition to the terms defined above, the following terms have the following meanings for purposes of this Agreement.

1.1. "Collection" means all objects, specimens, artifacts, photos, books, maps, and other holdings of artistic, ethnographic, historical, or educational value for

collection, exhibition, education, or research use, as identified on inventories conducted by the Municipality on or prior to the Effective Date, together with all accessions thereto, exclusive of such holdings loaned to or borrowed by the Museum.

1.2. "Commercial Premises" means those portions of the Museum which are rented or leased for commercial activities.

1.3. "Contract Administrator" means the Executive Director of the Department of Economic and Community Development, or his or her designee.

1.4. "Effective Date" means the first (1<sup>st</sup>) day of the seventh (7<sup>th</sup>) month following Assembly approval of this Agreement, or such earlier date as may be agreed upon by the parties.

1.5. "Facilities" means all buildings and other fixtures to the Land, including all repairs thereto, expansions or other improvement thereof, together with all proceeds from any sale or other disposition thereof.

1.6. "Major Maintenance" means any work that is reasonably required to be performed to repair, restore or replace components of the Facility necessitated by any damage, destruction, ordinary wear and tear, defects in construction or design, or any other cause, to the condition required for consistency with its intended use and occupancy. A work of Major Maintenance is intended to extend the useful life of the Facility. For example, the replacement of shingles on a roof would be ordinary maintenance, whereas the replacement of the entire roof would constitute Major Maintenance. The replacement of worn carpet tiles is ordinary maintenance, whereas, the replacement of the entire carpet with new carpet or a different floor covering would constitute Major Maintenance.

1.7. "Personal Property" means all items of tangible personal property, other than property in the Collection and inventory of the Museum store, from time to time located in or on the Facilities and used by the Museum, whether now owned or hereafter acquired, together with all repairs, improvements, replacements, and proceeds thereof.

## 2. Management of Museum.

2.1. **Management Responsibilities.** AMA shall manage and operate the Museum, including the care and supervision of the Collection, Personal Property, and Facilities, as well as the supervision of all activities, all personnel, and all educational, informational, and research programs of the Museum, all in accordance with the Museum's mission set forth in Exhibit A and standards

generally applicable to publicly owned museums managed by nonprofit organizations. Without limitation of the foregoing, AMA shall:

- a. Identify, catalog, preserve, and display the Collection;
- b. Initiate and host exhibits and displays of materials from other institutions, and lend, if appropriate, materials to qualified institutions for display;
- c. Apply for and accept endowments, grants, and gifts from individuals and organizations;
- d. Collect and maintain books, periodicals, pamphlets, and other materials pertinent to museum administration, techniques, and collections; and
- e. Enter into agreements with other institutions to accept suitable materials for display or to provide facilities for preservation of materials or studies which complement the Museum's mission.

**2.2. Promotion of the Arts, History and Science.** AMA shall develop feasible projects that will further the development of the fine arts and preserve documents and objects of a historical nature for the benefit of the Anchorage community, and coordinate, aid and plan with or between educational institutions, community groups, artists, or interested persons to develop the fine arts or projects involving the acquisition, display, or preservation of documents or objects of a historical nature.

**2.3. Accreditation.** AMA shall at all times comply with all museum practices and requirements of the American Association of Museums for accreditation and reaccreditation of the Museum.

**2.4. Fiscal Responsibilities.** AMA shall operate the Museum on a fiscally sound basis. All funds required by AMA to perform its obligations under this Agreement in excess of the Municipality contributions under section 6 shall be raised by AMA through admission fees, membership dues, concession revenues, fund-raising, grants, distributions from supporting foundations or other organizations, and other sources.

**2.5. AMA Personnel.** AMA shall employ all administrative and staff personnel necessary to perform its obligations under this Agreement.

**2.6. Collection.** Subject to section 4.1, AMA shall care for and supervise the Collection and the exhibition and display of Collection objects in the Museum

and objects on temporary loan, the acquisition and sale or disposition of Collection objects, and all other matters pertaining to the general care and supervision of the Collection.

**2.7. Commercial Premises.** AMA shall manage and operate the Commercial Premises. All use or lease agreements for the Commercial Premises shall be for a term not to exceed five (5) years unless the Contract Administrator agrees in writing to a longer term; PROVIDED all such agreements must expire no later than three (3) years after any termination of this Agreement under section 5, and AMA shall not enter any such agreement at any time after it has received notice that the Municipality intends to terminate this Agreement under section 5 or 10. Each such agreement shall contain a provision stating that the Municipality has the right to designate the successor in interest to AMA in the event this Agreement is terminated by either the Municipality or AMA. All such agreements, including those whose term will extend beyond the expiration of this Agreement, shall be for fair market value and subject to approval of the Contract Administrator.

**2.8. Policies and Procedures.** AMA shall submit its collections policy to the Contract Administrator for review and approval within ninety (90) days of the Effective Date. Such policy shall not be inconsistent with the policies of the Municipality and may not be amended, altered, or changes without the prior approval of the Contract Administrator.

**2.9. Compliance with Laws.** AMA will comply with all federal, state, and municipal laws, regulations, and ordinances pertaining to or affecting operation of the Museum, supervision of the Collection, and management of the Personal Property and Facilities, including the handling and disposal of food, beverages, tobacco, alcohol, and other goods and merchandise, and AMA shall procure and keep in force all permits and licenses required by such laws, regulations, and ordinances.

**2.10. Cooperation.** AMA and the Municipality acknowledge that the terms of this Agreement provide for a long-term relationship between them and that certain unanticipated events may require modification of this Agreement, and both parties agree to work together, in good faith, to develop mutually agreeable modifications as required.

### **3. Management of AMA.**

**3.1. AMA Purposes; Dissolution.** AMA shall be organized exclusively for the purpose of managing, operating, and supporting the Museum and undertaking all activities incident and related thereto. Upon dissolution, AMA

shall distribute all its assets to the Municipality for purposes of continued management of the Museum, SUBJECT TO any written restrictions of any donor on the use or disposition of such assets, which restrictions the Municipality will acknowledge and agree to perform, or if such distribution fails for any reason not caused by AMA, then to an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, designated by the Municipality and organized and operated exclusively for the foregoing purposes.

**3.2 AMA Directors.** All AMA's powers shall be exercised by or under the authority of, and all affairs of AMA shall be managed by a board of directors with broad community representation. The Mayor shall appoint one director to serve as an *ex officio* member who is not entitled to vote nor counted for purposes of determining a quorum, but who is entitled to receive notice of and participate in all meetings of the board and to inspect all books and records of AMA.

**3.3 AMA's Operations.** AMA shall at all times comply with the following:

- a. All requirements for qualification as an organization described in sections 170(c)(2) and 501(c)(3) of the Internal Revenue Code of 1986, as amended; and
- b. All ethical standards and principles set forth in the Code of Ethics of the American Association of Museums, including the ethical guidelines based thereon, as amended.

**3.4 AMA's Governing Documents.** AMA shall maintain its articles of incorporation, bylaws, and minutes of board meetings consistent with the provisions hereof.

**3.5 Public Disclosure.** For purposes of public disclosure, AMA shall at all times maintain on file with the Contract Administrator true and correct copies of its certificate and articles of incorporation and amendment, bylaws, and minutes of meetings; its letter(s) of determination of tax exempt status issued by the Internal Revenue Service; and all income tax returns filed with the Internal Revenue Service or the State of Alaska; together with all amendments thereto.

#### **4. Property.**

**4.1 Collection.** The Collection, together with all additions thereto, is and shall remain the property of the Municipality to be held in trust for the public benefit.

a. All acquisitions by AMA shall immediately become property of the Municipality to be included in the Collection and held in trust for the public benefit. AMA shall account for and inventory the entire Collection in accordance with the Municipality's Policy and Procedure 24-13, as amended from time to time, and the Municipality may periodically audit the inventory and inspect the Collection.

b. All acquisitions for the Collection shall be in accordance with AMA's collections policy, with notice thereof to the Contract Administrator within ten (10) days thereafter. All deaccessions from the Collection shall be approved by the Contract Administrator prior thereto. All proceeds realized from the sale or other disposition of deaccessioned objects shall be deposited in segregated AMA account(s), designated as the Museum acquisition fund(s), and AMA may withdraw from such fund(s) only for acquiring objects for the Collection. The provisions of Anchorage Municipal Code titles 6 and 7 shall not apply to any acquisition or deaccession to or from the Collection nor to the aforementioned Museum acquisition fund(s).

c. Notwithstanding anything herein to the contrary, all holdings of artistic, ethnographic, historical, or educational value which are either loaned to or borrowed by the Museum shall remain the property of the owner(s) thereof, subject to the terms and conditions of any agreement with such owner(s).

**4.2. Personal Property.** All Personal Property owned by the Municipality as the Effective Date is and shall remain the property of the Municipality, and all other items of tangible personal property, except inventory of the Museum store, acquired by AMA and used in connection with the Museum shall immediately become the property of the Municipality and be treated as Personal Property hereunder. AMA shall identify and inventory all items of Personal Property in accordance with the Municipality's Policy and Procedure 24-13, as amended from time to time, and the Municipality may periodically audit the inventory and inspect the Personal Property. AMA shall maintain and repair the Personal Property in good condition, reasonable wear and tear excepted.

**4.3. Facilities.** The Facilities shall continue to be owned by and be property of the Municipality subject to the provisions hereof.

a. AMA shall have exclusive use and possession of the Facilities for purposes of managing and operating the Museum, including activities incident or related thereto; PROVIDED the Municipality retains the following access to the Facilities as necessary or appropriate:

- i. To perform its obligations under this Agreement and under the Anchorage Municipal Charter and Code, including its police powers;
  - ii. To expand or improve the Facilities, using its best efforts to minimize interference with the continued operation of the Museum; and
  - iii. To use the Facilities for Municipality events and functions at such times and such periods as do not unreasonably interfere with the general operation of the Museum or any events or functions scheduled by AMA.
- b. Except as provided in section 6.4, AMA shall provide and pay for all cleaning and janitorial, heating and air conditioning, electrical, water, and solid waste utilities, plus security, grounds maintenance, and snow removal.
- c. Except as provided in section 6.4, AMA, at its expense, shall maintain and repair the Facilities in good condition, reasonable wear and tear excepted, including performance of all routine maintenance and repairs of all HVAC, electrical, plumbing, and other mechanical systems, replacement of broken glass, landscaping and grounds maintenance.
- d. The Municipality, at its expense, shall retain responsibility for Major Maintenance of the Facility and any expansion or improvement thereof; PROVIDED AMA, at its expense, shall perform all Major Maintenance caused or necessitated by its use of the Facilities or operation of the Museum.
- e. AMA may not make any structural changes, additions, or modifications of the Facilities without the Contract Administrator's prior approval of all designs, drawings, plans, and specifications.

5. **Term.** The term of this Agreement commences as of the Effective Date and shall continue indefinitely thereafter unless terminated pursuant to the provisions of section 10. Notwithstanding the foregoing, either party may notify the other party at any time after December 31, 2012, of its desire to amend any one or more of the terms and conditions of this Agreement, in which event the parties shall promptly commence good faith negotiations; PROVIDED if the parties fail to reach agreement on any such amendment within ninety (90) days of the date negotiations commence, this Agreement shall terminate five (5) years after the date of the aforementioned notice; PROVIDED, FURTHER, if the parties fail to reach such agreement, but if the

Municipality agrees to assume and perform all of AMA's costs and liabilities incurred as of the date of the aforementioned notice plus all of its costs and liabilities incurred thereafter in the ordinary course of performing its obligations under this Agreement, the Municipality may terminate this Agreement upon ninety (90) days notice to AMA.

## 6. Contributions.

**6.1. Annual Appropriations.** The Municipality shall provide an annual budget appropriation to AMA to contribute to the operations of the Museum.

- a. For calendar year 2006, the budgeted amount shall be THREE MILLION SIX HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED FIVE DOLLARS (\$3,633,305).
- b. For calendar year 2007 and each subsequent calendar year, the budgeted amount shall be THREE MILLION SIX HUNDRED THIRTY-THREE THOUSAND THREE HUNDRED FIVE DOLLARS (\$3,633,305), as adjusted for any increase in the U. S. Department of Labor consumer price index for Anchorage over the prior fiscal year, plus the average percentage growth or loss in the Anchorage population over the prior five (5) calendar years, all as computed in accordance with Anchorage Municipal Code 12.25.040A or its successor.
- c. All appropriations under this Agreement are subject to Assembly action, and failure of the Assembly to appropriate any budgeted amount shall not constitute a default of this Agreement.

**6.2. Reductions and Transfers.** Notwithstanding the foregoing, the Municipality reserves the right, pursuant to Anchorage Municipal Charter section 13.06, to reduce any amount appropriated to AMA and transfer the unencumbered balance thereof. The Municipality's decision shall be final and binding upon the parties.

**6.3. Payment.** Amounts appropriated for any fiscal year shall be paid to AMA as follows:

- a. The amount appropriated for 2006 shall be paid to AMA as follows:
  - i. FOUR HUNDRED THOUSAND DOLLARS (\$400,000) on or about January 10, 2006;
  - ii. THREE HUNDRED THOUSAND DOLLARS (\$300,000) on or about the Effective Date; EXCEPT if the Effective Date is after May 1, 2006, the Municipality shall pay to AMA such amounts

from time to time throughout the remainder of 2006 as (a) necessary to pay AMA's reasonable operating expenses not payable from other sources, but (b) not exceeding the balance of the amount appropriated for 2006 net of all amounts referred to in section 6.3.a.iii incurred or anticipated to be incurred in 2006; and

iii. the balance of such amount, net of

a. All costs or liabilities incurred by the Municipality in operating the Museum prior to the Effective Date, including all intragovernmental charges to the Museum properly allocated to periods prior to the Effective Date, as determined by the Municipality;

b. All costs and liabilities of the Municipality associated with the termination or layoff of Municipality employees working at the Museum as of the Effective Date, other than any Public Employees' Retirement System of Alaska liabilities related to such employees, not exceeding EIGHT HUNDRED SIXTY-SIX THOUSAND DOLLARS (\$866,000); plus

c. ONE HUNDRED THOUSAND DOLLAR (\$100,000) retainage to cover any such costs or liabilities arising after the Effective Date;

within thirty (30) days after the Effective Date, and any balance of such retainage shall be paid to AMA within thirty (30) days after closing of the Municipality's books and records for 2006.

b. Amounts appropriated for 2007 and subsequent years shall be paid to AMA in four (4) equal quarterly installments payable on January 10, April 1, July 1, and October 1 of each calendar year.

#### **6.4. Municipal Services.**

**6.4.1. Municipal Products & Services.** Except as provided in section 6.4.2, the Municipality shall provide such products and services within its capacity as reasonably requested by AMA in order to operate and manage the Museum as provided herein through December 31, 2007, for the Municipality's applicable intragovernmental charge therefor. Amounts incurred hereunder shall be billed quarterly and shall be offset against the next payment of amounts appropriated hereunder.

**6.4.2. Facilities Maintenance & Utilities.** The Municipality shall provide all cleaning and janitorial, heating and air conditioning, electrical, water, and solid waste utilities, plus security, grounds maintenance, and snow removal for the Facilities, exclusive of horticulture and landscaping, and maintain and repair the Facilities in good condition, reasonable wear and tear excepted, for the following periods and for the following amounts:

a. Commencing as of the Effective Date through December 31, 2006, for the amount of EIGHT HUNDRED EIGHT THOUSAND EIGHT HUNDRED THIRTY DOLLARS (\$808,830), prorated as of the Effective Date; and

b. For calendar year 2007, for the amount of EIGHT HUNDRED EIGHT THOUSAND EIGHT HUNDRED THIRTY DOLLARS (\$808,830), as adjusted in the same manner set forth in section 6.1 b; PROVIDED AMA may elect not to have the Municipality provide such services in calendar year 2007 by notice to the Municipality on or before July 1, 2006, it being understood that the Municipality will provide such services unless such notice is given to the Municipality on or before such date, TIME BEING OF THE ESSENCE.

The aforementioned amounts shall be offset proportionately in advance against payments under sections 6.3.a.iii and 6.3.b. The parties shall meet not less frequently than quarterly to review the Municipality's services to be rendered hereunder; PROVIDED the level and timing of such services shall be determined by the Municipality.

**6.5. Political Contributions.** AMA shall not expend any amount paid to it under this Agreement to influence the outcome of any election of a candidate for state or municipal office, or the outcome of any ballot proposition or question.

## **7. Reporting; Books and Records.**

**7.1. AMA Operations Plan and Budget.** No later than July 1 of each year, AMA shall, in consultation with the Contract Administrator, prepare and submit to the Contract Administrator an operating plan and budget for the following calendar year.

a. The operations plan shall include information regarding AMA's anticipated operations for the following fiscal year, including any

specific events or activities, with projected costs, services, and revenues thereof; any planned promotional and development activities; planned maintenance activities and capital expenditures; any changes in board membership or structure or management personnel anticipated for the following fiscal year.

b. The proposed budget shall set forth detailed estimates of revenues and expenses in such categories and format, including such worksheets and schedules, as determined by AMA and acceptable to the Contract Administrator.

Such consultation shall include disclosure of all backup or supporting information and making AMA personnel available to meet with the Contract Administrator and answer questions regarding the proposed operating plans and budgets.

AMA may, again in consultation with the Contract Administrator, amend any operation plan and budget at any time it deems proper to reflect changes in its operations, revenues, or expenses. Notwithstanding the authority granted herein to AMA to the contrary, AMA shall take no action which would materially and adversely affect the Municipality or the general public.

**7.2. Reporting.** AMA shall provide the Contract Administrator with such reports as the Contract Administrator may request from time to time, including:

- a. Quarterly and cumulative statements of revenues, including earnings and contributions, and expenses, actual and budgeted, within thirty (30) days after the end of each calendar quarter.
- b. Annual audits prepared by an independent certified public accounting firm, no later than June 30 of the following fiscal year.
- c. All income tax returns filed with the Internal Revenue Service or the State of Alaska; together with all amendments thereto, no later than thirty (30) days after filing.

Supporting documentation and schedules may be required with the foregoing reports. Additional reports shall be submitted upon reasonable request of the Contract Administrator.

**7.3. Accounting.** AMA shall maintain its books and record according to generally accepted accounting principles acceptable to the Contract Administrator.

**7.4. Inspection of Books and Records.** The Municipality shall be entitled to inspect the books and records of AMA, excluding records identifying individual donors, at any time upon reasonable notice.

**7.5. Record Retention.** AMA shall establish a program for the management, retention, preservation, and disposal of records; PROVIDED such records shall not be disposed of prior to the date(s) specified in the Municipality's master retention schedule as approved from time to time by the Assembly under Anchorage Municipal Code chapter 3.95, as may be amended.

## **8. Insurance.**

**8.1. AMA Insurance.** AMA shall maintain in good standing the following insurance:

- a. \$500,000 employer's liability and workers' compensation as required by Alaska law.
- b. Commercial automobile liability per occurrence in the amount of \$1,000,000 single limit, including owned, hired, and non-owned vehicles.
- c. Commercial general liability in the amount of \$5,000,000 combined single limit, including the following endorsements:

- Premises Operations
- Products and Completed Operations
- Blanket Contractual
- Broad Form Property Damage
- Independent Contractors
- Personal Injury

Each policy of insurance shall name the Municipality as an additional insured and provide for no less than thirty (30) days advance notice to the Municipality prior to cancellation. Before rendering any services under this Agreement, AMA shall provide a certificate to the Municipality evidencing such insurance. AMA need not maintain casualty insurance on the Facilities.

**8.2. AMA Bonding.** AMA shall also execute and deliver a blanket fidelity bond covering AMA's employees and any other persons responsible for handling, collecting, or remitting funds in a sum appropriate to the level of projected receipts to be handled under standard museum practice. Before rendering any services under this Agreement, AMA shall provide a certificate to the Municipality evidencing such bond coverage.

**8.3. Municipality Insurance.** The Municipality shall maintain a fine arts insurance policy on the Collection, incoming loans, and objects in the temporary custody of the Museum. AMA shall cooperate with the Municipality and its insurers regarding all claims and administrative matters relating to such insurance.

**9. Indemnification.** AMA shall defend, indemnify, and hold the Municipality harmless for, from and against any claim, loss, liability, damage, or expense, including fees of public and private counsel, arising out of or related to AMA's management and operation of the Museum and Facilities and its care and supervision of the Collection on and after the Effective Date, other than those claims, losses, liabilities, damages, or expenses arising out of or related to the negligence of the Municipality or its employees. This provision shall survive any termination of this Agreement.

## **10. Expiration and Termination.**

**10.1. Events of Termination.** This Agreement may be terminated in any one or more of the following events:

- a. By mutual consent of the parties;
- b. By AMA if any amount appropriated to AMA hereunder is materially reduced pursuant to section 6.3;
- c. By the Municipality if AMA takes any action that materially and adversely affects the Municipality or the general public; or
- d. By either party in the event the other party defaults or otherwise fails to perform or comply with any terms, conditions, or covenants of this Agreement;

PROVIDED the party terminating this Agreement under subsections b, c, or d shall first give notice to the other party specifying the grounds for termination, and if the other party cures such grounds for termination within ninety (90) days of the date of the notice, or if such grounds may not be cured with such ninety (90) days, but such other party commences cure with such ninety (90)

days and diligently pursues cure thereafter, this Agreement may not be terminated on the specified grounds.

**10.2. Expiration or Termination.** Upon expiration of this Agreement or any earlier termination thereof, AMA shall either surrender, assign, or deliver the following property to the Municipality or its designee:

- a. Surrender the Collection;
- b. Surrender the Personal Property and all other equipment and furnishings acquired by AMA and used in connection with Museum operations, together with a current inventory thereof, in good condition, reasonable wear and tear excepted, SUBJECT TO any written restrictions of any donor on the use or disposition of the Personal Property and other equipment and furnishings, which restrictions the Municipality will acknowledge and agree to perform;
- c. Surrender the Facilities in good condition, reasonable wear and tear excepted;
- d. Assign all contract rights relating to the Museum, provided the Municipality agrees to perform such contracts;
- e. Deliver the remaining cash and cash equivalent assets and inventory of the Museum store, valued at the lower of cost or market, equal to the reasonably anticipated working capital needs of the Museum over the following twelve (12) months, net of (a) amounts that would be payable to AMA under section 6, but for the expiration or termination of this Agreement, attributable to the aforementioned twelve (12)-month period, and (b) all other revenues of the Museum reasonably anticipated over said twelve (12)-month period, all as determined by the Municipality; SUBJECT TO any written restrictions of any donor on the use or disposition of such cash and cash equivalent assets, which restrictions the Municipality will acknowledge and agree to perform; and
- f. Remove all of its other personal property and vacate the Facilities as of the effective date of expiration or termination.

The Municipality may elect to retain or dispose of any personal property of AMA that AMA does not remove from the Facilities on or before the effective date of expiration or termination by giving AMA not less than ten (10) days notice of such election. Title to any such property that the Municipality elects to retain or dispose of shall vest in the Municipality. AMA waives all claims,

losses, liabilities, damages, or expenses arising out of or related to the Municipality's retention or disposition of such property, and AMA shall be liable to the Municipality for storing, removing, or disposing of AMA's personal property which the Municipality does not elect to retain.

**10.3. Excess Working Capital.** Any cash, cash equivalent assets, or inventory in excess of that referred to in section 10.2.e, but not exceeding AMA's unrestricted net assets as of the Effective Date, shall be retained by AMA if it is then qualified (or has an application therefor pending) as a tax-exempt organization for support of the Museum under sections 501(c)(3) and 509(a)(3) of the Internal Revenue Code of 1986, as amended, together with regulations promulgated thereunder, with any such assets in excess thereof, or if AMA is not then so qualified, then all such assets to be distributed to the Municipality. For purposes hereof, "unrestricted net assets" means all current assets of AMA and inventory of the Museum store, valued at the lower of cost or market, net of all current liabilities of AMA and other liabilities related to such inventory, not restricted in writing by any donor as to use or disposition. Computation of such excess working capital is illustrated in Exhibit B.

## **11. Assignment.**

**11.1. Assignment of Agreement.** AMA may not assign, encumber, or otherwise transfer all or any part of this Agreement without the prior written consent of the Contract Administrator. Any transaction without such consent shall be void.

**11.2. Transfer of Museum Property.** Except as otherwise provided herein, AMA may not convey, assign, encumber, lease, or otherwise transfer all or any part of the Collection, inventory of the Museum store, Personal Property, Facilities, or other property used in connection with the Museum, except in the ordinary course of its operation and management thereof, without the Contract Administrator's prior written consent. Any transaction without such consent shall be void.

## **12. Nondiscrimination.**

**12.1. Nondiscrimination Clause.** AMA will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, age, sex or marital status or who is a "qualified individual with a disability," as that phrase is defined in the Americans with Disabilities Act of 1990. AMA will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, national origin, ancestry, age, sex, marital status or physical or

mental disability. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruiting advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. AMA agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

**12.2. Solicitations or Advertisements.** AMA shall state, in all solicitations or advertisements for employees to work on contract jobs, that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, national origin, ancestry, sex, marital status or physical or mental disability.

**12.3. Reporting Requirements.** AMA shall comply with the reporting requirements which the Municipality's Office of Equal Opportunity may establish by regulation.

**12.4. Subcontracts and Purchase Orders.** AMA shall include the provisions of sections 12.1 through 12.3 in every subcontract or purchase order under this Agreement, so as to be binding upon every such subcontractor or vendor of AMA under this Agreement.

### **13. Miscellaneous.**

**13.1. Notice.** Any notice required or permitted under this Agreement shall be in writing and either hand delivered or sent by certified mail, return receipt requested, to the parties at the following addresses:

To the Municipality:

Municipality of Anchorage  
632 West Sixth Avenue, Suite 870  
P. O. Box 196650  
Anchorage, Alaska 99519-6650  
Attention: Executive Director, Economic and Community Development

With copy to:

Municipality of Anchorage  
632 West Sixth Avenue, Suite 730  
P. O. Box 196650  
Anchorage, Alaska 99519-6650  
Attention: Municipal Attorney

To AMA:

Anchorage Museum Association  
121 West Seventh Avenue  
Anchorage, Alaska 99501  
Attention: Chairman of the Board

With copy to:

Hughes Bauman Pfiffner Gorski & Seedorf, LLC  
3900 C Street, Suite 1001  
Anchorage, Alaska 99503-5931  
Attention: F. Steven Mahoney

or at such other address(es) as set forth in notice given in accordance herewith. Notice is complete upon hand delivery or deposit, postage prepaid, in the United States mail.

**13.2. Independent Contractor.** AMA shall be deemed to be an independent contractor wholly responsible for the manner in which it performs this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee or principal and agent by and between the Municipality and AMA. AMA assumes the sole responsibility for the acts of its employees and agents, and AMA has no authority to bind the Municipality to any obligation to any third party.

**13.3. Arbitration.** Any dispute arising out of or related to this Agreement, including management and operation of the Museum or the care and supervision of the Collection, Personal Property, and Facilities shall be submitted to arbitration in Anchorage, Alaska; PROVIDED nothing herein shall preclude either party from commencing judicial proceedings seeking equitable relief pending arbitration. The discovery provisions of the Alaska Rules of Civil Procedure shall apply to the arbitration proceedings. Any decision of the arbitrator(s) shall be final and binding upon the parties and may be enforced in any court having competent jurisdiction.

**13.4. Severability.** If any one or more provisions of this Agreement is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be considered as binding and enforceable upon the parties as if such invalid, illegal, or unenforceable provision had never been contained in this Agreement.

13.5. **Force Majeure.** Any failure to perform by either party due to force majeure shall not be deemed a violation or breach of this Agreement. “Force majeure” means any act or event of substantial magnitude, beyond the control of the affected party, which will not allow it to perform its obligations under this Agreement, including the following:

- a. Acts of God;
- b. Strikes or work stoppages;
- c. Acts of a public enemy, wars, terrorist attacks, riots, civil disturbances, or similar occurrences; and
- d. Orders of a court, administrative agency, or governmental officer, other than the Municipality.

“Beyond the control of the affected party” excludes occurrences due that party’s performance or lack of performance under or breach of this Agreement.

13.6. **Integration; Amendment.** This Agreement constitutes the entire agreement between the parties relating to the Museum, Collection, Personal Property, and Facilities and supercedes all prior agreements, understandings, representations, and negotiations. This Agreement may not be amended orally or by any course of dealing, but only in writing signed by both parties.

13.7. **No Waiver.** No waiver of any noncompliance or breach by either party hereunder shall be implied from any failure by the other party to take action on account of such noncompliance or breach, and no express waiver shall affect any noncompliance or breach other than as specified in the waiver. Any waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent noncompliance or breach of the same covenant, term, or condition. The consent or approval by either party to, or of, any act by the other party requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to, or of, any subsequent similar act.

13.8. **No Defense Based on Municipal Regulatory Actions.** AMA understands that (a) management and operation of the Museum are subject to numerous laws, regulations, ordinances, permits, approvals, or interpretations including those of the Municipality and other governmental bodies relating to equal employment opportunities, code compliance, and other regulatory matters, and (b) the modification, interpretation, application, or revocation of

such laws, regulations, ordinances, or permits could adversely affect AMA's operation and management of the Museum. AMA acknowledges that the Municipality does not make, and that the Municipality expressly disclaims, any representation or assurance whatever as to the availability, issuance, or continuation of any laws, regulations, ordinances, permits, approvals, or interpretations of any kind that may be required or desired by AMA in connection with its management and operation of the Museum, except as expressly provided in this Agreement.

13.9. **Applicable Law.** This Agreement shall be governed in all respects, whether as to validity, construction, performance, or otherwise, by the laws of the state of Alaska.

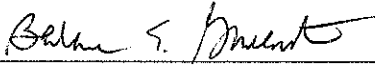
13.10. **Binding Effect.** This Agreement is binding upon and inures to the benefit of the parties, their agents, representatives, successors, and assigns.

MUNICIPALITY OF ANCHORAGE

By: 

Mark Begich, Mayor

ATTEST:



Barbara Gruenstein, Clerk

ANCHORAGE MUSEUM ASSOCIATION

By: 

E. Joe Griffith, President

## **Exhibit A**

### **Anchorage Museum of History and Art Mission Statement**

The Anchorage Museum of History and Art at the Rasmuson Center is a life long informal education center for the community and state. Its mission is:

- To collect, preserve, exhibit and interpret cultural materials which illustrate the art, history and science of Alaska and the circumpolar North;
- To maintain an active and diverse exhibition program which acquaints the community with the global spectrum of human artistic, scientific and cultural expression;
- To provide a major cultural center for Anchorage where the community and its visitors meet, create, learn and participate in the Museum programs and activities; and
- To stimulate the activities of a creative population of artists, historians, anthropologists, scientists and other allied professionals.

By demonstration, leadership and education, the Museum endeavors to serve the widest possible audience and to work with groups, individuals and organizations which share a common interest in scientific, cultural and educational services.

## Exhibit B

### Anchorage Museum of History and Art Computation of Excess Working Capital (,000s Omitted)

**Assumptions:**

Termination Date:	July 31, 20XX
AMA Unrestricted Net Assets (UNA) at Effective Date:	\$1,000
Anticipated Museum Expense – 12 months:	\$6,720
Anticipated Museum Revenues – 12 months:	
Admissions	\$375
Grants/Donors	\$850
Other	\$1,950
Municipal Funding Requirement – 12 months:	\$3,700

**Calculations:**

	20XX	20XX+1
Museum Exp. Anticipated for 5 remaining months of 20XX	\$2,800	
Museum Exp. Anticipated for 7 months of 20XX+1		\$3,920
Less Revenue Admissions		\$375
Less Revenue Grants/Donors		\$850
Less Revenue Other		\$1,950
<b>Net Anticipated Working Capital</b>		<b>\$3,545</b>

Less Q4 20XX Municipal Funding Requirement	\$925	
Less Q1 20XX+1 Municipal Funding Requirement		\$925
Less Q2 20XX+1 Municipal Funding Requirement		\$925
Less one month of Q3 20XX+1 Municipal Funding Requirement		\$308
<b>Sum Municipal Funding</b>		<b>\$3,083</b>

**Adjusted Net Anticipated Working  
Capital (if a negative number,  
convert to \$0)**

	\$462	\$462	\$462
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	Example 1	Example 2	Example 3
AMA UNA at July 31, 20XX	\$1,300	\$450	\$1,600
<b>Excess Working Capital</b>	<b>\$838</b>	<b>(\$12)</b>	<b>\$1,138</b>
Less AMA UNA at Effective Date	\$1,000	\$1,000	\$1,000
Adjustment for Limitation	(\$162)	(\$1,012)	\$138
<b>Due Municipality</b>	<b>\$462</b>	<b>\$450</b>	<b>\$600</b>
<b>AMA Retention</b>	<b>\$838</b>	<b>\$0</b>	<b>\$1,000</b>

**MANAGEMENT AGREEMENT  
FOR THE  
ANCHORAGE MUSEUM OF HISTORY AND ART**

**Amendment No. 1**

This Agreement is made as of March 13, 2005, by and between the MUNICIPALITY OF ANCHORAGE, an Alaska municipal corporation (the "Municipality"); and ANCHORAGE MUSEUM ASSOCIATION, an Alaska nonprofit corporation ("AMA");

WHEREAS the parties executed that certain Management Agreement dated December 19, 2005 (the "Agreement");

WHEREAS the parties desire to provide for an Effective Date, as defined in the Agreement, on or about April 1, 2006; and

WHEREAS the parties desire to amend the Agreement in accordance with the terms and conditions set forth herein;

ACCORDINGLY IT IS HEREBY AGREED AS FOLLOWS:

1. **Effective Date.** Section 1.4 of the Agreement is amended to provide as follows:

"Effective Date" means April 1, 2006; PROVIDED all Municipal employees to be employed by AMA pursuant to that certain Settlement Agreement by and between the Municipality, AMA, and the Anchorage Municipal Employee Association, signed December 19, 2005, shall be terminated by the Municipality and employed by AMA effective March 20, 2006.

2. **Payment.** Section 6.3.a of the Agreement is amended to provide as follows:

a. The amount appropriated for 2006 shall be paid to AMA as follows:

- i. FOUR HUNDRED THOUSAND DOLLARS (\$400,000) on or about January 10, 2006, receipt of which is hereby acknowledged;
- ii. SIX HUNDRED THOUSAND DOLLARS (\$600,000) on or about March 15, 2006; and

iii. the balance of such amount, net of

a. All costs or liabilities incurred by the Municipality in operating the Museum prior to the Effective Date, including all intragovernmental charges to the Museum properly allocated to periods prior to the Effective Date, as determined by the Municipality;

b. All costs and liabilities of the Municipality associated with the termination or layoff of Municipality employees working at the Museum as of the Effective Date, other than any Public Employees' Retirement System of Alaska liabilities related to such employees, not exceeding EIGHT HUNDRED SIXTY-SIX THOUSAND DOLLARS (\$866,000); plus

c. ONE HUNDRED THOUSAND DOLLAR (\$100,000) retainage to cover any such costs or liabilities arising after the Effective Date;

in two (2) payments, one-half on or about July 1, 2006, and the other half on or about October 1, 2006, and any balance of such retainage shall be paid to AMA within thirty (30) days after closing of the Municipality's books and records for 2006.

3. **Municipal Services.** Section 6.4.1 of the Agreement is amended to provide as follows:

6.4.1. **Municipal Products & Services.** Except as provided in section 6.4.2 and 6.4.3, the Municipality shall provide such products and services for such intragovernmental charges as set forth in Exhibit 6.4.1, attached hereto, for fiscal year ending December 31, 2006, offset against amounts payable under section 6.3.a.iii. The Municipality shall further provide such products and services within its capacity as reasonably requested by AMA on or before July 1, 2006, in order to operate and manage the Museum as provided herein for fiscal year ending December 31, 2007, for the Municipality's applicable intragovernmental charge therefor. The parties acknowledge that the Municipality will not know such intragovernmental charges until after the Assembly approves the Municipal budget for fiscal year 2007, however the Municipality agrees to keep AMA informed throughout the budget process as intragovernmental charges become available. If there is a material difference between an intragovernmental charge reasonably anticipated by AMA on July 1, 2006, and the intragovernmental charge as approved by the Assembly, AMA

may modify its aforementioned request for products and services (made on or before July 1, 2006) at any time after Assembly approval of the 2007 budget but no later than December 15, 2006; PROVIDED such right to modify does not apply to products and services referred to in sections 6.4.2 and 6.4.3. Amounts incurred hereunder shall be billed quarterly and shall be offset against the next payment of amounts appropriated hereunder.

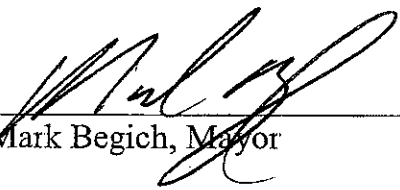
4. **Charge for Contract Administrator.** New section 6.4.3 is added to the Agreement as follows:

**Contract Administration.** The Municipality shall offset the Contract Administrator's costs of administering this Agreement against quarterly amounts appropriated hereunder; PROVIDED such costs shall not exceed TWENTY-THREE THOUSAND TWO HUNDRED FORTY DOLLARS (\$23,240) for fiscal year 2006, and the same amount as adjusted in the same manner set forth in section 6.1.b for each subsequent year.

5. **Public Art.** Administration of the public art program under Anchorage Municipal Code chapter 7.40 shall be retained by the Municipality as of the Effective Date; PROVIDED all revenues related to the program on and after January 1, 2006, shall be payable to the Municipality.

6. **Ratification.** All provisions of the Agreement not expressly modified herein are hereby ratified and remain binding and enforceable upon the parties.

MUNICIPALITY OF ANCHORAGE

By:   
Mark Begich, Mayor

ANCHORAGE MUSEUM ASSOCIATION

By:   
E. Joe Griffith, President

**MANAGEMENT AGREEMENT  
FOR THE  
ANCHORAGE MUSEUM OF HISTORY AND ART**

**Amendment No. 1**

**Exhibit 6.4.1**

**Intragovernmental Services that AMA Wishes to Keep during  
2006**

6029	IID-Technical services	\$ 3,050	
6048	IID-Communications	28,540	
6088	IID-Fixed assets	12,360	
6079	IID-Infrastructure	29,740	
6089	IT Applications	16,070	
6085	Reprographics	60,660	Reprographics is a variable cost IGC
6094	Data resources (databases)	4,000	
6668	Facility maintenance	808,830	The cost for this IGC is set by contract
6898	Merrill Field (warehouse rental)	31,010	
6562	Horticulture	49,510	
6500	Econ & Comm Dev administration	<u>23,240</u>	The cost for this IGC is set by contract
	<b>TOTAL</b>	<b>\$1,067,010</b>	

All costs above reflect what AMA will pay for baseline services (historical service levels) in 2006. The only cost that will be a variable will be the charge for reprographics which will vary depending on the extent to which AMA utilizes reprographics services.

AMA agrees that any services provided outside normal service levels will be subject to additional charge. For example, when AMA needs to set up computers and phones in a new location in preparation to demolition of the Annex, there will be additional IT charges for those services.

**MANAGEMENT AGREEMENT  
FOR THE  
ANCHORAGE MUSEUM AT RASMUSON CENTER**

**Amendment No. 2**

This Amendment is made as of May ~~2011~~ 2009, by and between the MUNICIPALITY OF ANCHORAGE, an Alaska municipal corporation (the "Municipality"); and ANCHORAGE MUSEUM ASSOCIATION, an Alaska nonprofit corporation ("AMA");

WHEREAS the parties executed that certain Management Agreement for the Anchorage Museum of History and Art (now known as the Anchorage Museum at Rasmuson Center) dated December 19, 2005, as amended by Amendment No. 1 dated March 13, 2006 (collectively, the "Agreement") (all capitalized terms not otherwise defined herein shall have the same meanings set forth in the Agreement); and

WHEREAS the parties desire to amend the Agreement regarding the maintenance and repair of the Facilities, all in accordance with the terms and conditions set forth herein;

ACCORDINGLY IT IS HEREBY AGREED AS FOLLOWS:

1. **Maintenance.** Section 4.3 of the Agreement is amended to provide as follows:

a. New subsection 4.3.a.iv is added as follows:

iv. To inspect the Facilities and perform maintenance and repairs, including Major Maintenance, as provided in this Agreement.

b. Section 4.3.b is amended to delete "Except as provided in section 6.4."

c. Section 4.3.c is amended to provide as follows:

c. AMA, at its expense, shall maintain and repair the Facilities in good condition, reasonable wear and tear excepted, in accordance with annual maintenance plans approved by the Contract Administrator pursuant to section 7.1, including performance of all routine maintenance and repairs of all HVAC, electrical, plumbing, and other mechanical systems, replacement of broken glass, landscaping and grounds maintenance. If AMA fails to perform such maintenance and repairs in accordance with such maintenance plans, the Contract Administrator shall give AMA notice of the failure(s) with specificity. If AMA does not cure the

failure(s) within thirty (30) days after the date of such notice, the Municipality may enter the Facilities and cure such failure(s) and offset the costs thereof, plus interest at the maximum rate permitted by Alaska Statutes 45.45.010(b) or ten and one-half percent (10.5%); whichever is less, against the next quarterly payment(s) of amounts appropriated under section 6.1, provided the amount offset from any quarterly payment shall not exceed THREE PERCENT (3%) thereof; PROVIDED the Municipality may enter and repair the Facilities at any time without notice in the event of an emergency.

d. Section 4.3.d is amended to provide as follows:

d. AMA, at its expense, shall be responsible for Major Maintenance of the Facilities and any expansion or improvement thereof. All Major Maintenance shall be performed pursuant to plans and specifications approved in advance by the Municipality. If AMA fails to perform any Major Maintenance in accordance with such plans and specifications, the Municipality shall give AMA notice of the failure(s) with specificity. If AMA does not cure the failure(s) within thirty (30) days after the date of such notice, the Municipality may cure such failure(s) and withdraw the costs thereof, plus interest at the maximum rate permitted by Alaska Statutes 45.45.010(b) or ten and one-half percent (10.5%), whichever is less, from the capital reserve fund established pursuant to section 6.3.c.

e. New section 4.3.f is added as follows:

f. All public construction relating to the Facilities shall be performed in accordance with Alaska Statutes Title 36, as amended, and the Municipality shall be named as co-obligee on any performance bond.

2. **Transit Station.** New section 4.4 is added as follows:

**4.4. Transit Station.**

a. Notwithstanding the provisions of subsections 4.3.c and d, the Municipality is responsible, at its expense, for the maintenance, repair, modification, improvement or replacement of the Transit Station, as hereinafter defined, and the Municipality retains access to the Transit Station at all times to perform such obligations. For purposes of this section, "Transit Station" means the bus stop on the southeast corner of Sixth Avenue and C Street, with related improvements and equipment, including the underground tubing at and around the bus stop and

extending east to the outer edge of the patio on the west side of the Facilities.

b. Notwithstanding the provisions of subsection 4.3.b, the Municipality shall pay FIFTY THOUSAND DOLLARS (\$50,000) to AMA to offset the costs of utilities and maintenance to heat the side walk at and around the Transit Station. Payment shall be made in quarterly installments as provided in section 6.3.b, commencing with the first quarterly payment after final completion of the Transit Station, and continuing until the parties determine a more accurate offset amount or for a period of two (2) years, whichever is earlier.

3. **Electrical Work.** All “hot wire” electrical work performed on the Facilities shall be performed by licensed contractors or subcontractors having a collective bargaining agreement or letter of assent with the International Brotherhood of Electrical Workers, Local 1547.

4. **Contribution for Roof Renovations.** Section 6.4 of the Agreement is amended as follows:

a. Sections 6.4.1 and 6.4.2 are deleted.

b. Section 6.4 is amended with a new heading to provide as follows:

6.4. **Contribution for Roof Renovations.** The Municipality shall pay AMA ONE MILLION DOLLARS (\$1,000,000) out of the net proceeds of Areawide Public Facilities bonds approved by the voters on April 1, 2008, for reimbursement of expenditures reasonably and necessarily incurred through December 31, 2010, for major repair, maintenance or replacement of the roof on the existing Facility. Reimbursements shall be made not less frequently than quarterly upon presentation of documentation satisfactory to the Municipality.

5. **AMA Capital Reserve.**

a. New section 6.3.c is added as follows:

c. Commencing January 1, 2011, AMA shall set aside FIVE PERCENT (5%) of the quarterly amounts appropriated under section 6.1 for deposit in a capital reserve fund to be expended, as determined by AMA with the approval of the Contract Administrator, only on Major Maintenance; PROVIDED the Municipality may withdraw funds therefrom pursuant to section 4.3.d without AMA’s consent. The fund shall be managed by AMA and invested only in authorized investments for funds of the

Municipality under Anchorage Municipal Code 6.50.030 as may be amended.

b. Section 7.2.a is amended to provide as follows:

a. Quarterly and cumulative statements of revenues, including earnings and contributions, and expenses, actual and budgeted, of AMA, including contributions to, earnings of and expenditures from the capital reserve fund, within thirty (30) days after the end of each calendar quarter.

c. Renumber sections 10.2.e and .f as sections 10.2.f and .g, respectively, and add new section 10.2.e as follows:

e. Deliver the remaining balance of the capital reserve fund;

6. **Contract Administration.** Section 6.4.3 is moved to new section 6.3.d and amended to provide as follows:

d. The Municipality shall offset a TWO PERCENT (2%) fee against quarterly amounts appropriated under section 6.1, allocated THREE-QUARTERS PERCENT (.75%) to the Department of Economic and Community Development for administering this Agreement, and ONE AND ONE-QUARTER PERCENT (1.25%) to the Department of Maintenance and Operations for regular inspection(s) of the Facilities and reasonable consultation with AMA's maintenance personnel.

7. **Maintenance Plan.** Section 7.1 of the Agreement is amended to provide as follows:

**AMA Operations and Maintenance Plans and Budget.** No later than July 31 of each year, AMA shall, in consultation with the Contract Administrator, prepare and submit to the Contract Administrator an operating plan, a maintenance plan and a budget for the following calendar year.

a. The operations plan shall include information regarding AMA's anticipated operations for the following fiscal year, including any specific events or activities, with projected costs, services, and revenues thereof; any planned promotional and development activities; planned maintenance activities and capital expenditures; any changes in board membership or structure or management personnel anticipated for the following fiscal year.

b. The maintenance plan shall include information regarding AMA's anticipated maintenance of the Facilities, including Major Maintenance, for the following fiscal year, together with projected schedules and costs thereof.

c. The proposed budget shall set forth detailed estimates of revenues and expenses in such categories and format, including such worksheets and schedules, as determined by AMA and acceptable to the Contract Administrator.

Such consultation shall include disclosure of all backup or supporting information and making AMA personnel available to meet with the Contract Administrator and answer questions regarding the proposed operating and maintenance plans and budgets.

AMA may, again in consultation with the Contract Administrator, amend any operation or maintenance plan or budget at any time it deems proper to reflect changes in its operations, revenues, or expenses. Notwithstanding the authority granted herein to AMA to the contrary, AMA shall take no action which would materially and adversely affect the Municipality or the general public.

NOTWITHSTANDING anything herein to the contrary, AMA's maintenance plan shall be subject to the Contract Administrator's approval, which approval shall not be unreasonably withheld; PROVIDED if such maintenance plan for any calendar year is not approved by the Contract Administrator by November 1 of the previous year, the Municipality will establish a maintenance plan for the Facilities, which plan shall be binding upon AMA.

8. **Insurance.** Section 8 of the Agreement is amended as follows:

a. Section 8.3 is amended to provide as follows:

**Fine Arts Insurance.** The Municipality shall maintain a fine arts insurance policy on the Collection, incoming loans, and objects in the temporary custody of the Museum. AMA shall cooperate with the Municipality and its insurers regarding all claims and administrative matters relating to such insurance.

b. New Section 8.4 is added as follows:

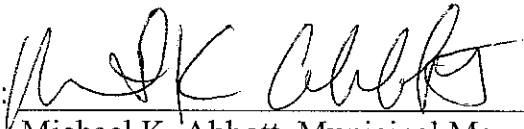
8.4. **Casualty Insurance.** The Municipality shall maintain a casualty insurance policy on the Facilities; PROVIDED the Municipality may self-insure any or all risks covered by such policy. All proceeds of casualty insurance on the Facilities, exclusive of any deductible, shall be

used to repair and rebuild the Facilities; PROVIDED in the event of a loss of substantially all the Facilities, the Municipality reserves the right to elect, within its discretion, not to rebuild the Facilities. AMA shall cooperate with the Municipality and its insurers regarding all claims and administrative matters relating to such insurance.

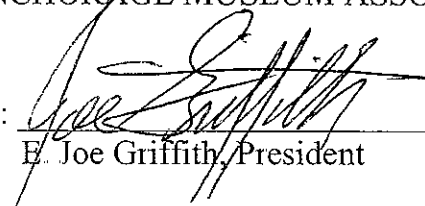
9. **Effective Dates.** All amendments of the Agreement set forth herein are effective as of January 1, 2009.

10. **Ratification.** All provisions of the Agreement not expressly modified herein are hereby ratified and remain binding and enforceable upon the parties.

MUNICIPALITY OF ANCHORAGE

By:   
Michael K. Abbott, Municipal Manager

ANCHORAGE MUSEUM ASSOCIATION

By:   
E. Joe Griffith, President