

CBJ DOCKS AND HARBORS BOARD
REGULAR MEETING AGENDA
For Thursday, January 29th, 2015

- I. Call to Order** (5:30 p.m. at the CBJ Assembly Chambers.)
- II. Roll** (John Bush, Tom Donek, Bob Janes, David Logan, Mike Peterson, Budd Simpson, Scott Spickler, David Summers, and Greg Busch).
- III. Approval of Agenda**
- MOTION: TO APPROVE THE AGENDA AS PRESENTED.**
- IV. Approval of December 11th, 2014 Regular Board Meeting Minutes**
- V. Public Participation on Non-Agenda Items** (not to exceed five minutes per person, or twenty minutes total time).
- VI. Consent Agenda - NONE**
- A.** Public Requests for consent Agenda Changes
 - B.** Board Members Requests for Consent Agenda Changes
 - C.** Items for Action

VII. Unfinished Business

- 1. ~~Harbor Code of Conduct~~
~~Presentation by the Port Director~~
- ~~——— Board Questions~~
- ~~——— Public Comment~~
- ~~——— Board Discussion/Action~~

~~**MOTION: TO APPROVE HARBOR CODE OF CONDUCT, AS PRESENTED.**~~

VIII. New Business

- 1. Docks Fee Review – Waterfront Vendor Booth Regulation Change
Presentation by the Port Director
- Board Questions
- Public Comment
- Board Discussion/Action

MOTION: TO APPROVE PROPOSED REGULATIONS CHANGES TO 05 CBJAC 10 – WATERFRONT SALES PERMITS.

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2. Harbor Fee Review – Passenger For Hire Fees
Presentation by the Port Director

Board Questions

Public Comment

Board Discussion/Action

MOTION: TO APPROVE REGULATIONS CHANGES TO 05 CBJAC 20.080 – PASSENGER-FOR-HIRE AS PRESENTED.

3. Construction Administration & Inspection for Statter Harbor Launch Ramp Facility
Presentation by the Port Engineer

Board Questions

Public Comment

Board Discussion/Action

MOTION: TO AWARD CONSTRUCTION ADMINISTRATION & INSPECTION, TIME & MATERIAL, CONTRACT TO PND ENGINEERS FOR STATTER HARBOR LAUNCH RAMP FACILITY NOT TO EXCEED \$790,150.

IX. Items for Information/Discussion

1. Strategic Retreat Planning
Presentation by Port Director
2. Douglas Harbor Update
Presentation by Port Engineer
3. Thane Ore House Lease Update
Presentation by Port Director
4. Statter Harbor – Horton Lot Mitigation
Presentation by Port Director
5. Cruise Ship Berths – 1% for Art Process
Presentation by Port Engineer
6. Board Communications & Scheduling
Presentation by Port Director

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X. Committee and Member Reports

1. Docks Fee Review Committee Meeting- January 6th, 2015 & January 27nd, 2015
2. Harbor Fee Review Committee Meeting- January 14th, 2015 & January 28th, 2015
3. Operations/Planning Committee Meeting – January 21st, 2015
4. Finance Committee Meeting – January 27nd, 2015
5. Member Reports

XI. Port Engineer's Report

XII. Harbormaster's Report

XIII. Port Director's Report

XIV. Assembly Liaison Report

XV. Board Administrative Matters

- a. Operations/Planning Committee Meeting – Wednesday, February 18th, 2015
- b. Harbor Fee Review Meeting – Wednesday, February 18th, 2015
- c. Finance Committee Meeting – Thursday, February 19th, 2015
- d. Docks Fee Review Meeting – Thursday, February 19th, 2015
- e. Strategic Planning Retreat – Saturday, To Be Determined
- f. Board Meeting – Thursday, February 26th, 2015

XVI. Adjournment

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I. Call to Order.

Mr. Donek called the Regular Board Meeting to order at 5:30 p.m. in the CBJ Assembly Chambers

II. Roll Call.

The following members were present: John Bush(arrived at 5:36 pm), Greg Busch, Tom Donek, Mike Peterson (via Telephone), Budd Simpson, and Scott Spickler.

Absent: Dave Logan, David Summers and Bob Janes.

Also present were the following: Carl Uchtyl – Port Director, David Borg-Harbormaster, Gary Gillette – Port Engineer, and Jerry Nankervis–Assembly Liaison.

III. Approval of Agenda.

MOTION By MR. BUSCH: TO APPROVE THE AGENDA AS PRESENTED AND ASK FOR UNANIMOUS CONSENT.

Motion was approved with no objection.

IV. Approval of Previous Meeting Minutes.

Hearing no objection, the November 20th, 2014 Regular Board Meeting Minutes were approved as presented.

V. Public Participation on Non-Agenda Items - None

VI. Consent Agenda

- A. Public Requests for consent Agenda Changes – none
- B. Board Members Requests for Consent Agenda Changes – none
- C. Items for Action – none

1. ADF&G Cooperative Agreement-Amalga Harbor Fish Cleaning Float

MOTION By MR. BUSCH: TO ADOPT THE ADF&G COOPERATIVE AGREEMENT AND REQUEST THE ASSEMBLY APPROVE AN APPROPRIATIONS ORDINANCE OF \$50,000 FOR THE FEASIBILITY DESIGN AND PERMITTING OF A FISH CLEANING FLOAT AT AMALGA HARBOR.

Motion passed with no objection

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VII. Unfinished Business - None

VIII. New Business

1. Waterfront Vendor Booths

Mr. Uchytel said at the Tuesday Finance Meeting the proposed regulation changes in the packet, affecting the vendor booth permits were approved with the exception of one addition. Mr. Uchytel said he added a number four under 05 CBJAC 10.040;

(4) Permit by Lottery. The port director is not limited to the issuance of permits as described in 05 CBJAC 10.040 (a)(3) and may employ assignment of permits by lottery when demand exceeds supply, with the prior approval of the Docks & Harbors board.

This was added because the fee review committee decided a lottery would determine if there are more interested parties than permits. The language crafted acknowledges a lottery may be used and doesn't direct that it has to be.

Mr. Uchytel said at the Finance Meeting there was representation from the Vendor Booth Permit holders and Mr. Fanning with Liquid Alaska Tours is here tonight. There were no comments on the proposed changes at the Finance Meeting. If there are no additional changes, this proposed regulation change would be able to move forward to the Assembly for final approval.

Board Questions - None

Public Comment –

Jeff Fanning, Liquid Alaska Tours Owner

He asked if the new addition to the proposed regulation change from the last Finance Committee meeting would mean he could be in business for 10 years and then he could be in a lottery from year to year?

Mr. Uchytel said that is correct.

Mr. Fanning said he is opposed to the new change, and it would be detrimental to all the proposed regulation changes being presented. This goes against the forecasting process that has been planned in the rest of the changes. This change wouldn't make it any different than where we are currently.

Board Discussion/Action

Mr. Simpson said he was sympathetic to Mr. Fanning's concern. The problem he sees is limiting the permits to 10 and there being more demand for the permits than 10 spaces will allow. The only alternative

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besides a lottery is to probably grandfather current businesses in which would keep new participants out. He can see Mr. Fanning's point but he is not sure of a good solution.

Mr. Peterson said he agrees with Mr. Simpson. He suggested to table this tonight and take it back to the Port Fee Review Committee for more work.

Mr. Simpson said he would support sending it back to the Port Fee Review Committee for more work also.

Mr. Busch said one of the things the Committee was trying to do was to get away from the variable outcry auction and get into a fixed fee. We also wanted to provide the opportunity for new businesses to obtain a permit, this being the reason for the 10th and 11th permits. If there are new businesses, without a lottery, the new businesses would never have an opportunity for long term with the 10th and 11 permits only being a one year option. Mr. Busch asked Mr. Uchytel if the proposed regulation changes were brought back to the Committee in January, would this still be able to be implemented before the 2015 Cruise Ship season?

Mr. Uchytel said if this is tabled tonight, he recommended to have a meeting early January.

Mr. Peterson said he supports the early January meeting and asked Mr. Fanning to be a part of that meeting so that all the details could be worked out before coming to the full Board.

Mr. Busch said Mr. Fanning did attend the working session for the proposed regulation change along with five other members. This lottery was discussed, it just needs to be determined what is the best way to move forward with protecting the existing businesses plus provide the opportunity for new businesses.

Mr. Busch said he would work with Mr. Uchytel to get a date in early January that the Port Fee Review Committee members could meet and also provide public notice to the vendor booth permit holders.

No Action- This will go back to the Port Fee Review Committee for more work.

2. CBJ Marine Passenger Fee Project Proposal List

Mr. Uchytel said every year the CBJ Manager asks agencies, individuals and businesses to submit for her approval a list of marine passenger fee projects. We are successful on some of our requests, and others are just

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moved forward each year. Mr. Uchytel said he will submit the list in the packet with the Boards approval. This list is not prioritized but the projects are chosen by the CBJ manager.

- Area Wide Port Operations
- Port Customs and Visitor Center Buildings Maintenance Support
- Statter Harbor Passenger for Hire Facility
- Downtown Restrooms
- Future Cruise Terminal Staging
- Downtown Pay Phones
- Visitor Information Kiosk Replacement
- CBJ Parks & Recreation Landscaping Services
- Lightering Float Ramp Canvas Cover Replacement
- Marine Park Bus Parking Lot Brick Repair
- Flags & Banners

Board Questions-

Mr. Spickler said he does not agree with the \$150,000 request amount for the Visitor Information Kiosk replacement. He recommended only asking for \$60,000. He said he researched the cost for a 400 sq/ft timber cabin which was only \$35,000, and with adding utilities, it would be closer to \$60,000.

Mr. Uchytel said if a project is completed under the amount requested, the remaining funds will go back to the Marine Passenger Fee funds. Monies left over from Marine Passenger fees goes into an account to purchase waterfront property.

Public Comment - None

Board Discussion/Action

Mr. Busch said he recommended leaving the Visitor Information Kiosk Replacement funding request at \$150,000, and to submit the Marine Passenger Fee request as presented.

Mr. Simpson said he shares Mr. Spickler's concern on the expense to build the Kiosk, but he is okay with submitting the request as presented.

Mr. Peterson said he also recommends submitting the request as presented.

Mr. Donek asked Mr. Uchytel if Docks & Harbors submitted a smaller dollar request for the Kiosk replacement if it would have a better chance of being selected?

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Mr. Uchytel said probably.

Mr. Gillette said this dollar amount was not based on purchasing a small cabin, but on hiring an architect to do a design to fit a specific space. The Kiosk would also need heat, electrical, and meet ADA compliant requirements. This estimate was based on other Docks & Harbors building costs.

MOTION BY MR. BUSCH: TO FORWARD THE CBJ MARINE PASSENGER FEE PROJECT LIST AS PRESENTED BY THE PORT DIRECTOR TO THE CBJ MANAGER RECOMMENDING APPROVAL AND ASK UNANIMOUS CONSENT.

Mr. Spickler asked for a vote.

Motion passed 5 to 1.

3. AAHPA Resolutions to Assembly

Mr. Uchytel said the Alaska Association of Harbormaster's and Port Administrators (AAHPA) are proposing two resolutions that were approved and are being sent on to the upcoming Legislature and Governor for support.

The first resolution recommends full funding for the State Harbor Grant program which is a 50/50 match. In the past, Docks & Harbor has secured \$9 Million dollars for three projects here in town. Staff believes this is a good program and necessary program for not only CBJ harbors but other programs as well.

The second resolution would place municipal harbor employees under the same state criminal statute providing additional protection to peace officers and first responders when subjected to "assault in the fourth degree or harassment in the first degree". Specifically, it recommends the Legislature include municipal harbor employees under Alaska Statute 12.55.135(d)(1). Staff recommends to endorse this resolution as greater protection for our harbor employees.

Board Questions-

Mr. Peterson asked if this resolution is a state wide effort?

Mr. Uchytel said these resolutions will go through the Assembly for approval and then submitted to the Legislature for our delegation to support. The state needs to take action for the resolutions to be adopted.

Public Comment – None

Board Discussion/Action

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- (A) MOTION By MR. SPICKLER: TO RECOMMEND TO THE CBJ ASSEMBLY APPROVAL OF THE ATTACHED RESOLUTION SUPPORTING FULL FUNDING OF THE STATE OF ALASKA HARBOR FACILITY GRANT PROGRAM IN THE FY 2016 STATE CAPITAL BUDGET AND ASK UNANIMOUS CONSENT.
- (B) MOTION By MR. SPICKLER: TO RECOMMEND TO THE CBJ ASSEMBLY APPROVAL OF THE ATTACHED RESOLUTION SUPPORTING THE ADDITION OF DOCKS AND HARBORS EMPLOYEES TO THE LIST OF EMPLOYEES COVERED BY AS 12.55.135 AND ASK UNANIMOUS CONSENT.

Motions passed with no objection.

IX. Items for Information/Discussion.

1. New Cruise Ship Berths 1% for Art

Mr. Gillette said Docks & Harbors went out for a Call for Artists and proposals were received on October 14th. Packets were put together and distributed to the selection panel which will be meeting next week to review submittals. There is \$452,000 dollars available for art. Mr. Gillette showed a power point presentation of the proposals submitted for the 1% for Art16B project.

2. Proposed Harbor Patron Code of Conduct Update

Mr. Uchytel said this is an ongoing effort initiated by the Harbormaster. This was presented at the Finance Meeting and there were some recommended changes that were added to the draft in the packet. The recommended changes so far;

- ✓ Remove - (5) The use of recreational marijuana except aboard a vessel and out of view of the public
- ✓ Change - patron to customer.

Mr. Simpson said he would like the proposed Harbor Patron Code of Conduct to come to the next OPS/Planning meeting as an action item.

Mr. Donek said he prefers using "Patron" to "Customer".

Mr. Bush recommended to change "may likely" in the last sentence.

3. Electric Vessel Charging Station Update

Mr. Borg said he met with an electrician in the horseshoe area at Statter Harbor and they have determined there are no needed changes or upgrades to the electrical pedestals to be able to charge an electric vessel, which are currently 50A/208V. This power will satisfy what the customer is asking for and still provide power to vessels downstream from the charging station. The charging station area in the horseshoe

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will need to be a 60' area and would be used from 7pm to 8am. This would not be designated for one person but as a vessel charging area, and an estimate per vessel charge would be \$42.00. If a patron was charged a daily rate plus a daily 50A/208V power rate, the cost would be \$55.20 per day. Should this be a designated area or as a first come first serve basis?

Mr. Simpson recommended bringing this to the OPS/Planning Committee meeting. He said he likes the idea of an electric boat operation, but he has a concern with designating a specific area.

Mr. Peterson said he supports Docks & Harbors staff working with the electric boat operators.

X. Committee and Board Member Reports

1. OPS/Planning Committee Meeting – December 4th, 2014 – Cancelled
2. Harbor Fee Review Committee Meeting – Cancelled
3. CBJ Lands Committee Meeting – December 8th, 2014
Mr. Uchytel said there was one Docks & Harbors related action item which was the Mt. Roberts Tram lease amendment. The members in general were happy with the process and that a final amended lease was moving forward.
4. Finance Committee Meeting – December 9th, 2014 –
Mr. Spickler said most of the items discussed at the Finance Meeting were discussed here tonight.
5. Docks Fee Review Committee Meeting – December 9th, Cancelled
6. Member Reports – None

XI. Port Engineers Report –

Mr. Gillette said he handed out his written report.

He said Trucano Construction is putting pilings in at the Aurora Harbor.

The head walk floats for Aurora Harbor are at AML.

Next week will be the pre-construction meeting with Miller Construction for Statter Harbor launch ramp project.

XII. Harbormaster's Report -

Mr. Borg reported:

- The IVF water leak has been repaired.
- The Marine Park walk down ramp cover was destroyed in a wind storm.
- Trucano will demolish two impounded boats that didn't sell in auction.
- Another boat will be impounded tomorrow.

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- The boat the Lady J sank in Statter Harbor. It is now day five trying to get it to the surface. There was no fuel on board and not a lot of petroleum, but staff put a boom around it.
- Marine park is open for extra parking downtown.

XIII. Port Director's Report

Mr. Uchytel said there will be a public meeting on January 20th at the Yacht Club at 5:00 pm for Aurora Harbor patrons displaced by the construction project briefing them on the National Electrical Code(NEC) which requires Docks & Harbors to install ground fault interrupters at every pedestal. This is a new change to the code that Petersburg and Sitka have recently went through. Boats will be required to invest in a better electrical system isolation transformer, or just making sure they don't have stray currents coming from their vessel. At this meeting, electrical engineers Ben Haight and Bill Shattenburg will explain what this new code is. The majority of the boats will be unaffected, but there will be a handful of boats that will trip the GFI every time they plug in and not have power.

Mr. Donek said January 20th is the Yacht Club meeting.

Mr. Uchytel said he will work on a date and time.

He also noted that the 2015 meeting calendar added to the packet has updated meeting locations.

XIV. Assembly Liaison Report

Mr. Nankervis said this was his first time speaking as the Liaison to Docks & Harbors and wanted to thank the Board members for their service. He said Statter Harbor launch ramp project, the money transfer for the Corrosion project, and the Tram lease have been approved and moved forward.

XV. Board Administrative Matters

- a. Operations/Planning Committee Meeting – Next meeting is Wednesday January 21st, 2015 in the Assembly Chambers at 5:00 p.m.
- b. Harbor Fee Review Meeting – Wednesday January 14th, at 12:00 pm
- c. Finance Committee Meeting – Next meeting is Thursday January 22nd, 2015 in CBJ Room 224 at 5:00 p.m.
- d. Docks Fee Review Meeting – Next meeting January 22nd, 2015 immediately following the Finance Committee Meeting.
- e. Board Meeting – Next meeting is January 29th, 2015 in the Assembly Chambers at 5:30 p.m.
- f. Strategic Planning Retreat – Saturday February 21, 2015.

XVI. Adjournment - The regular Board Meeting adjourned at 6:37 pm.



Port of Juneau

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From: Carl Uchytel, Port Director
To: Docks & Harbors Board
Via: (1) Docks & Harbors Operations-Planning Committee
(2) Docks & Harbors Finance Committee
Copy: CBJ Law
Date: January 29th, 2015
Re: VENDOR BOOTH – FEE REVIEW

On January 6, 2015 the Docks Enterprise Fee Review Committee met to consider changes affecting the Waterfront Sales Permit activity which is codified under 05 CBJAC Chapter 10. The recommendation of the committee is attached as enclosure (1). Previously, this committee met on September 17th, October 28th and November 18th. The agenda and minutes of each of these meetings are available on the Docks & Harbors website.

The committee thoughtfully deliberated on several modifications including: perpetual permits, firm fixed permits, permitting by lottery and adjustment by CPI. Throughout the debate, the committee maintained a vision that fair treatment of persons wishing to sell tours included an opportunity for new businesses to participate in a competitive manner. Although the committee was sympathetic to existing vendor booth holders having the stability in knowing a permit would be available in future years, it was unable to reconcile the potential monopoly resulting from a closed permit issuing process. CBJ Law also provided a legal brief recommending not pursuing a perpetual permit as it exposes CBJ to risk associated with “a taking”.

After hearing from industry representative, Docks & Harbors staff and CBJ Law, the most significant change is to increase the minimum outcry bid amount to \$30,000. For consideration of this increased bid amount and to provide greater predictability for vendor booth applicants, the committee directed the Port Director to establish three-year permits, renewable for another three years. After the six-year period, vendor booth would be subjected to an outcry auction. The management of how many and terms of each permit are not specified in regulations; therefore only the bid amount requires Assembly approval.

#

Encl (1) 05 CBJAC Chapter 10 – Waterfront Sales Permits with proposed changes
(2) Waterfront Sales Permit Application

Chapter 10 - WATERFRONT SALES PERMITS

05 CBJAC 10.010 - Policy.

These regulations are intended to implement the following policies:

- (a) To provide desirable commercial services to cruise ship passengers.
- (b) To provide for orderly administration by the department of appropriate vending in the downtown waterfront area.
- (c) To ensure that vending uses shall remain incidental to the principle uses of the downtown waterfront area. The principle uses are pedestrian, vehicular, and recreational access to the docks and waterfront. The director may order the suspension of vending activities as necessary to avoid conflict with the principle uses.
- (d) To collect revenues in support of management of and improvements to City and Borough harbor and waterfront facilities.
- (e) To assure fair treatment of persons wishing to sell tours in the downtown waterfront area.
- (f) Establish a system of tour sales and tour brokerage permits in order to effectuate the purposes listed above. The administration of such system shall be for the benefit of the general public, and the grant or denial of a permit, or any act or omission by the city with respect to such permit is not intended to regulate the private business relationships or to protect the business interests of one party against the other. It shall be the individual responsibility of the permit holders and their clients to enforce their rights and liabilities through civil actions or such other private relief as may be available.

(g) To provide reasonable opportunity for entrepreneurs to enter the business market.

(01/19/98)

05 CBJAC 10.020 - Prohibitions.

- (a) A person shall not conduct any commercial activity within the downtown waterfront area except as authorized by a permit issued under this chapter by the director. Except as authorized by a permit, a person shall not within the downtown waterfront area:
 - (1) Sell or offer to sell goods or services,
 - (2) Construct, maintain, or use any structure, or
 - (3) Use any loading zone.
- (b) Solicitation, advertisement, sales, use of loading zones or any other commercial activities without a permit issued pursuant to this chapter is a violation of CBJ 85.25.090 (11).
- (c) A person delinquent in the payment of fines, taxes, judgments or other monies owed to the city may not receive a permit.
- (d) No permit may be issued or reissued to any person whose prior permit hereunder was revoked.

(01/19/98)

05 CBJAC 10.030 - Permit duration, reissuance options, transferability, refunds, actively sell requirement, eligibility, number of permits available.

Permits may be issued by the director. Permits are valid only for the dates, times, areas, and activity specified.

(a) *Duration.*

- (1) Tour sales, tour broker, and loading permits shall be valid only from May 1 through October 15 of each permit year.
- (2) No permit may be issued for a period in excess of one calendar year.

(b) *Reissuance.* Permits may be reissued only as authorized by these regulations. A reissued permit shall be subject to the regulations in effect for the year in which the permit is used. Permittees and option holders assume the risk that changes in regulations could affect their business through reduced

revenues, increased costs, or both; that the number, location and rules for permits may be changed from year to year without liability to the city, compensation to permittees or option holders, and that municipal regulation hereunder shall be immune from liability pursuant to AS 09.65.070 and other applicable law.

(1) Reissuance options.

- (A) A reissuance option entitles the holder to apply for and receive a permit for the tour season designated in the option, provided that the holder meets all the requirements for permit applicants and holders in the year the reissued permit will be operated.
- (B) The fee for any permit issued pursuant to a reissuance option shall be the same as the fee paid for the original permit.
- (C) The holder of a reissuance option shall notify the director of its intention to seek reissuance. Written notice must be received by the director no later than December 1 preceding the year in which the reissued permit will be operated. If the notice is not so received, if application is not made, or if for any other reason the permit is not reissued, the director may consider the permit, including any remaining reissuance periods, as forfeit and either available for issuance to others or withdrawn from any issuance.
- (D) Reserved.
- (E) These regulations apply to any permits and reissuance options authorized by 05 CBJAC 10.010—10.090.

(c) *Transferability.*

- (1) A permit, other than a limited loading permit, may be transferred, together with any reissuance options, provided that such transfer includes the transferor's entire business interest in activities conducted under the permit. The transferor's business interest includes all assets used in the business conducted under the permit.
- (2) No permit may be leased or rented, nor may the permittee allow the permit to be used by any person who is not an employee of the permittee.
- (3) A transferred permit is not valid until it has been approved and reissued by the director.

(d) *Refunds.* No permit fees shall be refunded after the issuance of a permit.

(e) *Reserved.*

(f) *Permit eligibility and requirements.*

- (1) To be eligible to bid on a tour sales or tour broker permit, the permit applicant must:
 - (A) Hold a current Alaska business license, and
 - (B) Maintain a place of business under the name on the Alaska business license within the boundaries of the city and borough.
- (2) Any person holding a permit must maintain a year round place of business and mailing address in the City and Borough of Juneau, Alaska, and must designate a single individual by physical address, mailing address and phone number in Juneau upon whom service of notices and legal proceedings may be made. Service of any notice concerning the permit to that person shall be legal and sufficient notice to any of the holders, owners or any other with an interest in the permit. The director must be notified in writing no less than ten days before there is a change in the name, address or phone number of the designated person for a permit. Failure to timely notify the director shall be considered a violation of the permit conditions.
- (3) No person, individual, business or corporation shall have an ownership interest in more than one tour sales or tour broker permit, meaning the person shall not pay for the operation of another permit holder's sales booth, direct or manage the activities of another permit holder's sales booth, or in any way financially contribute to the purchase of more than one permit. A permit holder who operates tours may have its tours sold by another permit holder, provided the permit holder operating the tour does not direct the activities of the other permit holder's sales booth or obtain any financial benefit from the other permit holder's sales booth other than that provided by the sale of the tour. Violations will result in permit revocation per 05 CBJ 10.080(e).
- (4) Tour sales permit holders and tour broker permit holders must actively sell during the tour season. "Actively sell" means that the permit holder either derives a significant portion of its income from

sales made through a tour sales or broker's permit, or that the permit holder is making substantial use of the permit.

- (g) *Number of permits available.* The director shall publicly announce the number, type and schedule for application for permits.

(01/19/98; Amended 5-2-2000, eff. 5-16-2000; Amended 6-28-2010, eff. 7-16-2010; Amended 2-7-2011, eff. 2-15-2011)

05 CBJAC 10.040 - Tour sales permits.

A tour sales permit authorizes the solicitation and sale of tours and experiences.

- (a) *Application process and permit award.*

- (1) *How to apply.* No later than December 1, of each year, the port director will publicly announce an application period for tour sales permits. The notice will include a description of how to apply for a permit, the number and type of permits available, and the process that will be used to award the permits. Persons must apply on an application form provided by the port director and must include all required information and attachments.
- (2) *Application review.* The port director will review each application to determine if it is complete. The port director will reject incomplete applications. The port director will review complete applications to determine if the applicant meets the permit eligibility requirements set out in 05 CBJAC 10.030(f).
- (3) *How the permits are awarded.* The port director will **manage and** award the permits by public outcry auction. The minimum bid for a permit is ~~\$5,000.00~~ **\$30,000**. Applicants meeting the permit eligibility requirements set out in 05 CBJAC 10.030(f) will be allowed to bid on a permit provided the applicant posts a ~~\$5,000.00~~ **\$30,000** bid bond payable to CBJ. The applicant must agree to forfeit the bid bond in the event the applicant does not honor a winning bid on a permit.

- (b) *Permit requirements.* The port director may issue permits and require permit holders to comply with stipulations as necessary to assure compliance with applicable requirements of this chapter and the Maritime Transportation Security Act of 2002. Permit holders shall also comply with the prohibitions set out in 05 CBJAC 10.020, the tour sales area rules set out in 05 CBJAC 10.040(c), and the general operating requirements set out in 05 CBJAC 10.070

- (c) *Tour sales area rules.*

- (1) A permit holder shall only sell tours in a booth provided by the port director. The port director will provide booths at the Steamship Wharf Plaza, the Visitor's Center Lot, and the Columbia Lot sales areas. The port director reserves the right to relocate or close booths as required for public safety, security, or other good cause. The booths at each sales area will be assigned by lot. In order to assure equitable exposure for each permit holder, the port director will cause the permit holders to shift one booth on each day of operation. A permit holder shall only occupy the booth assigned by the port director.
- (2) A permit holder shall not have more than one representative selling tours at a booth, except when training new employees and then for no longer than is necessary to adequately train the employee. A permit holder shall make its best effort to maintain a presence at its booths during all hours when cruise ship passengers are likely to purchase tours in a sales area. The permit holder shall provide the port director with a list of all individuals that will sell tours at its booths and, if requested, staff identification documentation, booth staffing schedules, and other documentation, as determined by the director necessary to demonstrate the permit holder complies with this requirement.
- (3) The permit holder shall not sell, or permit to be sold, tours on any vouchers or receipts other than their own.
- (4) The permit holder shall provide the port director with a list of all tours sold pursuant to its permit, including the name of the company providing the tour.
- (5) The permit holder may display up to two large signs on a single booth provided the signs do not extend beyond the front profile of the booth. The permit holder may also display a one-foot by one-foot sign **s** for each tour the permit holder sells. These signs may not extend more than six inches beyond the front profile of the booth.
- (6) The permit holder or its representatives shall not engage in hawking or disruptive behavior or interfere with the operations of other sales booths.

05 CBJAC 10.050 - Reserved.

Editor's note—

Regulation adopted January 7, 2008, effective January 15, 2008, repealed 05 CBJAC 10.050, which pertained to tour broker permits.

05 CBJAC 10.060 - Loading permits.

No person shall operate, park, stand, or stop a commercial vehicle, or cause or direct the same, within the designated loading zones in the downtown waterfront area except as authorized by a permit issued hereunder. Vehicular use of designated loading zones for commercial purposes without a permit is a violation of CBJ 85.25.090(11).

(a) *Application process.*

- (1) Application forms for loading permits will be available at the Harbor office between April 1 and October 15.
- (2) Applications must be made on the form provided by the department, and must be complete, including all required attachments. Any incomplete application will not be considered for a permit.

(b) *Permit requirements and conditions of operations.*

- (1) The port director is authorized to designate loading zones in the downtown waterfront area and establish rules to assure safety, security, and efficiency of operation.
- (2) The port director may issue loading zone permits and require permit holders to comply with stipulations as necessary to assure safety, security, and efficiency of operation. Permit holders shall also comply with the loading zone rules set out in 05 CBJAC 10.060(c) and the general operating requirements set out in 05 CBJAC 10.070
- (3) An applicant for a loading zone permit must show that use of the permit will be limited to transportation of passengers and/or crew to or from cruise ships. If the applicant will be transporting passengers, the showing must consist of at least one of the following:
 - A. A tour sales permit in the applicant's name;
 - B. A contract for the sale of tours onboard a cruise ship;
 - C. A contract with a cruise ship for the transportation of passengers;
 - D. A contract for the sale of tours with a tour sales permit holder. An applicant may enter into a contract with one tour sales permit holder only; or
 - E. If the applicant sells tours without the aid of the cruise lines, a cruise ship, or a tour sales permit holder, the applicant must show that it will only transport persons who have purchased tours directly from the applicant, and the applicant shall, upon request, provide the port director with a daily manifest showing the names of passengers to be transported.

(c) *Loading zone rules.*

- (1) No signs are allowed in the loading zone.
- (2) Loading zone permits shall be prominently displayed in the lower right corner of the front windshield of the vehicle, or as specified by the director.
- (3) No person shall sell or solicit the sale of any goods or services in any loading zone.
- (4) Goods and passengers shall be staged at loading zones so as to minimize vehicular standing time. No vehicle shall be present in a loading zone except as reasonably necessary for loading or unloading goods or passengers.
- (5) The driver of a vehicle must remain in the driver's seat unless assisting in the loading or unloading of passengers or luggage in the immediate vicinity of the vehicle. No driver may leave a vehicle unattended in a loading zone for any period of time.
- (6) "A" loading zones.

- (A) Vehicles containing 18 or more passenger seats may be operated only in loading zones marked "A."
- (B) Permittees using "A" loading zones shall submit a schedule of all cruise ships they will be meeting. For each meeting, permittees must use the "A" loading zone closest to the terminal or lightering dock designated on the schedule. Permittees may not depart from the schedule unless approval is obtained from the director at least 24 hours in advance. Approval shall be contingent upon the impact of changes upon other permittees, users of the park, and traffic conditions.
- (7) "B" loading zones. Vehicles containing fewer than 18 passenger seats may be operated only in loading zones marked "B."
- (8) A vehicle without the appropriate permit may use a loading zone as necessary for a health or safety emergency. Such use shall be the minimum necessary to resolve the emergency.
- (d) *Limited loading permits.* A person may apply for a limited loading permit for designated vehicles to provide services in a designated loading zone to a cruise ship or cruise ship passengers for occasional or off-peak-hour use. Application must be made to the director no less than one business day in advance of use.
 - (1) *Nonpassenger vehicles.* If the vehicle will be left standing in a loading zone for any amount of time, or if the driver will not remain with the vehicle for any period of time, the applicant must schedule that time with the director so as not to interfere with the efficient use of the loading zone by other permittees. The permittee must conduct all business efficiently so as to minimize any standing in the loading zone.
 - (2) *Passenger vehicles.* All requirements of subsection (c) of this section apply to vehicles providing passenger services to a cruise ship pursuant to a limited loading permit.
- (e) *Fees.*
 - (1) The fee for a loading permit shall be established at least annually by the docks and harbors board.
 - (2) The fee for a limited loading permit shall be \$15.00 per vehicle for each permit day or \$250.00 per year, whichever is less.

(01/19/98; Amended 1-7-2008, eff. 1-15-2008)

05 CBJAC 10.070 - General operating requirements.

- (a) Permittees are responsible for complying with all state, federal, and local laws applicable to their activities.
- (b) Permittees shall police the area immediately around their vending area and shall properly dispose of all litter accumulating there during the course of their activities.
- (c) Permittees shall reimburse the City and Borough of Juneau for any damage to municipal property caused by the permittee's activities, including the cost of litter abatement.
- (d) No permittee may store equipment or supplies in the downtown waterfront area except as approved by the director in advance.
- (e) Permittees shall prominently display the permit issued pursuant to these regulations, as well as all other required permits and licenses, at all times during their activities hereunder.
- (f) Permittees may not engage in hawking or make an unreasonably loud noise. Written information may be distributed to interested parties only when requested.
- (g) Permittees, as a condition of receiving a permit, shall execute an instrument under the terms of which the permittee shall agree to indemnify, defend, and hold harmless the City and Borough of Juneau from any and all claims for injury or damage to persons or property suffered in connection with the permittee's activities unless such injury or damage is caused by the gross negligence of the City and Borough of Juneau.
- (h) Prior to issuance of a permit, the prospective permittee must provide the department with a broker's certificate of insurance showing that the permittee has obtained at least \$500,000.00 or, in case of courtesy vehicles, \$300,000.00, of public liability insurance. The certificate must establish that the City and Borough is named as an additional insured on such policy, and that the insurer thereof shall notify the City and Borough if the policy is modified, canceled, or terminated. Vehicles operated under and in conformity with CBJ Chapter 20.40 are exempt from the requirements of this subsection.

- (i) Permit holders are responsible for compliance with permit conditions. Any entity or person listed on a permit issued to a partnership, joint venture or other form of association or joint ownership, shall be deemed to be jointly and severally liable for any violations of these regulations by any person operating under the permit.

(01/19/98)

05 CBJAC 10.080 - Enforcement and penalties.

- (a) The port director may summarily suspend a permit issued under 05 CBJAC 10 without a hearing for a period not to exceed ten days if any activity conducted under the permit presents an immediate danger to the public health, welfare, or safety.
- (b) The port director may suspend a permit, revoke a permit, deny a permit, deny the reissuance of a permit, or deny the ability to bid on a permit under 05 CBJAC 10 after an informal hearing before the port director and upon written findings that the permittee or applicant has violated these regulations, engaged in fraud or gross negligence, or misrepresented the nature and substance of a tour product.
- (c) The port director shall conduct the hearing called for in 05 CBJAC 10.080(b) as follows:
 - (1) The permittee or applicant shall be provided with at least ten days notice of the hearing. The notice shall include a brief statement of the facts giving reason for the proposed suspension, revocation, or denial.
 - (2) The permittee or applicant shall have an opportunity to be heard at the hearing and shall have the right to call or cross-examine witnesses.
 - (3) Relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule that makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be used to supplement or explain direct evidence, but is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action.
 - (4) The hearing shall be recorded by audio tape.
- (d) The port director shall issue a written decision. The permittee or applicant may appeal the port director's decision to the docks and harbors board by filing a notice of appeal, setting forth the reasons for the appeal, with the port director within ten days of the director's decision.
- (e) A permittee whose permit is revoked loses all rights and privileges under that permit, shall deliver copies of the permit to the port director, and may not apply for a new waterfront sales permit for a period of one year after the revocation. In addition, for a period of one year after revocation, no application for a waterfront sales permit shall be approved for an applicant who was an owner, operator, partner, director, manager, officer, assignor, or transferor, of any operation or business which required a waterfront sales permit, regardless of its form of legal entity, if the waterfront sales permit for that operation or business was revoked.
- (f) Failure to follow any permit condition is a violation of CBJ 85.25.090, and may carry a fine of up to \$250.00 for each instance of a violation.

(01/19/98; Amended 4-24-2006, eff. 5-2-2006; Amended 2-7-2011, eff. 2-15-2011)

05 CBJAC 10.090 - Definitions.

As used in this chapter:

"Courtesy vehicle" means a vehicle owned or operated by a business and used to transport passengers without additional charge, where such transportation is provided in conjunction with and in furtherance of a related primary business purpose or enterprise of that person.

"Department" means the City and Borough of Juneau Docks and Harbors Department.

"Director" means the port director or the port director's designee.

"Downtown waterfront area" and "facility" means that property owned by the City and Borough of Juneau located adjacent to the city cruise ship wharves, which is under the regulation of the Docks and Harbors Department and/or the Parks and Recreation Department. This includes all public spaces, loading zones, parking areas, and any wharves or trestles or portions thereof designated for enforcement hereunder by resolution of the harbor board.

"Employee" means a person who provides services at the direction and under the control of another. An employee is an integrated part of the employer's business, is hired, supervised and paid by the employer for hours set by the employer, and the employer furnishes tools and materials for the employee's use. For purposes

of this chapter, drivers operating vehicles pursuant to CBJ Chapter 20.40 shall be considered the employees of the holder of that certificate.

"Hawking" means the loud or continuous audible solicitation of business by a permittee to the general public.

"Permittee" [and] "permit holder" [and] "holder" mean the business entity or its authorized representatives conducting activities in the downtown waterfront area according to a permit issued under these regulations.

"Person" means a natural person, partnership, corporation, association, or other legal entity.

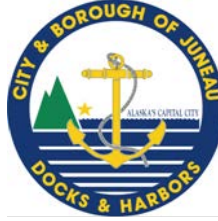
"Tour season" means May 1 through October 15 of one calendar year.

"Tours and experiences" means tours, transportation, transfers, entertainment, meals and services sold to customers and includes all services provided whether or not incidental to, advertised with, or specifically offered in the sale. All transportation provided to a customer by a permittee, or arranged by a permittee is considered a part of the tour or experience.

"Vehicle" means a device in, upon or by which a person or property may be transported or drawn including devices moved by human, animal, mechanical or other power source.

(01/19/98; Amended 5-2-2000, eff. 5-16-2000)

**CBJ DOCKS & HARBORS
2015 WATERFRONT SALES PERMIT
APPLICATION TO BID**

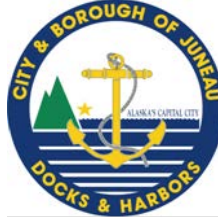


I. General Information: The Port of Juneau has _____ waterfront sales permits available for the 2015 season. A waterfront sales permit allows for the sale of tours in designated areas at the CBJ's cruise ship docks. The permits will be sold by outcry auction at 2:00 p.m. on _____ in the CBJ Assembly Chambers. In order to bid on a permit, interested persons must complete and submit this permit application form to the Port Director by 4:30 p.m. on _____, 2015 and meet the eligibility requirements listed below. Winning bidders must pay the bid price in full by 4:30 p.m. on _____, 2015. Before a permit is issued, the winning bidder must provide a list of the tours that will be sold at the booth, their employee information, and the insurance certificate required under this permit. Persons obtaining a permit must comply with certain permit conditions when operating at the facility.

II. Permit Requirements: To be eligible to bid on and receive a waterfront sales permit, an applicant must:

- (1) In accordance with 05 CBJAC 10.030 (f) (1)(a), Hold a current Alaska business license;
- (2) In accordance with 05 CBJAC 10.030 (f) (3)(1)(b), Have maintained a place of business under the name of the Alaska business license within the boundaries of the City and Borough of Juneau, Alaska;
- (3) In accordance with 05 CBJAC 10.030 (2), Maintain a year round place of business and mailing address in the City and Borough of Juneau, Alaska and must designate a single individual by physical address, mailing address and phone number in Juneau upon whom services of notices and legal proceedings may be made;
- (4) In accordance with 05 CBJAC 10.030 (f) (3), Not have an ownership interest in more than one permit, meaning the permit holder may not pay for the operation of another permit holder's sales booths, direct or manage the activities of another permit holder's sales booths, or in any way financially contribute to the purchase of more than one permit.
- (5) In accordance with 05 CBJAC 10.030 (f) (3), A permit holder who operates tours may have its tours sold by another permit holder, provided the permit holder operating the tour does not direct the activities of the other permit holder's sales booths or obtain any financial benefit from the other permit holder's sales booths other than that provided by the sale of the tour;
- (5) In accordance with 05 CBJAC 10.030 (f) (4), Actively sell during the tour season meaning the permit holder either derives a significant portion of its income from the sales made through the permit or that the permit holder is making substantial use of the permit; and
- (6) In accordance with 05 CBJAC 10.020 (c), Not be delinquent in the payment of fines, taxes, judgments, or other monies owed to the City and Borough.

**CBJ DOCKS & HARBORS
2015 WATERFRONT SALES PERMIT
APPLICATION TO BID**



(7) In accordance with 05 CBJAC 10.040 (c) (3), The permit holder shall not sell, or permit to be sold, tours on any vouchers or receipts other than their own.

(8) In accordance with 05 CBJAC 10.070 (a) Permittees are responsible for complying with all state, federal, and local laws applicable to their activities. Applicants are hereby noticed that Violations of Alaska Consumer Protection Act AS 45.50.471 - AS 45.50.561 and specifically Section 45.50.471. - Alaska Unfair Trade Practices and Consumer Protection Act, apply to the permitting process. Applicants are also reminded of Alaska Statute 45.50.562 - .596 making it unlawful to restrain trade or commerce by fixing, controlling or maintaining prices, allocating or dividing customers or markets or refusing to deal or inducing third parties to deal with another person. Violators will be subject to administrative and criminal fines to the maximum extent allowed by law, including the revocation of CBJ business and other CBJ licenses.

(9) In accordance with 05 CBJAC 10.70 (h) Prior to issuance of a permit, the prospective permittee must provide the department with a broker's certificate of insurance showing that the permittee has obtained at least \$500,000.00 or, in case of courtesy vehicles, \$300,000.00, of public liability insurance. The certificate must establish that the City and Borough is named as an additional insured on such policy, and that the insurer thereof shall notify the City and Borough if the policy is modified, canceled, or terminated.

(10) Provide a \$30,000 bid deposit (money order, cashier's check, or bid bond) by 4:30 p.m. on _____, 2015. The deposit is refundable if a permit is not obtained; it will be credited towards the cost of a permit if one is obtained, and the deposit will not be refunded if a person is the winning bidder but does not pay for the permit by the payment deadline.

III. Permittee Information (1-10 below must be completed in full)

(1) Legal Business Name: _____

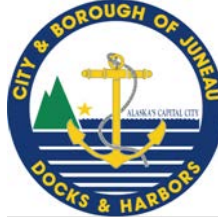
(2) Owner(s) _____

(3) Business Mailing Address: _____

(4) Business Physical Address: _____

(5) Business Phone number: _____

**CBJ DOCKS & HARBORS
2015 WATERFRONT SALES PERMIT
APPLICATION TO BID**



(6) Name of Designated Contact:_____

(7) Designated Contact Person Mailing Address:_____

(8) Designated Contact Person Physical Address:_____

(9) Designated Contact Person Telephone Numbers:

(Home)_____ (Fax)_____ (Cell)_____

(10) E-mail address:_____

IV. Verification

(1) Attach a copy of current business license.

V. Certification.

As a reminder, the purpose of these regulations is fairness to all businesses. By signing this agreement you acknowledge and understand the regulations and ordinances regarding these permits and will comply with all the laws of the State of Alaska.

If any clause or provision of this Application is determined to be illegal, invalid, or unenforceable under present or future laws, the remainder of this Application shall not be affected by such determination, and in lieu of each clause or provision that is determined to be illegal, invalid, or unenforceable, there shall be added as a part of this License a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible and be legal, valid, and enforceable.

No alteration or variation of this Application shall be valid or binding unless contained in a written amendment signed by the City and [applicant].

City: City and Borough of Juneau

Permittee:_____

Date: _____

Date: _____

By: _____

By: _____

Authorized Representative
Carl Uchytel, PE.
Port Director

Authorized Representative

STATE OF ALASKA)
) ss:
_____ JUDICIAL DISTRICT)

GIVEN UNDER MY HAND and official seal the day and year last above written.

STATE OF ALASKA)
) ss:
 JUDICIAL DISTRICT)

GIVEN UNDER MY HAND and official seal the day and year last above written.

Notary Public in and for the State of Alaska
My Commission Expires: _____

05 CBJAC 20.080 - Passenger-for-hire fee.

(a) *Definition.* The fee assessed to a person conducting passenger-for-hire activities at Douglas Boat Harbor, [North Douglas Boat Launch](#), [Amalga Harbor Boat Launch](#), [Echo Cove Boat Launch](#), [Tee Harbor Launch Ramp](#), Harris Harbor, Harris Harbor Launch Ramp, Aurora Boat Harbor, Statter Boat Harbor, or Statter Boat Harbor Launch Ramp.

(b) *Relationship to other fees.* This fee applies in addition to other fees set out in 05 CBJAC 020, except as follows:

(1) A person paying moorage fees for reservations moorage at Statter Harbor as set out in 05 CBJAC [25.040](#) shall not be required to pay this fee;

(2) A person paying freight use fees as set out in 05 CBJAC [20.070](#) shall not be required to pay this fee if the passengers are loaded at a launch ramp;

(3) A person conducting passenger-for-hire activities at the Douglas Boat Harbor Launch Ramps, North Douglas Launch Ramp, Amalga Harbor Launch Ramp, Tee Harbor Launch Ramp, and Echo Cove Launch Ramp are assessed fees as set out 05 CBJAC 01 in lieu of this fee; and

(4) A person conducting passenger-for-hire activities at the Intermediate Vessel Float or the Marine Park Lightering Float are assessed moorage fees as set out in 05 CBJAC 15 in lieu of this fee.

(c) *Requirements.* The owner of a vessel must apply to and obtain a permit from the Harbormaster in order to conduct passenger-for-hire activities at Douglas Boat Harbor, [North Douglas Boat Launch](#), [Amalga Harbor Boat Launch](#), [Echo Cove Boat Launch](#), [Tee Harbor Launch Ramp](#), Harris Harbor, Harris Harbor Launch Ramp, Aurora Boat Harbor, Statter Boat Harbor, or Statter Boat Harbor Launch Ramp. Applications are available at any of the Docks and Harbor Department Offices. The Harbormaster is authorized to issue permits with reasonable conditions concerning insurance, operations, and the payment of fees.

(d) *Inspected vessel fees.* The Harbormaster shall assess permit fees to the owner of a vessel engaged in passenger-for-hire activities that is regulated under Subchapter T and S of 40 CFR 33 as follows:

~~(1) Calendar year permit: \$300.00 plus \$1.10 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity; or~~

(1) Calendar year 2015 permit: \$300 plus \$1.25 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity. Calendar year 2016 permit: \$400 plus \$1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity. Calendar year 2017 permit: \$500 plus \$1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity.

~~(2) Calendar day permit: \$1.00 per certificated passenger seat; or~~

(2) Each calendar year after 2017, a fee equal to the previous year's fee adjusted by the Anchorage Consumer Price Index (CPI) as reported by the Alaska Department of Labor for the calendar year preceding the start of the moorage year, rounded to the nearest \$1.00 for the permit and nearest \$0.10 per passenger, unless the docks and harbors board takes action to keep the fee the same as the previous year.

(3) No charge for non-profit use when approved by the Harbormaster on a case-by-case basis.

(e) *Uninspected vessel fees.* The Harbormaster shall assess permit fees to the owner of a vessel engaged in passenger-for-hire activities that is not regulated under Subchapter T and S of 40 CFR 33 (six-pack OUPV - operator of uninspected passenger vessels) as follows:

~~(1) Calendar year permit: \$50.00 per vessel plus \$15.00 per passenger seat; or~~

(1) Calendar year 2015 permit: \$50 plus \$1.00 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity. Calendar year 2016 permit: \$100 plus \$1.25 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity. Calendar year 2017 permit: \$150 plus \$1.50 per passenger each calendar day that one or more facilities is used for passenger-for-hire activity.

(2) Each calendar year after 2017, a fee equal to the previous year's fee adjusted by the Anchorage Consumer Price Index (CPI) as reported by the Alaska Department of Labor for the calendar year preceding the start of the moorage year, rounded to the nearest \$1.00 for the permit and nearest \$0.10 per passenger, unless the docks and harbors board takes action to keep the fee the same as the previous year.

~~(2) Five or fewer uses in a calendar year: \$75.00 per vessel; or~~

(3) No charge for non-profit use when approved by the Harbormaster on a case-by-case basis.

(Amended 4-11-2005, eff. 4-19-2005; Amended 12-5-2005, eff. 12-12-2005; Amended 4-24-2006, eff. 5-2-2006;

Amended 7-15-2013, eff. 7-23-2013)



November 12, 2014

PND 082015.06

Gary Gillette
Port Engineer
CBJ Docks & Harbors Department
155 South Seward Street
Juneau, Alaska 99801

Subject: Statter Harbor Improvements
Contract Administration and Inspection Services

Dear Mr. Gillette:

PND Engineers, Inc. (PND), along with our local subconsultants Haight & Associates, Inc. (HAI) and Corvus Design (CD), are pleased to provide this fee proposal for engineering services during construction of the Statter Harbor Improvements project. We have prepared the enclosed fee breakdown for the project tasks we anticipate in advance of actual work schedule discussions with the CBJ's construction contractor, Miller Construction Company.

Our proposal anticipates the Work will be completed within the contract completion schedule. We will cover onsite inspections, assuming one full time inspector working an average 60 hours/week covering one shift/day for an estimated 64 weeks. We have also included budget for one assistant inspector working on average 40 hours/week for 16 weeks during primary material haul periods to verify material payment quantities. We have included budget for offsite structural fabrication inspections as well as onsite QA materials testing of soil, concrete and asphalt. We have not included budget for double shift coverage. Our objective is to address design, construction and quality assurance issues efficiently and promptly to avoid costly project delays for the CBJ.

We hope that we have perceived your needs appropriately and offer the attached scope and fee proposal breakdown for your consideration. Due to normal uncertainties associated with the Contractor's performance, we propose to contract on a time and expenses (T&E) basis in accordance with our May 2014 standard billing rates. We will monitor expenditures with you on a monthly basis and will not exceed the estimated budget without your prior written authorization.

Feel free to call me at any time should you have any questions or need additional information regarding this proposal. We look forward to working with you towards the successful completion of this project.

Sincerely,
PND Engineers, Inc. | Juneau Office

A handwritten signature in blue ink, appearing to read 'Dick Somerville'.

Dick Somerville, P.E.
Vice President

Enclosures



PND ENGINEERS, INC.
STANDARD RATE SCHEDULE
EFFECTIVE MAY 2014

		<i>Regular Rate</i>
<u>Professional:</u>	Senior Engineer VII	\$180.00
	Senior Engineer VI	\$165.00
	Senior Engineer V	\$155.00
	Senior Engineer IV	\$145.00
	Senior Engineer III	\$135.00
	Senior Engineer II	\$125.00
	Senior Engineer I	\$115.00
	Staff Engineer V	\$105.00
	Staff Engineer IV	\$100.00
	Staff Engineer III	\$95.00
	Staff Engineer II	\$90.00
	Staff Engineer I	\$85.00
	Senior Scientist	\$110.00
	Environmental Scientist III	\$120.00
	Environmental Scientist II	\$105.00
	Environmental Scientist I	\$90.00
	GIS Specialist	\$90.00
<u>Surveyors:</u>	Senior Land Surveyor III	\$120.00
	Senior Land Surveyor II	\$110.00
	Senior Land Surveyor I	\$100.00
<u>Technicians:</u>		
	Technician VI	\$125.00
	Technician V	\$110.00
	Technician IV	\$90.00
	Technician III	\$80.00
	Technician II	\$70.00
	Technician I	\$45.00
	CAD Designer V	\$95.00
	CAD Designer IV	\$85.00
	CAD Designer III	\$70.00

PND Engineers, Inc.
Statter Harbor Improvements
Engineering Services Fee Proposal - November 12, 2014
Contract Administration and Construction Inspection Services
PND Project No. 082015.06

Scope of Services

Scope of Services	PND Senior Engineer VII	PND Senior Engineer IV	PND Senior Engineer II	PND Senior Engineer I	PND Tech VI	PND Staff Engineer V	CAD Designer V	PND Tech IV	Line Item Costs	Task Subtotal Costs
	\$180.00	\$145.00	\$125.00	\$115.00	\$125.00	\$105.00	\$95.00	\$90.00		
ANTICIPATED CA & CI TASKS										
1. Contract administration - Contract and subcontract agreements, CA/CI file system, direct subconsultants & inspectors, prepare contract correspondence, pay applications, change orders, FO's, RIT's, DCM's. Assume 82 weeks (December 1, 2014 to June 30, 2016)	164			492				40	\$89,700	
2. Conduct Preconstruction Conference via Teleconference & Prepare Minutes	4	4		8					\$2,220	
3. Structural Submittal Reviews - boarding floats, piles, ramp planks, structural steel, CIP retaining walls, concrete reinforcement, steel railings, covered shelter, kiosk, fabrication QA & work plans	16			80		48		4	\$17,480	
4. Civil Submittal Reviews - ACP, concrete mix designs, water, sewer, storm drains, trench drains, MSE Walls, soil & aggregate, wick drains, soft ground instrumentation, geotextiles, fencing, stairway	16		40	40		40		4	\$17,040	
5. Design assistance for scope changes, unanticipated site conditions, review proposed substitutions, coordination with existing utilities & DOT hwy improvements, soft ground data assessments & recommendations	24	16	80	40		40	16	4	\$27,320	
6. Attend weekly progress meetings with City & Contractor, prepare written progress reports	24			144				12	\$21,960	
7. Fabrication periodic inspections for piles, structural steel, floats, photos & reports - periodic basis 12 hrs/wk x 16 weeks	16		192					16	\$28,320	
8. On site construction inspections w/ daily reports & photos - assume 1 primary inspector on site 64 weeks at 60 hrs /wk, 1 assistant inspector on site 16 weeks * 40 hrs/ wk		720		3120			640	40	\$527,600	
9. Substantial Completion Inspection & Prepare Final Punch List	4	4		8					\$2,220	
10. Final Completion & Contract Closeout Documentation	8			80				4	\$11,000	
11. Transfer contractor provided as-built data to electronic files	4			16			24		\$4,840	\$749,700
Total Estimated Manhours	280	744	312	4028		128	680	124		
Estimated Third Party Expenses										
Haight & Assocs	Electrical Engineering Services								\$13,850	
Corvus Design	Landscaping Services								\$12,600	
Travel Allowance	Fabrication inspections - vehicle and perdiem expenses								\$2,000	
Materials Testing	Independent Field & Lab Testing Allowance								\$10,000	
Misc. Expenses	Job consumables, fuel, freight, small tools, field supplies, goldstreaks, etc.								\$2,000	\$40,450
Total Estimated T&M Fee										\$790,150



526 Main Street
Juneau, Alaska
99801

Telephone
(907) 586-9788
Fax
(907) 586-5774

FEE ESTIMATE

PROJECT NAME: Statter Harbor Boat Launch

CLIENT: PND

PROJECT NO.: 137-102

DATE: 4 November 2014

STAFF	CONSTRUCTION ADMINISTRATION: (HOURS)	CONSTRUCTION OBSERVATIONS: (HOURS)	TOTAL (HOURS)	RATE (\$/HR)	TOTAL (\$)
Principal Engineer	8	4	12	175	2,100
Senior Engineer	0	0	0	170	0
Staff Engineer	40	44	84	130	10,920
CAD/Designer	0	0	0	95	0
CAD/Technician	0	0	0	85	0
Clerical	0	0	0	65	0
Administrative	1	1	2	85	170
TOTAL (Time)	49	49	98		
TOTALS (\$)	\$6,685	\$6,505			\$13,190
Total (Sales Tax - CBJ @ 5%)	\$334	\$325			\$660
TOTAL (Reimbursable Expenses)	\$0	\$0			\$0
PROJECT TOTAL	\$7,019	\$6,830			\$13,850

INVOICE PARAMETER:
LS = Lump Sum or Fixed Fee
T&E = Time & Expense

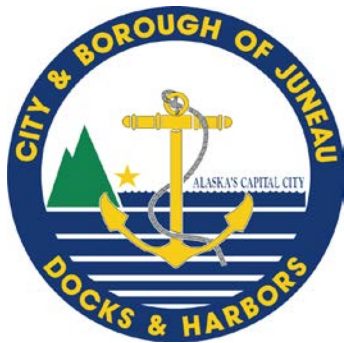
LS

T&E



Corvus Design, Inc.
Attn: Christopher Mertl
 Anchorage: 907.222.2859
 Juneau: 907.988.9000
 www.corvus-design.com

Fee proposal					6-Nov-14
Client: PND Engineers					
Project: CBJ Statter Harbor CA					
Contract Type: Lump Sum					
	Personnel Type	Principal Landscape Architect	Landscape Architect	Landscape Designer	Total Hours/ Total Fee
Task	Hourly Rate	\$145.00	\$115.00	\$85.00	
1.0 Construction Administration					
1.01 RFI and Change Order Responses	4	8	8		20
1.02 Review of Submittals, Shop Drawings	8	20	0		28
1.03 Inspections (including substantial and final) and Reporting	40	0	0		40
1.04 Construction/Engineering Coordination Meetings	8	0	0		8
1.0 Task Total Hours	60	28	8		96
1.0 Task Total Fee	\$8,700	\$3,220	\$680		\$12,600.00
1.0 Task Expenses					\$0.00
Corvus Fee Proposal					
	Labor Total Hours	60	28	8	96
	Labor Total Fee	\$8,700.00	\$3,220.00	\$680.00	\$12,600.00



Port of Juneau

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From: Carl Uchytel, Port Director
To: Docks & Harbors Operations-Planning Committee
Copy: CBJ Law
CBJ Lands & Resources
Date: January 16th, 2015
Re: Thane Ore House Lease

Background: In 1995, Mr. George Jefferson was provided a 30-year lease from the State of Alaska for ADL #103289 (Thane Ore House) with the rate set at \$3,700 per annum. Lease rate was adjusted in December of 2000 to \$6,200 and again in 2010 to \$6,700 per annum until the lease was terminated. On September 3, 2013 Mr. Jefferson was notified that the lease was in delinquent status. Consistent with the "Termination" provisions, on June 5, 2014, affidavit terminating the lease was filed and later recorded for failing to make lease payments. Docks & Harbors requested CBJ Collection pursue collections of past moneys owed. The former lessee had until August 9th, 2014 to remove or sell all personal property from the premises. On or about September 1st, 2014, Docks & Harbors secured the facilities with new locks and security monitoring equipment.

The original lease had a provision, provided below, pre-dating changes to Alaska Statue 38.05.090 in 1997 (emphasis added):

- (b) If improvements or chattels, or both, having an appraised value exceeding \$10,000 as determined by the director are not removed within the time allowed, the improvements or chattels or both shall, upon notice to the lessee, be sold at public sale under the direction of the director. **The proceeds of sale inure to the lessee who placed the improvements or chattels on the land after paying to the state all rents due and expenses incurred in making the sale.** If there are no other bidders at the sale, the director may bid in the name of the state. The bid money shall be taken from the fund to which the land belongs and the fund shall receive all money or other value subsequently derived from the sale or leasing of the improvements or chattels. The state acquires all the rights that any other purchaser could acquire by reason of the purchase.

The CBJ Law legal interpretation of this clause is that the former lessee would be entitled to the value of the building in excesses of \$10,000. Docks & Harbors contracted with Horan & Co to provide an appraisal of the land (vacant & unimproved) and an appraisal of the building. The appraiser provided a *fee simple interest* land value of \$86,000 and determined the building to be fully depreciated with *no present value*. The resulting appraisal allows Docks & Harbors to proceed without encumbrances from the previous lessee.

Current Situation: The Horan & Co appraisal validated staff observations: that although the property is sited in a desirable location; the facility has not been maintained; is in decrepit condition; and, would require significant capital to rebuild the infrastructure, including septic and potable water. Nonetheless, the Port Director has received inquiries from more than one party interested in pursuing a lease agreement with Docks & Harbors.

Lease Regulations: The Docks & Harbors regulations guiding leases are found under 05 CBJAC 50 (Lease Administration). In particular 05 CBJAC 030 (Lease Applications) provides the following:

(a) *Application requirements.* All applications for lease of lands shall be submitted to the port director on forms provided by the director. With the application, an applicant shall also submit a development plan that includes:

- (1) The nature and purpose of the proposed lease;
- (2) A site plan;
- (3) The use, value, and nature of improvements to be constructed;
- (4) The dates construction is estimated to commence and be completed;
- (5) A detailed description of the proposed operation;
- (6) Whether the intended use complies with the CBJ Land Use Code, CBJ [Title 49](#), and the comprehensive plan of the City and Borough; and
- (7) Additional information that would assist the port director, the Docks and Harbors Board, and the Assembly in acting on the application.

(b) *Application processing.* The port director will review each application for completeness within 30 days of receipt unless the director notifies the applicant that more time is required to complete the review. If the port director determines that the application is not complete, the director will provide the applicant with a general description of the information needed to make the application complete. Once the application is complete, the port director will estimate the cost for the docks and harbors department to process the application and will notify the applicant in writing of the estimated cost. The applicant is required to pay all costs associated with processing of the application, including any costs to survey and appraise the area proposed to be leased. The applicant must agree in writing to pay the processing costs prior to the Docks and Harbors Board taking action on the application. Failure of the applicant to agree to pay, or pay, any processing cost will result in the application being denied. The applicant may assist the port director by arranging for specified components of the work, such as survey and appraisal, provided any such work to be performed by applicant is approved in writing in advance by the port director.

Although the regulation does indicate the minimum acceptable lease rent, it does not provide guidance when there are multiple prospective lessees.

05 CBJAC 50.040 - Appraisal, lease rent requirements, and dispute resolution

(b) *Minimum acceptable annual rental.* No land or interest in land shall be leased for less than the approved, appraised annual rental except that when leased to a governmental unit, agency, department, or body for public purposes, or to a nonprofit organization for the purpose of performing a public or quasi-public health function, such minimum rental may be waived by the Assembly by resolution; however, such waiver does not constitute a waiver to the requirement for a review and adjustment of rental rates every five years.

Under CBJ code 53.20.020 - Lands available for leasing, the inference is that the lessee would be selected through a bidding process:

All lands and interests in land owned by the City and Borough, including tide and submerged lands, may be leased as hereinafter provided for surface use only unless the assembly has given specific approval to the lease of land in connection with the disposal of materials, timber or other resources under sections [53.09.320](#) and [53.09.330](#); however, lands devoted to or reserved for public use may not be leased, nor may any existing lease on such lands be renewed unless such lease is for or will not interfere with the public use or purpose to which the land is devoted or reserved. Except as provided in CBJ [53.09.260](#), no lands may be leased which have not, at least 30 days before award

or execution of a lease, been declared by the assembly by resolution to be available for leasing or identified in the approved land management plan for disposal by competitive bid leasing in the current year. The call for bids for leases shall be advertised in the same manner as provided for auction sales. A lease of land authorized specifically by ordinance may be made to such person or entity and under such procedures and minimum terms and conditions as are set forth in the ordinance.

CBJ Law has suggested a bidding process to select the lessee may be incongruent with land use governance. The recommendation is to use an evaluation process similar to a Request for Proposal used for professional services.

Next Steps: Following the process used in the 2005 selection of Juneau Port Development for the Little Rock Dump properties:

1. Public Notification that Docks & Harbors was accepting applications for the subject lease using two criteria for selection:
 - a. the development that provides the most marine-related benefit to the community of Juneau; and
 - b. the development that provides the most economic benefit to the City and Borough of Juneau in general and the Docks & Harbor Department in particular.
2. Pre-application Meeting held for qualified lessees.
3. Selection committee meets to determine best qualified.
4. Docks & Harbors approves the lease.
5. Assembly Waterfront Committee approves the lease.
6. Lands Committee reviews and approves the lease.
7. Assembly introduces an ordinance and sets public hearing.
8. Assembly approves non-code lease ordinance.
9. Docks & Harbors records the lease.

For the property in question, Docks & Harbors should determine whether the criteria previously used is appropriate in this competitive process and whether this process meets the vision of the Board. If a bid process is not employed in the selection process, I recommend setting the annual lease rate at 10% of the fee simple interest value (\$8600/annum) based on the Horan appraisal.

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Encl (1) Horan & Co Appraisal dated December 24, 2014

PORT ENGINEER'S PROJECT STATUS REPORT

Gary Gillette, Port Engineer

Project	Status	Schedule	Contractor	Notes
Auke Bay Loading Facility - Phase I				
Conditional Use Permit for Boat Repair	Planning		Staff	PC Meeting - Feb 10, 2015
ADEC Multiple Sector General Permit	Planning		PND	Awaiting PC decision
Auke Bay Loading Facility - Phase II				
Reporting	On-Going	Quarterly	Staff	Next report due Apr 30 (Jan Feb Mar)
Old Douglas Harbor Reconstruction				
Monitoring Plan	In Progress		COE	Awaiting COE review of Draft Monitoring Plan
Investigate Development Options	In Progress		Staff	Potential dredging by COE
Prepare Bid Documents for Demolition	In Progress		PND	Advertise demolition bid in mid February
Review of 2007 95% Drawings	Hold		Staff	
Final Engineering and Design	Hold		PND	
Bid	Hold			
Construction	Hold	TBD		
Statter Harbor Launch Ramp				
Conveyance - DNR Property at Glacier Hwy	In Progress		R&M	Awaiting survey approval by DNR
DNR Tidelands Survey	In Progress			Awaiting survey contract
Construction	In Progress	Summer 2016	Miller	
Port of Juneau Cruise Berths				
1% for Art	In Progress		Staff	Awaiting recommendation by Art Panel
Prefabrication and Procurement	In Progress		Manson	
Submittal Review and Fabrication Inspection	In Progress		PND	
Construction	Hold	Sept 20, 2015	Manson	
Vibration Monitoring Services	In Progress		AS&E	Plan due Feb 2015
Cathodic Protection Replacement				
Final Engineering and Design	Bidding		Tinnea	Bid cancelled - high bids over budget
Aurora Harbor Re-Build				
Construction	In Progress		NCS	
Completion		Spring 2015		
Electical Ground Fault Issue	Planning		Haight	Letter, Public Meeting - Feb 4, 2014
Douglas Breakwater	Complete		ACOE	Awaiting final processing - CBJ Match Amount
Bridge Area - SeaWalk Planning	Hold			Coordination with Engineering
Alaska Marine Services Center	Hold			Coordinate with Eng, P&R
Statter Boat Haul-Out/Kayak Ramp	Hold			Awaiting full funding

PORT ENGINEER'S PROJECT STATUS REPORT

Gary Gillette, Port Engineer

Weather Monitoring System	In Progress		MXAK	Stakeholder Meeting in Feb 2015
Periodic Maintenance Plan	In Progress		Staff	Working with MIS to develop program entry
Archipelago Property Improvements	Planning		Staff	Awaiting Board Direction
DHS Security Grant	In Progress		Staff	
Auke Bay Breakwater Safety Improvements	Design		PND	Awaiting design
Statter Ramp Deck Improvement	In Progress		NPE	Investigating faulty materials issue
Taku Dock	Design		PND	Pile Sleeves
IVF Repairs	Design		Sherman	Bull rail modifications
Wayside Float Dredging	Design		Staff	Awaiting funding
Amalga Harbor Fish Cleaning Station	Planning		Staff	Awaiting Assembly approval