

CBJ DOCKS & HARBORS BOARD
OPERATIONS/PLANNING COMMITTEE MEETING AGENDA
For Wednesday, March 20th, 2019

- I. Call to Order** (5:00 p.m. at CBJ Assembly Chambers)
- II. Roll Call** Don Etheridge, Bob Janes, Budd Simpson, David McCasland, James Becker, Bob Westmann, Christopher Dimond, Mark Ridgway and Weston Eiler.

III. Approval of Agenda

MOTION: TO APPROVE THE AGENDA AS PRESENTED OR AMENDED

- IV. Public Participation on Non-Agenda Items** (not to exceed five minutes per person, or twenty minutes total)
- V. Approval of Wednesday, February 20th, 2019 Operations/Planning Meetings Minutes**

VI. Consent Agenda - None

VII. Unfinished Business

1. People's Wharf Lease Amendment #2
Presentation by the Port Director

Committee Discussion

Public Comment

Committee Discussion/Action

**MOTION: TO APPROVE PEOPLE'S WHARF TIDELAND LEASE
AMENDMENT #2 FOR AN ADDITIONAL 705 SF AT A RATE OF \$14,805 PER
YEAR.**

VIII. New Business

1. Amending the CBJ Codes Related to Planning Commission Review of CBJ Real Property Transactions
Presentation by Assembly Member Loren Jones

Committee Questions

Public Comment

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Committee Discussion/Action

MOTION: TO SUPPORT PROPOSED ORDINANCE CHANGES PERTAINING TO THE PLANNING COMMISSION REVIEW OF PROPERTY TRANSACTIONS.

2. Budget Supplemental
Presentation by the Port Director

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: THAT THE FY2019 DOCKS BUDGET BE INCREASED BY \$35,000 THROUGH THE SUPPLEMENTAL PROCESS.

3. Proposed Insurance Change to Regulations
Presentation by the Port Director/CBJ Risk Manager

Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TO ACCEPT CHANGES PROPOSED BY THE CBJ RISK MANAGER PERTAINING TO COMMERCIAL INSURANCE REQUIRMENT IN 05 CBJAC 01.060 AND 05 CBJAC 10.070.

IX. Items for Information/Discussion

1. Juneau Bike Share Program
Presentation by the Port Director

Committee Discussion/Public Comment

2. North Douglas Launch Ramp
Presentation by the Port Director

Committee Discussion/Public Comment

3. CLIAA Lawsuit Settlement
Presentation by the Port Director

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Committee Discussion/Public Comment

4. Budget Presentation to Assembly
Presentation by the Port Director

Committee Discussion/Public Comment

5. Archipelago Project Update
Presentation by the Port Engineer

Committee Discussion/Public Comment

6. Harbor Maps for Safety Ladders & Life Ring Locations
Presentation by the Port Engineer

Committee Discussion/Public Comment

X. Staff & Member Reports

XI. Committee Administrative Matters

1. Next Operations/Planning Committee Meeting- **Wednesday, April 17th, 2019.**

XII. Adjournment

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OPERATIONS/PLANNING COMMITTEE MEETING MINUTES
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I. Call to Order

Mr. Eiler called the meeting to order at 5:00pm in the CBJ Assembly Chambers.

II. Roll Call

The following members were present: James Becker, Don Etheridge, Budd Simpson, Bob Wostmann, Mark Ridgway, and Weston Eiler.

Absent: Bob Janes, and David McCasland.

Also present: Carl Uchytel – Port Director, Gary Gillette – Port Engineer, David Borg – Harbormaster, Matthew Creswell – Deputy Harbormaster, Jennifer Mannix – CBJ Risk Management and Andy Migel – CBJ Safety Officer.

III. Approval of Agenda

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

Motion passed with no objection.

IV. Public Participation on Non-Agenda Items –

Mr. Uchytel introduced Tony Schinella from Cordova and Stan Eliason from Sitka in the audience with the Alaska Association of Harbormasters and Port Administrators (AAHPA) Annual Legislative Fly-In. There were nine members who lobbied on behalf of AAHPA.

V. Approval of Wednesday, January 23rd, 2019 Operations/Planning Meetings Minutes.

Hearing no objection, the minutes from January 23rd, 2019 were approved as presented.

VI. Consent Agenda - None

VII. Unfinished Business -

1. People's Wharf Lease Amendment

Mr. Uchytel stated this does not require a motion. Included in the packet is the latest language received from CBJ Law for advancing the Lease Amendment. CBJ Law is requiring the property be surveyed and appraised for this to move forward. He asked the Committee to provide any guidance for the appraisal to be included in the appraisal directions. Typically appraisals are based on fair market value of raw land but this is built out land that they will be leasing. He pointed out on page 17 in the packet it talks about seasonal outdoor seating and will be appraised with that in mind.

Committee Discussion

Mr. Wostmann asked if the Committee will see the appraisal before final action? He said he is interested to see what comparables are used.

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Mr. Uchytel said yes. The Assembly will also have to approve this. Having the area surveyed and appraised should be all that is required from his understanding from CBJ Law.

Public Comment-None

Committee Discussion/Action

Mr. Eiler asked what the timeline would be to complete an appraisal for this lease?

Mr. Uchytel said staff will call Mr. Horan tomorrow and start the process.

Mr. Eiler re-emphasized the Board's intent that this process should be concluded in time for Mr. Heumann to plan for the upcoming tourism season.

Mr. Ridgway asked if a briefer time period other than 35 years was discussed with CBJ Law?

Mr. Uchytel said he did discuss this. He said he recommends the Committee not approve this tonight and be able to link the amendment to this establishment. If Tracy's Crab Shack goes away, then the need for this lease amendment goes away. He does not want a 35 year lease but a separate lease amendment.

Mr. Ridgway asked if Mr. Uchytel needed a motion to move forward with an appraisal?

Mr. Uchytel said no. He said he will bring the appraisal back for the Board to approve consistent with new language. He said he does not need a motion tonight.

Mr. Ridgway said he is interested in the comparables used in the appraisal also.

Mr. Eiler asked how the peer groups used for appraisals is determined?

Mr. Uchytel said staff defers to Mr. Horan's expertise.

Mr. Wostmann said if Tracy's Crab Shack were to leave this space, he would be in favor of language in the lease that gives the City the right to review new tenants activities and decline usage if the Board does not like it.

No Motion

VIII. New Business

Mr. Eiler recused himself due to a possible conflict of interest and passed the gavel to Vice-Chair Mr. Ridgway to continue the meeting.

1. Alaska Memories Enterprise, LLC (dba Nordic Tug Charters) Sublease Renewal.
Mr. Uchytel showed an overview map of the area where Alaska Memories Enterprise is located. He said the Alaska Memories building is two connex boxes put together for Nordic Tug Charters to store items. In 2011 a lease was put together to memorialize the approved and constructed building which was a five year lease with two three year renewable leases. The rate is from assessed value. They would like to continue to lease this area and there is currently a lease in place. Mr. Uchytel said he recommends renewing

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this lease. The lease can only be renewed to May 4th, 2021 because that is when our lease with UAS expires but we can exercise a renewal of 33 years.

Committee Questions

Mr. Becker asked if the lease holder uses the old fuel dock for his tugs in the summer?

Mr. Borg said he will not have exclusive use of the dock this year.

Mr. Becker asked if the lease holder is aware that this is temporary and there is a future vision for this property that may not include him.

Mr. Borg said no.

Mr. Ridgway asked if it was common with leases to establish a rent based off assessed value?

Ms. Larson said there are two other sub-leases in this area that have their rent based off assessed value which is Maritime Hydraulic and Juneau Marine Services.

Mr. Uchytel said typically the assessed value is not a good way to establish a rent.

Mr. Ridgway asked if Mr. Uchytel wanted the lease language changed.

Mr. Uchytel said no.

Public Comment-None

Committee Discussion/Action

Mr. Etheridge said the original request was for a connex box for storage. He said he supports this sub-lease for the income until there is a plan for this space.

MOTION By MR. ETHERIDGE: TO APPROVE A SUB-LEASE EXTENSION UNTIL MAY 1ST, 2021 WITH ALASKA MEMORIES ENTERPRISE, LLC (dba NORDIC TUG CHARTERS) AND ASK UNANIMOUS CONSENT.

Mr. Eiler said he objected for the purpose of recusing himself from this topic.

Motion passed

Mr. Ridgway returned the gavel to Mr. Eiler to continue the meeting.

2. CPI (Consumer Price Index) Rate Increases

Mr. Uchytel read the regulation pertaining to the moorage rate increase. The rates will increase unless the Board takes action to not raise the rates. On page 38 in the packet shows the Anchorage CPI for last year being 3% and on page 41 shows the rates to increase in red effective July 1st, 2019.

Committee Questions

Mr. Simpson asked if the rates were supposed to be rounded to the nearest \$.05?

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Ms. Larson said the dailies are rounded to the nearest cent and the monthly is to the nearest \$.05.

Mr. Wostmann asked why are only some of the rates increasing and not others?

Mr. Uchytel said there was a comprehensive fee review a few years back and everything wasn't linked. He does not have a good reason for that.

Mr. Eiler asked if most other Ports and Harbors in Juneau's peer group index these fees to inflation?

Mr. Uchytel said no.

Mr. Ridgway asked if this was a competitive rate increase?

Mr. Borg said maintenance costs were not considered with our upgrades. In years past a GFCI breaker was about \$30. Now they are \$300 and more sensitive so they need to be replaced on a more regular basis. As we improve our technology, you can't just go buy a screw in light bulb anymore. We are buying LED bulbs and need a term contractor to replace them. He said raising the rates a little can be justified because business is not getting cheaper.

Mr. Becker said the rate increase is justifiable.

Mr. Uchytel talked about the CPI on page 38. The past few years because of rounding to the nearest nickel, the rates did not increase.

Mr. Etheridge said he was on the Board when this policy was established and it was put in place so we didn't wait several years to make the increases. The last big increase, we lost a lot of our Commercial Fisherman. This works out to be a gradual increase over time.

Mr. Ridgway commented that there should be something special for users that spend the most money.

Mr. Borg said we are there with loaders, forklifts, and a boom truck when they need to offload gear from their boats. In some instances, there is a fee schedule that we could charge for those services but we provide the service as part of a package deal. Harbors has the lowest rate on storage than anywhere in Juneau. Money was put into the Harris bathrooms. We are putting money into the Harbors and this increase is justifiable.

Public Comment

Dennis Watson, Juneau, AK

Mr. Watson said he does not have a problem with the rate increase of \$.15 a foot because we had a good break when the CPI was not large enough for an increase. He said he still has a problem with the double dipping. For those of us that want to keep our slip in the Harbor we have to pay all year. Harbor Staff rents those slips out again and takes the money for it. He said someday he will go to the Board of Realtors because under their jurisdiction you can't charge somebody for something someone else is leasing. He said he thinks this is a fair way for an increase. He does not believe rates should increase because

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of a project. Everyone shouldn't have to pay to fix something in Harris Harbor for example.

Paul Swanson, Juneau, AK

Mr. Swanson said he said he doesn't have a problem with the increase. He is happy to see that the CPI increase is an even increase meaning Statter rates are raised at the same rate as downtown. He said his main complaint is if a person takes his boat out for six months in the wintertime and they use it in the summertime a person should pay something but he does not believe it is fair to double dip. When your boat is out of the water in the winter and someone else is in that slip it is not right to collect more money on it.

Committee Discussion/Action

Mr. Uchytel pointed out on page 40 in the packet that the Passenger for Hire fees will go up also and unless the Board takes action to not increase these fees it will happen automatically.

Mr. Wostmann said he deals with commercial leases relatively often and they all have a CPI increase in them. This is the best way to keep the rates in line with the overall cost of living and they are incrementally increases over time. He said he is in favor of the proposed rate changes.

Mr. Simpson said he supports the incremental rate change as well. He said with the State budget, Harbors will be receiving less support. We are going to have to look at fee increases for our improvements and operations. We may have to have a larger increase than just the 3%.

Mr. Ridgway said because both public testimonies talked about double dipping, he asked if there was an alternative to the double dipping?

Mr. Etheridge said there was a very good reason for doing what we did at the time. The only other option would be a larger increase for the moorage rates. Rather than the larger increase, hot berthing when the stalls were empty saved quite a bit on moorage fees. The Harbors were given to the City from the State in poor condition and we were looking at fees to be able to start making repairs. Without the hot berthing, the fees would have been considerably higher.

Mr. Uchytel said hot berthing is a standard throughout Alaska.

NO MOTION NEEDED

IX. Items for Information/Discussion

1. Self-Rescue Ladders

Mr. Uchytel said he forwarded to the Board a letter from a Mr. Tom Satre who is a long time Juneauite. Mr. Satre got word of Mr. David Little's passing in Harris Harbor and he sent a letter to him and CBJ Risk Management. Mr. Satre is imploring the Board to look at rescue ladders throughout the Harbors and suggested that CBJ was at risk for not having

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rescue ladders in the Harbors. Mr. Satre provided a link to a thoughtful article on drownings in other Harbors. JPD indicated alcohol was a factor in the drowning. Mr. Little did have a rescue ladder at his slip. On page 68 in the packet is a summary of what is required for small boat harbors and safety ladders is not a code requirement. Staff is not saying we don't want to add rescue ladders to our harbors but it is a matter of priorities. Another difficulty is where they should be placed. Mr. Uchytel invited CBJ Risk Manager Jennifer Mannix here tonight to help see the big picture.

Committee Discussion/Public Comment

Mr. Eiler asked about the costs of adding safety ladders to new construction?

Mr. Uchytel said approximately \$50,000. He said staff has been having discussions with adding safety ladders in the North end of Aurora when this it is replaced. Where do you place the ladders, and how many do you put in? On page 68 it talks about placing ladders every 200' which is the standard.

Mr. Ridgway asked if the 200' is a standard for the safety ladders at a Wharf?

Mr. Uchytel said yes. He said location is the key to saving a life. He is not saying the ladders are not necessary but they have not been prioritized to the point that staff has been directed to purchase them yet. He has not had the discussion with CBJ Risk Management to see if there is some kind of an evaluation that can be done in a Harbor to see if you are covered or not covered for liability.

Mr. Ridgway asked if the ladders where approximately \$75.00 per ladder?

Mr. Uchytel said they are between \$200 and \$250 per ladder.

Mr. Ridgway recommended adding ladders a few each year.

Mr. Becker recommended having signs with a map that shows the ladder locations in the Harbors and encourages this conversation to continue to make sure Docks & Harbors is meeting industry standards.

Mr. Etheridge said the Board did look into this a few years ago and the cost per ladder is a lot more than he is hearing tonight. There were also patron's complain about the ladders being placed in their way. Installing the ladders a few at a time was a lot more because of retrofitting and not buying in bulk.

Mr. Uchytel introduced the CBJ Safety Officer Andy Migel who was also in the audience tonight.

Mr. Eiler suggested staff work with CBJ Risk Management to determine if there are current areas of concern/exposure in our Harbors system that the Board should be briefed on.

Mr. Wostmann asked staff to come back with a true estimate for safety ladders in new construction and per ladder cost for retrofitting.

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Mr. Borg said he will look into it.

Mr. Uchytel said it will be hard to place the safety ladders in Statter Harbor, but there are the up and outs (rescue ladders) that are in all of our Harbors. He said Mr. Watson can attest that they work.

Mr. Borg said the rescue ladders were \$1,700 per ladder.

X. Staff & Member Reports-

Mr. Uchytel reported;

- The Archipelago project has been delayed a month because of the design efforts. We are still on track, but we will not advertise for bids until May 1st.
- Staff was hoping to have the Security Booths installed by mid-May but the feedback from some of the contractors in town is that they can't meet the May 15th deadline. Staff will delay this one season and hopefully will have the additional money from the Marine Passenger fees to complete both security booths in the fall.
- With the nine members that came to Juneau for the Legislative Fly-In, we had representatives from Cordova, Sitka, Homer, Unalaska, Emmonak, Seward, and Whittier. We were given the opportunity to meet with the Governor. The message is we are still in the running for the Harbor Grant funding. He said people the group met with understand how important the Harbor Grant funding is. The group was also given the opportunity to talk about how important the raw fish tax is. Currently it is 50/50 with the Municipality and the State and the Governor introduced a bill that all the raw fish tax will go to the state. This is very important to the coastal caucuses and the people he talked with did not believe this would be passed. There was interest about the Lumberman from the Juneau caucus.
- There is \$900M in the president's budget for BUILD grants this year, which replaced the TIGER grant. Last year it was \$1.5B. The difference from last year and this year is it is a 50/50 rural and urban areas. Rural is defined to be fewer than 200,000 people and that means we are now competing with a lot larger communities for the BUILD grants. Our lobbyist Katie Kachel has indicated there is an INFA grant which is a grant that Docks & Harbors has not pursued in the past and may be better for us to apply. Staff will apply for the BUILD and INFA grants this next year.
- He said he met with the Corps of Engineers on the Aurora and Harris maintenance dredging. The plan would be to secure Harbor Grant funding for a \$4M project to demolish the north end of Aurora and then the Corps would come in and do maintenance dredging. If we don't receive any harbor grant funding for this project, the Corps is willing to delay the dredging until we have the funding needed. If we are not successful this year, he would just wait and build our fund balance so we can go in for a \$5M ask next year.
- He said he will be on vacation until March 11th and will check e-mail periodically.

Mr. Borg said he is also going on vacation and will return March 12th. Deputy Harbormaster Matt Creswell will be acting on his behalf. He said one thing to note is we did receive the safety grant money that was used to purchase life jackets for staff to wear on the docks.

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Mr. Uchytel said we are advertising for seven employees for seasonal work that closes on February 25th. We have Harbor Tech, Harbor Officer, and Admin positions and asked the Board to pass on that information to anyone they know that may be interested. The Board position is closing on February 22nd the Assembly will interview on March 6th. A Mr. Chris Dimond, Jay Sterne, and Louis Jergens have applied so far.

Mr. Etheridge said one good thing about the Bill that was introduced taking the raw fish tax away was they left the Municipal Harbor Grant process in place. The comment's he hears about the budget is that the Municipalities will be picking up a lot of costs.

XI. Committee Administrative Matters

Mr. Wostmann said as Chair of the Finance Committee, he met with Ms. Larson a few days ago to see the kind of documents that she is working with and discuss a schedule that would work for her. He plans to contact the members and set up an organizational sub-committee meeting to determine how to proceed.

Next Operations/Planning Committee Meeting- **Wednesday, March 20th, 2019.**

XII. Adjournment- The meeting was adjourned at 6:27pm.

**MARKET RENT APPRAISAL
FOR SEASONAL SIDEWALK USE
PEOPLE'S WHARF TIDELANDS LEASE
432 SOUTH FRANKLIN STREET
JUNEAU, ALASKA**



PREPARED FOR: Carl J. Uchtyl, PE, Port Director
City and Borough of Juneau Docks and Harbors
155 S. Seward Street
Juneau, Alaska 99801

PREPARED BY: Charles Horan, MAI
Horan & Company, LLC
403 Lincoln Street, Suite 210
Sitka, AK 99835

EFFECTIVE DATE: February 28, 2019

REPORT DATE: March 14, 2019

OUR FILE NUMB 19-028

HORAN COMPANY

REAL ESTATE APPRAISERS/CONSULTANTS

CHARLES E. HORAN, MAI / WILLIAM G. FERGUSON,

JOSHUA C. HORAN, AND SLATER FERGUSON

403 LINCOLN STREET, SUITE 210, SITKA, ALASKA 9983

PHONE NUMBER: (907)747-6666 FAX NUMBER (907)747-7417 commercial@horanappraisals.com

March 14, 2019

Carl Uchytel, P.E., Port Director
City and Borough of Juneau Docks and Harbors
155 S. Seward Street
Juneau, Alaska 99801

Sent via Email: teena.larson@juneau.org

Re: Market Rent Appraisal for Seasonal Sidewalk Use, People's Wharf Tideland's Lease Our
File: 19-028

Dear Mr. Uchytel,

As requested, I made an estimate of the market rent for the proposed amended area to Bill Heumann's People's Wharf land lease, which would encompass about 705 SF of sidewalk adjacent to the building to be used for Tracy's King Crab Shack seating. This appraisal is made assuming the additional area will be for a six month seasonal use, there will be no permanent structures, the area will be cleared after use, and the right to use will terminate if Tracy's King Crab Shack ceases operation.

I canvassed the area to identify and confirm similar seasonal use rents and have also considered commercial long term leases in the area. Based on my analysis of the market I estimate the annual market rent for six months seasonal use would be \$21.00/SF. For the 705 SF area this indicates an annual rent of \$14,805.

This estimate of rent is effective February 28, 2019, the date of inspection. Please see the attached report and addenda material which include the Assumptions and Limiting Conditions, Certification of Appraisal, the most pertinent data considered, and analysis made in estimating the market value of the subject rent.

If you have any questions or comments, please feel free to contact me at your convenience.

Respectfully Submitted,



Charles Horan, MAI; APRG41
HORAN & COMPANY, LLC

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1 INTRODUCTION

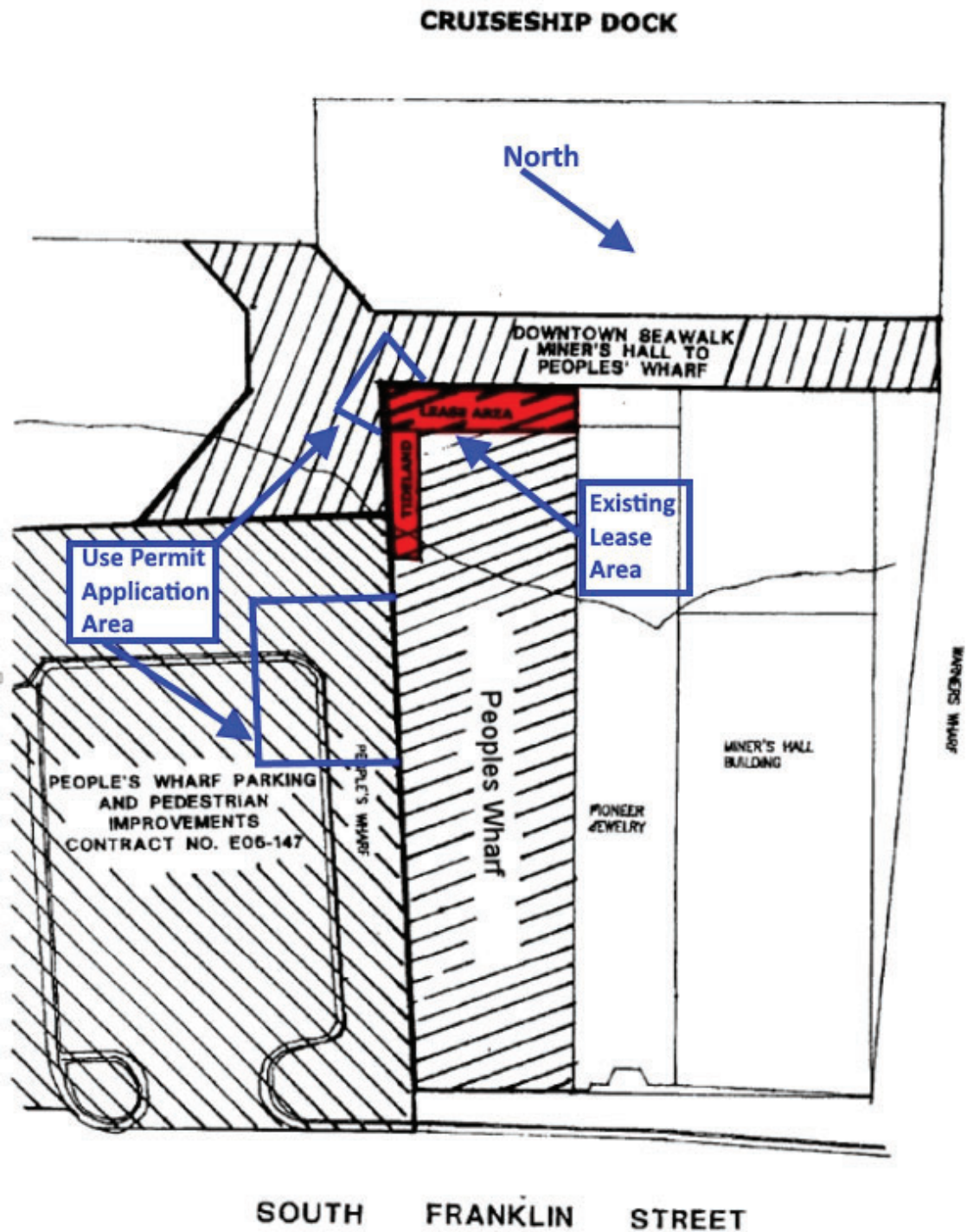


FIGURE 1.1 –SITE PLAN SHOWING PEOPLE’S WHARF AND LANDS ALREADY UNDER LEASE. NOTE ADDITIONAL PERMIT LANDS IN BLUE. ALSO NOTE THE PEDESTRIAN IMPROVEMENT AREA LOWER LEFT HAS BEEN RECONFIGURED. DRAWING NOT TO SCALE.

1.1 PURPOSE OF APPRAISAL, INTENDED USE AND USERS

The City and Borough of Juneau Port Director (lessor) entered into a 35 year lease, started in 2006, with Bill Heumann (lessee) for tidelands under the People's Wharf building at 432 S Franklin St., Juneau, Alaska. The lease rent has been periodically adjusted according to the rental adjustment clause, most recently made in November, 2016. The lessee acquired a permit for sidewalk seating and other activities related to Tracy's King Crab Shack, operated by his tenant for the 2017 and 2018 tourist season. The parties now wish to amend the original lease to include this area, and need an estimate of the additional market rent for this temporary seasonal use.

The wording for the lease amendment has not been finalized. Based on conversations with CBJ Docks and Harbors staff and the lessee, the terms assumed to be in the amendment which impact value are as follows.

- 1 The additional lease area is 705 SF, as identified in Figure 1.2.
- 2 The lease will be seasonal, 6 months from mid-April to mid-October.
- 3 No permanent structures are allowed. The site is to be cleared and vacated when not in use.
- 4 The lease affecting the additional area will terminate if Tracy's King Crab Shack ceases operation.

All other terms and conditions of the area to be rented would be as reflected in the original lease.



FIGURE 1.2 - IDENTIFICATION OF PROPOSED AMENDED LEASE AREAS. NOTE THE CBJ RIGHT OF WAY AREA IS 20' BY 20' ADDING 400 SF FOR A TOTAL OF 705 SF

Intended use: This valuation is to be used for estimating additional rent for a proposed amendment to the People's Wharf existing tide land lease with the City and Borough of Juneau.

Intended users are the City and Borough of Juneau, and William C. Heumann, Lessee.

This appraisal is not intended for any other use or any other user for any other purpose.

1.2 SCOPE OF APPRAISAL

This brief narrative summary report covers a small area of land, 705 SF, and reflects the highest and best use value of that land for its annual rent. The direct SF rent comparison method was used to develop yearly rent for the subject 6 month use.

1.3 SYNOPSIS OF THE EXISTING PEOPLES WHARF TIDELANDS LEASE

The original Lease documents have been provided; refer to the Addenda for complete details. This synopsis outlines the terms of the existing lease and does not incorporate the terms of the proposed amendment to add the temporary use area.

<i>Legal Description/Leased Premises:</i>	By amendment No. 1 the area is amended to 466 SF of tidelands, seaward of 432 South Franklin Street, People's Wharf Building, a fraction of Lot 9B, and 13B, Block 83, as shown by Plats 355, 430 & 87-10, ATS 3; Juneau, First Judicial District, State of Alaska
<i>Lessor:</i>	Port Director Borough of Juneau
<i>Lessee:</i>	Bill Heumann
<i>Term of Lease:</i>	35 years ending November 7, 2041
<i>Option:</i>	35 years
<i>Original Lease Date:</i>	November 14, 2006
<i>Rent:</i>	\$5950 per year last adjusted November 2016
<i>Sales Tax</i>	Paid by Lessee
<i>Real Estate Tax:</i>	Paid by Lessee
<i>Rental Adjustment:</i>	November 7, 2011 and every five years thereafter, based primarily upon values of comparable land in the same or similar areas.
<i>Use:</i>	Construction, operation and maintenance of a retail commercial building
<i>Property Rights Included:</i>	Normal rights conveyed by lease
<i>Other Terms of Lease:</i>	Typical full net lease indemnifying lessee
<i>Reversion of Improvements:</i>	Removed or sold to succeeding lessee. Typical
<i>Building/Site Improvements Included:</i>	None. All improvements to be made by lessee.

1.4 LESSEE CONTACT, INSPECTION & EFFECTIVE DATE

Bill Heumann, representative of the lessee was contacted and met with the appraiser on-site February 28, 2019, the effective date of this appraisal. The appraiser discussed the proposed lease amendment, and temporary use issues associated with the amendment, with a property owner at that time. Earlier in the day, the appraiser had a similar discussion with CBJ Docks and Harbors staff Teena Larson and Gary Gillett.

1.5 ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report and valuation contained herein are expressly subject to the following assumptions and/or conditions. As the lease amendment language has not been finalized, it's an **extraordinary assumption** of this appraisal that the amended lease terms will reflect the following;

- 1 The additional lease area is 705 SF as identified in Figure 1.2.
- 2 The lease will be seasonal, 6 months from mid-April to mid-October.
- 3 No permanent structures are allowed. The site is to be cleared and vacated when not in use.
- 4 The lease amendment allowing the additional area will terminate if Tracy's King Crab Shack ceases operation.

All other terms and conditions of the area to be rented would be as reflected in the original lease.

The valuation is further subject to the following General Assumptions and Limiting Conditions

1. It is assumed the data, maps and descriptive data furnished by the client or his representative are accurate and correct. Photos, sketches, maps, and drawings in this appraisal report are for visualizing the property only and are not to be relied upon for any other use. They may not be to scale.
2. The valuation is based on information and data from sources believed reliable, correct and accurately reported. No responsibility is assumed for false data provided by others.
3. No responsibility is assumed for building permits, zone changes, engineering or any other services or duty connected with legally utilizing the subject property.
4. This appraisal was made on the premise that there are no encumbrances prohibiting utilization of the property under the appraisers' estimate of the highest and best use.
5. It is assumed the title to the property is marketable. No investigation to this fact has been made by the appraisers.
6. No responsibility is assumed for matters of law or legal interpretation.
7. It is assumed no conditions existed that were undiscoverable through normal diligent investigation which would affect the use and value of the property. No engineering report was made by or provided to the appraisers.
8. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraisers. The

appraisers are not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.

9. The value estimate is made subject to the purpose, date and definition of value.
10. The appraisal is to be considered in its entirety, the use of only a portion thereof will render the appraisal invalid.
11. Any distribution of the valuation in the report between land, improvements, and personal property applies only under the existing program of utilization. The separate valuations for land, building, and chattel must not be used in conjunction with any other appraisal and is invalid if so used.
12. The signatory of this appraisal report is an associate member of the Appraisal Institute. The bylaws and regulations of the Institute require each member and candidate to control the use and distribution of each appraisal report signed by such member. Therefore, except as hereinafter provided, the party for whom this appraisal report was prepared may distribute copies of this appraisal report in its entirety to such third parties as selected by the party for whom this appraisal report was prepared; however, selected portions of this appraisal report shall not be given to third parties without the prior written consent of the signatories of this appraisal report. Further, neither all nor any part of this appraisal report shall be disseminated to the general public by the use of advertising media, public relations media, news media, sales media or other media for public communication without the prior written consent of signatories of this appraisal report.
13. The appraisers shall not be required to give testimony or appear in court by reason of this appraisal with reference to the property described herein unless prior arrangements have been made.

1.6 TERMINOLOGY

Market Rent

The most probable rent that a property should bring in a competitive and open market.

Rental Rate

The percentage of market value that a comparable class of private property would bring in the open market with the same conditions of lease as offered by the state.

Extraordinary Assumption: Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis. (USPAP, 2016-2017 ed.)

Dictionary of Real Estate Appraisal, Sixth Edition, Page 83-84.

The use of an extraordinary assumptions may affect the assignment results.

Tidelands

All areas which are at or below mean high tide and coastal wetlands, mudflats, and similar areas that are contiguous or adjacent to coastal waters and are an integral part of the estuarine systems involved. Coastal wetlands include marshes, mudflats, and shallows and means those areas periodically inundated by saline waters.

Market Value is defined as:

“The most probable rent that a property should bring in a competitive and open market reflecting all conditions and restriction of the lease agreement, including permitted uses, use restrictions, expense obligations, term, concessions, renewal and purchase options, and tenant improvements.”

The Appraisal of Real Estate Appraisal Institute, 14th Edition, Page 447

2 AREA ANALYSIS

2.1 JUNEAU AREA ANALYSIS

Overall Market

The demand for real property is driven by population, which in turn is in large part driven by employment.

The Juneau economy is primarily driven by the government. 38% of all jobs and 46% of all wages in Juneau are Federal, State or Tribal Government, based on the Juneau Economic Development Council (JEDC) 2017 report on the 2016 numbers. This shows a decline from prior years,

when 40% of all jobs and 50% of wages were in the combined government sector. The private sector has been growing, but remained flat from 2015 to 2017. Despite continued cuts in state employment, Juneau's economy shows resilience due to diversifying elements such as tourism, mining (Greens Creek and Kensington), and regional and local health care. The seafood industry had an off year, but this is relatively cyclical.

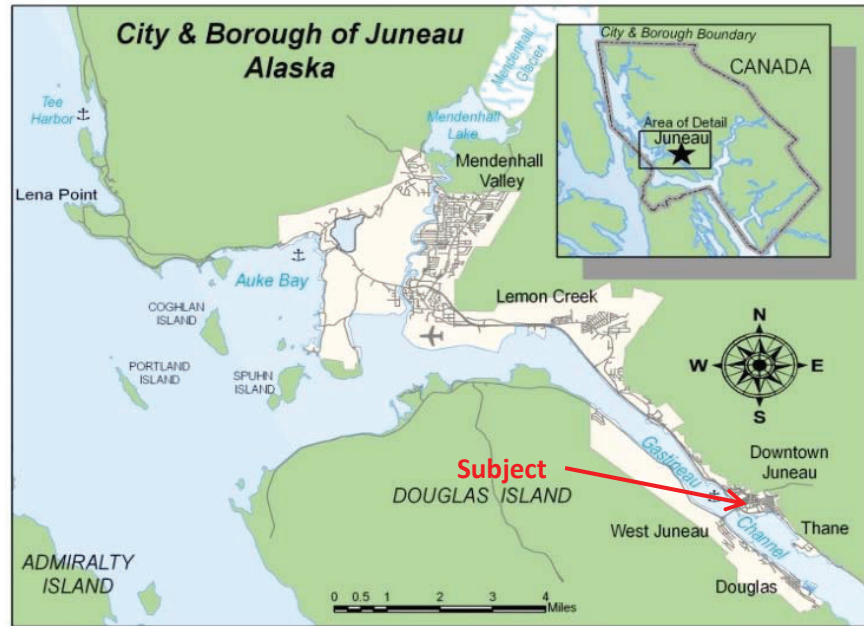
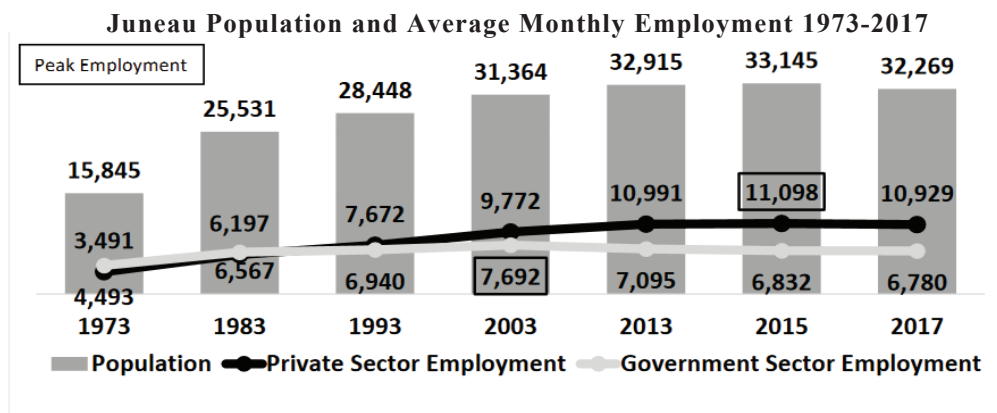


FIGURE 2.1 – Juneau Location Map



Source: Alaska Department of Labor and Workforce Development, Quarterly Census of Employment and Wages

FIGURE 2.2 - Population and average monthly employment for Juneau, published by the Juneau Economic Development Council, August 2018

The Juneau and Southeast Alaska Economic Indicators, August 2018, released by the Juneau Economic Development Council (JEDC-2018), indicates that from 2016 “Juneau’s average monthly employment declined by 221, from 17,930 in 2015 to 17,709 in 2017.” This was mostly due to 52 government job losses. Despite these losses, earnings in Juneau went up slightly over the same time as a result of increased annual government wages. Between 2013 and 2016 there was a rise in self employment by sole proprietors (2,572 to 2,894). The unemployment rate in Juneau has fallen from about 5% to 4.5% from 2013 to 2017. Juneau’s per capita income grew about 5% between 2013 and 2015, but appears to be leveling off. Juneau is still about 12% higher than the state average. These indicators seem to suggest a leveling of the economy.

According to the Alaska Department of Labor estimates included in JEDC’s report, Juneau’s **population** declined for the first time in 10 years, dropping almost 900 from 2015 to 2017, which indicated 32,269. Juneau’s annual growth rate over the past 10 years has been 0.1% compared to southeast regional growth of 0.3% and the overall state growth of 0.8% annually compounded.

2.2 JUNEAU CRUISE SHIP PASSENGER TRENDS

Juneau’s downtown waterfront has developed over the past several decades in response to the increasing cruise ship tourism to the area. The volume has increased over time from a low in 2010 of 871,000 passengers, to over 1,072,000 for the 2017 season, as indicated by Figure 2.3, Cruise Ship Passenger Visitation Numbers.

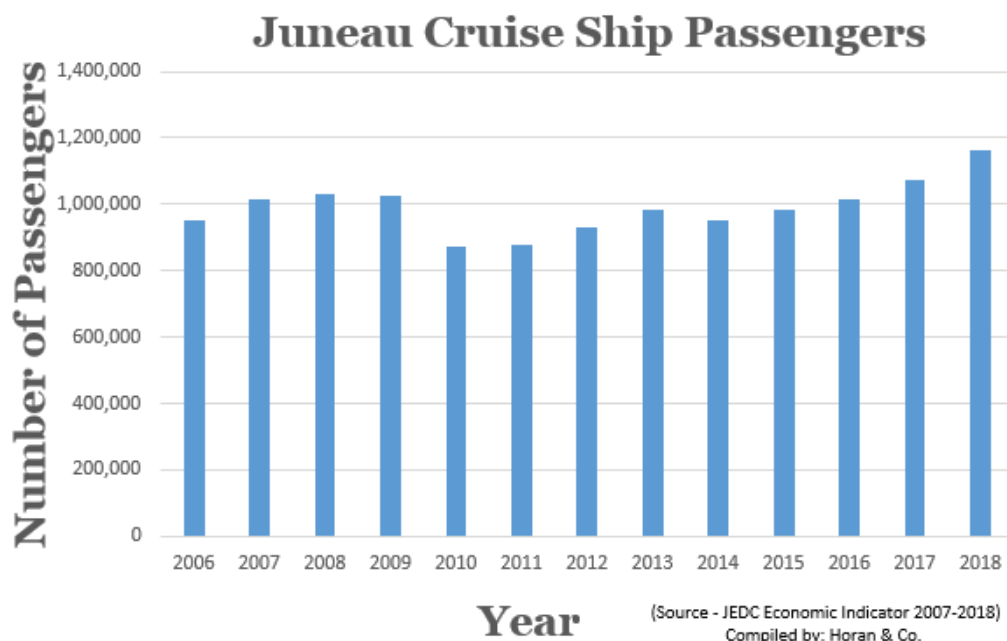


FIGURE 2.3 – Juneau Cruise Ship Passenger Visitation 2006 through 2018.

This growth has been accommodated by the expansion of cruise ship berths along Juneau Harbor to accommodate larger Panamax class vessels. The south berth opened for the 2016 season, and the north berth opened for the 2017 season.

2.3 SOUTH FRANKLIN RETAIL

The retail core area is along South Franklin Street, with primary retail activity closer to the city docks, where more passengers are concentrated in the drop off and pickup areas.

Overall retail spending in the area has increased to coincide with the increased visitation from cruise ships. According to the Juneau Economic Development Council's last published indicators in 2017, the Gross Business Sales by Tourist-Related Businesses have steadily grown since 2010. See Figure 2.4, which reflects selective business sales that would most impact retail in the immediate area.

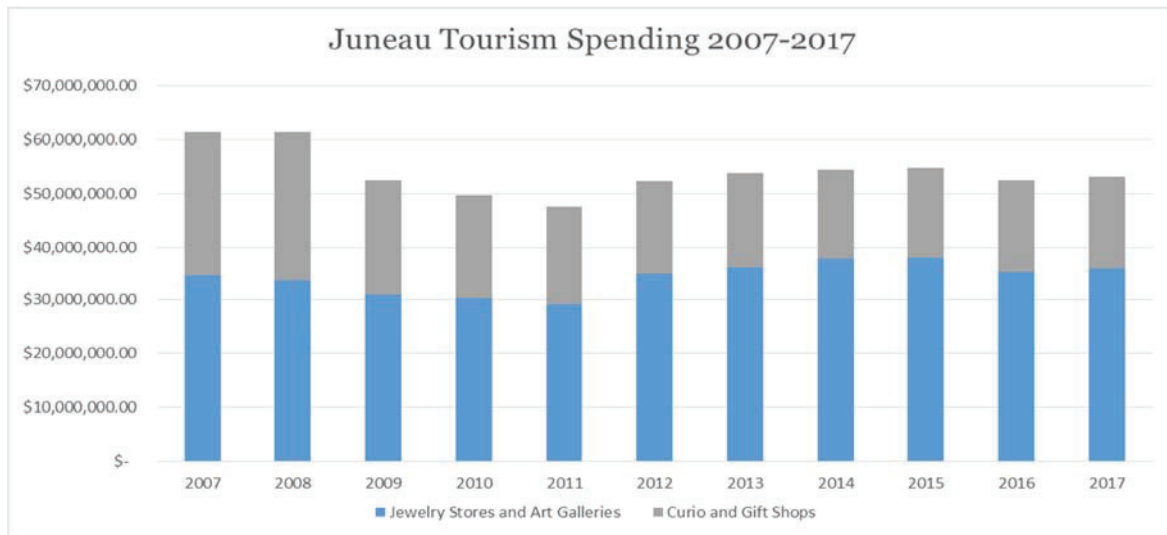


FIGURE 2.4 –JUNEAU TOURIST SPENDING 2007-2017. SOURCE: JUNEAU SALES TAX OFFICE. COMPILED BY: HORAN & Co

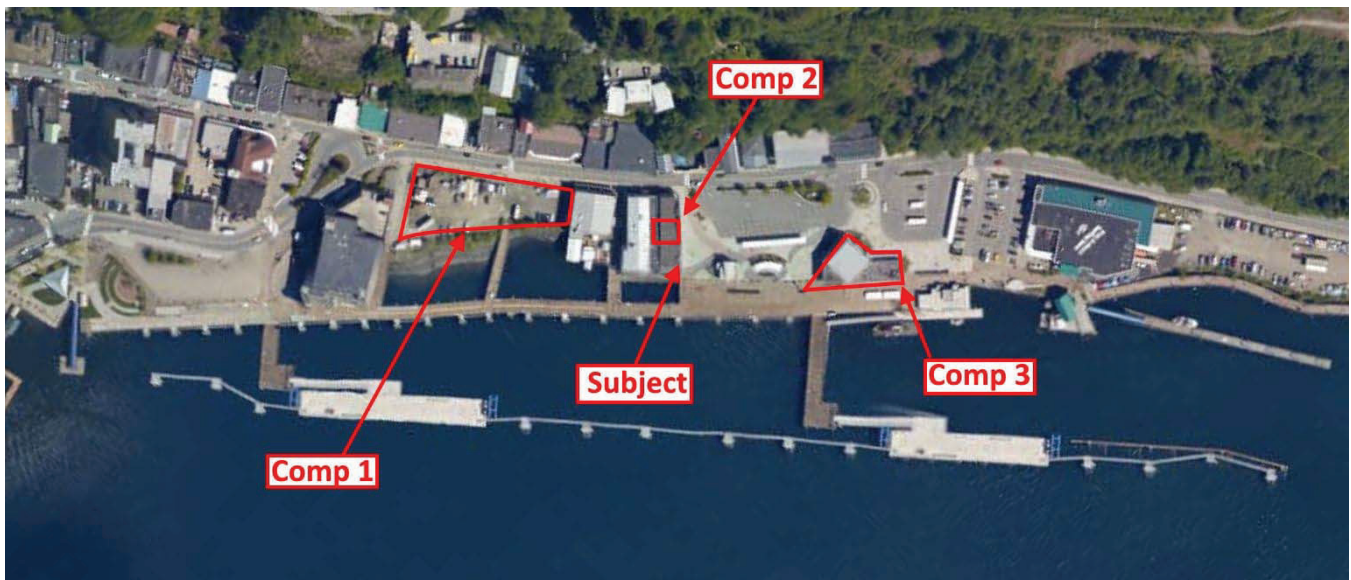


FIGURE 2.5 - SOUTH FRANKLIN RETAIL CORE AND TOURISM WATERFRONT SHOWING SUBJECT LOCATION AND COMPARABLE SALES

The demand for shore-side retail locations in this area is highest in the 300 and 400 block of South Franklin Street, and tends to trail off to the north in the 200 block of South Franklin Street. Demand for retail space appears to stop at the Taku Smokery Building in the 500 block.

Rents had trended upwards in the early parts of 2000, peaking out when the cruise ship traffic stalled after 2009. They have gradually increased, and are stabilizing for most properties. It appears that small jewelry shops have a higher SF rent than larger general tourist oriented retail shops. There have been very few property sales, but this rental trend suggests that sale value indicators of the last several years would be relatively stable.

A recent updated rent survey of the prime competitive area to the subject, between the 200 block and 500 block of South Franklin (See Fig. 2.6), indicate rent contracts for the 2019 season that have been negotiated would be similar to last season, between \$6.50/SF and nearly \$11.00/SF. The best located, newer buildings with small spaces that are rented to jewelry shops have achieved the highest rents. The lesser quality buildings with larger spaces, or with obsolete features are at the lower end. North of the Red Dog Saloon, toward the end of the 200 block of South Franklin Street, rents are in the \$3.00/SF to \$5.00/SF range for first floor retail.

In a neighborhood such as the subject, rents drive the demand for land. If building construction costs are the same at any location, but rents change due to location, higher values can be paid for the land at locations achieving the higher rents. Our recent rent survey indicates properties in the 300 to 400 blocks of South Franklin Street across from the subject achieve the highest rents.

The subject property is in the prime 400 block of South Franklin. The building extends to the narrow sea walk located behind it. This gives the rear of the property visibility from the ships, and a pedestrian traffic flow around the sea walk promenade as it passes in front of the subject and along its side.

3 PROPERTY DESCRIPTION

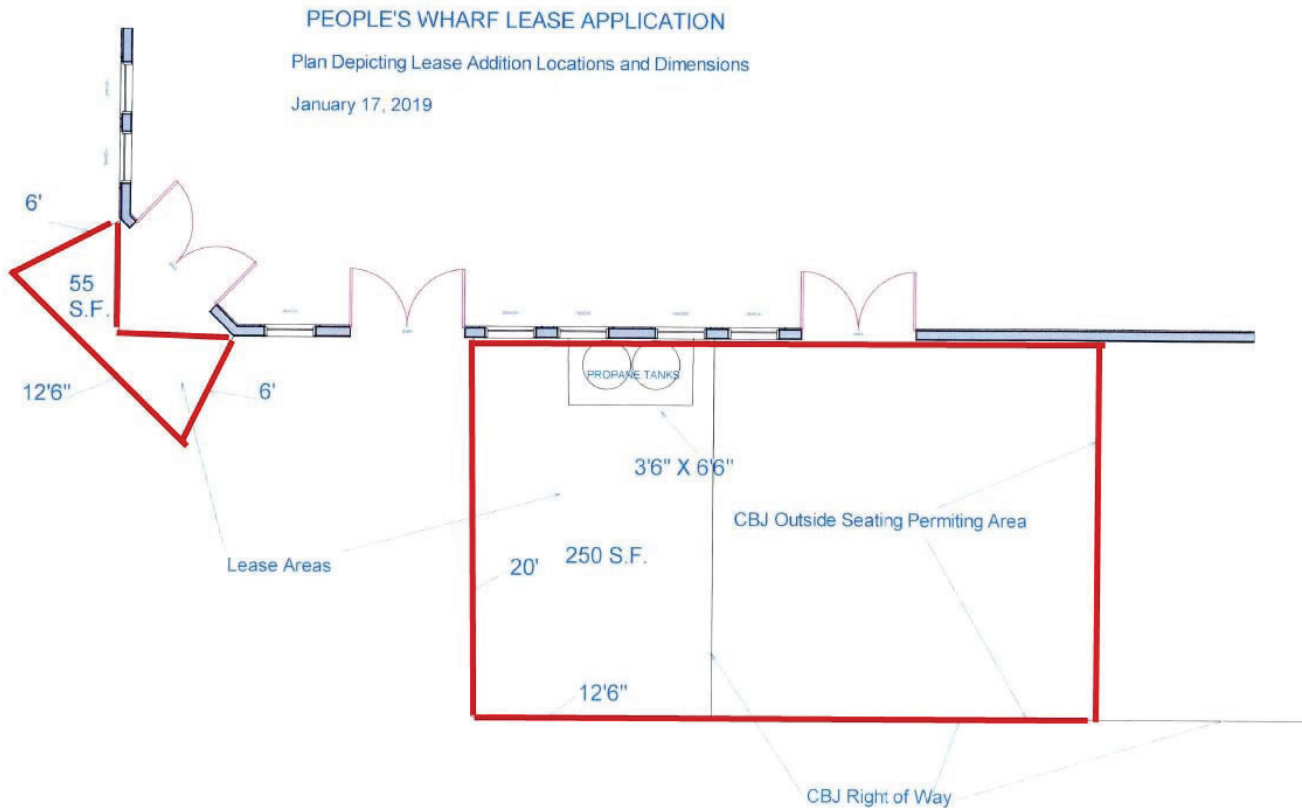


FIGURE 3.1 - PLAN DEPICTING SUBJECT AMENDED SEASONAL USE LEASE AREA

3.1 SITE DESCRIPTION

The subject includes two small permit areas. There's about 55 SF at the southwest corner of the People's Wharf building site as depicted in Figure 3.1 above and there is a 650 SF rectangular area for the propane tanks and seating. This larger area measuring 32.5' by 20 feet is a combination of two separate permit areas which are combined for the purpose of the proposed lease amendment.

The westerly irregular area is decked over dock adjacent to the building entry which has a decked triangular area protruding into the permit area. The easterly 650 SF piece is on a concrete walkway. Essentially these areas are considered the level at grade on fill or piling structure available for seasonal occupancy in connection with the Tracy's King Crab Shack business in the adjacent building.

Access

The permit areas have access along the city sidewalk and pedestrian pathways off the People's Wharf parking area, the tram site bus drop-off area, and the cruise ship pedestrian passenger ways.

Utilities

City sewer, water and private utilities including power, trash collection, phone, cable, internet and fuel are available.

3.2 ZONING

The subject lot is zoned WC - Waterfront Commercial. This zoning district is designed for the area of downtown Juneau directly on the waterfront, while the area across the street is zoned MU for mixed commercial uses. The following narrative from the Juneau Zoning Code details the applicable differences between the two zones:

“The WC, waterfront commercial district, is intended to provide both land and water space for uses which are directly related to or dependent upon a marine environment. Such activities include private boating, commercial freight and passenger traffic, commercial fishing, floatplane operations, and retail services directly linked to a maritime clientele. Other uses may be permitted if water-dependent or water-oriented.

The MU, Mixed Use district, reflects the existing downtown development pattern and is intended to maintain the stability of the downtown area.”

3.3 ASSESSED VALUATION AND TAXES

The adjacent People’s Wharf building site 2018 assessed value is summarized below, Parcel #1C070K830070. The assessed value of the land \$1,708,900 for 4,747 SF indicates \$330/SF.

Parcel #	Street Address	Legal Description 1	
1C070K830070	PEOPLE'S WHARF 108	TIDELANDS ADDITION BL 83 LTS 9 FR & 12	
Owner's Name and Address			
WILLIAM C HEUMANN 6000 THANE RD JUNEAU AK 99801			
Previous Owner	Site Value	Building PV	Total PV
	\$ 1566500.00	\$ 1409000.00	\$ 2975500.00
Use Code	Exempt	Zoning	Tax Year
Commercial Misc	No Data	Waterfront - Commercial	2018
Number of Units	Year Built	Gross Living Area	
003	2006	009737 sq.ft.	
Garage	Garage Area	Lot Size	Last Trans
No	N/A	4747.00 sq. ft.	0000
City Water Available	City Sewer Available		
Yes	Yes		
Exempt Land	Exempt Building	Exempt Total	Road/No Road
N/A	N/A	N/A	Roaded

FIGURE 3.2 - CBJ ASSESSOR WEB SITE DATA SCREEN CAPTURE

4.1 HIGHEST AND BEST USE

Highest and best use of the permit area is defined by the terms of the permit (seasonal), no improvements, and able to be canceled if the business leaves.

Market Rent Valuation

The permit fee allows use during six months of tourist season. There is virtually no commercial demand out of season. Typical land leases are for full development use year round. The small spaces require relatively little investment and lower annual cost than large commercial projects in the area. Therefore, we have considered as comparables short term rent agreements, and also some longer term land lease rentals. Of the many considered, we found the following three observations bracket the subject on a rent per square foot basis for a six month partial year, non-permanent tenure. These rental agreements are summarized in Table 4.1 below and detailed in the Comp write up sheets in the addenda.

The following discussion develops a qualitative attribute rating where if the comp is superior in a particular attribute a negative adjustment is made to the comp. If the comp is inferior for a particular attribute a positive adjustment is made to bring them in line with the subject.

Comp 1 reflects the short term annual rental rates for vendors on the vacant Archipelago site. There are dozens of tenants along the road frontage, and that location is similar to the subject. The rate structure is \$500/ month for a typical 135 SF spot, or \$3.70/SF per month for May through September. The minimum seasonal rent then for five months is \$2500. A discounted rate is available for setup use during April of about \$250. The total for six months would be \$2750 for 135 SF or \$20.37/ SF per year. This comparable is most similar in all regards, except it is inferior compared to the subject's developed concrete sidewalk. A qualitative adjustment is made for this at +10% under Site Grade. This suggests an annual SF rent of \$22.41/SF.

Comp 2 reflects last year's permit for the seating area at the subject. This rent was calculated by a formula acceptable to the parties for 4 months of use. This has been adjusted for the additional two months of time. After making this adjustment, the indicated rent is \$19.75/SF.

Comp 3 is a typical long-term commercial lease. Before adjustments it reflects \$27.00/SF. This is superior to the subject in regard to allowable year-round full commercial development rights (-20%) and for conditions of rent, since the lease rate is above the typical current market rate (-12.5%). On the other hand, this comp is significantly larger and adjusted upward (+20%) to reflect the economies of this size difference. This suggests an annual rent of \$21.87/SF

TABLE 1 - Annual square Foot Rental value ADJUSTMENT GRID				
Record #	Subject	Comparable 1	Comparable 2	Comparable 3
		#10978	#7659	#7341
Address	108 People's Wharf	356 S. Franklin	432 S Franklin	490 S. Franklin
Name	Juneau	Archipelago Site	Peoples' Wharf	Mt Roberts Tram
Annual rent/Price		\$2,750	\$5,651	\$270,000
If Sale indicated rent			NA	NA
Indicated Rent per SF		\$20.37	\$14.13	\$27.00
Property Rights- Term	6 Month Use	6 Month Use	4 Months	Year Round
% Adjustment		0%	50%	-20%
\$ Adjustment		\$0.00	\$5.62	(\$5.40)
Conditions of Rent	Normal Negotiated	Similar	Similar	9% rent vs 8%
% Adjustment		0%	0%	-12.5%
\$ Adjustment		\$0.00	\$0.00	(\$3.38)
Market Conditions/Sale Date	2/28/2019	4/1/2018	5/1/2018	7/1/2015
% Adjustment		0%	0%	0%
\$ Adjustment		\$0.00	\$0.00	\$0.00
Adjusted Rent/ SF		\$20.37	\$19.75	\$18.23
Qualitative Adjustments/Weighting				
Location	Very Good	Similar	Similar	Similar
% Adjustment		0.00%	0.00%	0.00%
\$ Adjustment		\$0.00	\$0.00	\$0.00
Land Size (SF)	705SF	135	400SF	10,000
% Adjustment		0.00%	0.00%	20.00%
\$ Adjustment		\$0.00	\$0.00	\$3.65
At Site Grade	Good	Inferior	Similar	Inferior
% Adjustment		10.00%	0.00%	0.00%
\$ Adjustment		\$2.04	\$0.00	\$0.00
Net Adjustments:		\$2.04	\$0.00	\$3.65
Indicated SF Value of Subject		\$22.41	\$19.75	\$21.87

This indicates a relatively narrow range of annual SF rents for the short term temporary rentals especially of small spaces. Comp 1 is most directly comparable, but is weighted with the other indicators. Comp 2 is also given consideration, due to the short term nature of this rental arrangement on the subject property last year. These indicators are generally supported by the less comparable, long-term lease, Comp 3.

The indicated annual rent is \$21/SF for this six month seasonal use. The total annual rent for the subject area is calculated as follows.

$$705 \text{ SF times } \$21/\text{SF} = \$14,805$$

CERTIFICATION OF APPRAISAL

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice.
- The use of this report is subject to the requirements of the Appraisal Institute relating to the review by its duly authorized representatives.
- I have made a personal inspection of the property that is the subject of this report.
- No one provided significant real property appraisal assistance to the person signing this certification.
- I have not performed any services regarding the subject property, as an appraiser or in any other capacity, within the three year period immediately preceding acceptance of this assignment.
- As of the date of this report, I have completed the continuing education program for Designated Members of the Appraisal Institute.



Charles Horan, MAI
APRG 41

February 28, 2019
Inspection and Effective Date of Appraisal

March 14, 2019
Date of Report

SUBJECT PHOTOGRAPHS



THE PEOPLE'S WHARF BUILDING VIEWED FROM SOUTH FRANKLIN STREET



VIEW OF PEOPLE'S WHARF BUILDING LOOKING ACROSS THE DOCK. SUBJECT SIDEWALK LEASE AREA AT CORNER OF THE BUILDING PHOTO CENTER AND TO THE RIGHT OF TRACY'S KING CRAB SHACK



LOOKING IN A NORTHERLY DIRECTION AT TRACY'S KING CRAB SHACK TENANT AREA. SIDEWALK LEASE AT CORNER AND PHOTO RIGHT - OUTSIDE DOUBLE DOORS



SIDEWALK AREA IN FRONT OF PEOPLE'S WHARF BUILDING LOOKING IN A WESTERLY DIRECTION. SUBJECT IS JUST LEFT OF TRACY'S KING CRAB SHACK

HORAN COMPANY, LLC**LAND COMPARABLE NUMBER 1****Community:** 17 CBJ - Town - CBD - Retail**Recording District:** Juneau**Address:** 356 South Franklin St**City:** Juneau**State:** AK**Zip:****Location:** Archipelago Site adjacent parking garage and municipal library on S. Franklin Street**Legal:** Lots 7A3, Block 83, Juneau Tideland Addition, ATS 3, Plat 87-10, See Record 1501 for Prior sale; Parcel Number: 1C070K830035, 34**Instrument:** Lease **Serial:****Trans.Type:** Land Rent**Annual Rent:** \$2,500**Rights:** Lease**Trans. Date:** April 1, 2018**Terms:** \$500/Mo x 5 Mo Season=%2,500**Grantor:** Archipelago Properties, LLC**Grantee:** Various**Size (SF):** 10,000**Utilities:** Water, Telephone, Sewer, Electric**Frontage:****Access:** Road, paved**Zone:** WC**Improvements:** See Comments**Land Class:** Waterfront, Commercial, Tideland**Topography:** See Comments**Vegetation:** None**Soil:** Gravel**Present Use:** Vacant**Intended Use:** Sidewalk vendors, food carts.**Highest and Best Use:** The vendors occupied the prime street front sites at \$500/month for the season. Additional interior parking is \$150/mo if you do not have a spot and \$85.00/mo if you have a business on site.**Comments**

These are short term month to month rentals during the interim time before the site is commercially developed. These rates have been the same from 2016 to 2018.

Analysis:

\$500/ month for a typical 135 SF spot or \$3.70/SF per month. Typical five months minimum \$2500. A discounted rate is available for setup during April about \$250. To total of six months would be \$2750 for 135 SF or \$20.37/ SF per year.

Marketing Info: These are short term agreements calculated on a monthly bases at \$500/ month for a typical 135 SF spot or \$3.70/SF per month. Typically these are five months minimum or \$2500. A discounted rate is available for setup during April about \$250. To total of six months would be \$2650 for 135 SF or \$20.37/ SF per year.

Confirmed with: Erica Simpson

Confirmed date: 3-13-2019

Confirmed by:

Revision Date: 3/13/2019

Record Number: 10978



120417_3101



Record Number: 7659

HORAN COMPANY, LLC**LAND COMPARABLE NUMBER 2****Community:** 17 CBJ - Town - CBD - Retail**Address:** 432 South Franklin St**Recording District:** Juneau**City:** Juneau**State:** AK**Zip:** 99801**Location:** People's Wharf**Legal:** Portion of Lot 9B Lot 13B, Block 83, ATS No.3 (See (13-049); Parcel Number: 1C070K830071**Instrument:** Land **Serial:****Trans.Type:** Land Rent**Rights:** Fee Simple, Lease Fee, Permit/License**Terms:****Annual Rent:** \$5,950**Trans. Date:** November 14, 2016**Grantor:** CBJ**Grantee:** Bill Heumann**Size (SF):** 476**Frontage:****Zone:** WC**Utilities:** All**Access:** Road, paved**Improvements:** transitional - see notes**Land Class:** Commercial, Waterfront**Topography:** Level**Vegetation:** None**Soil:****Present Use:** retail/apartments**Intended Use:** retail/apartments**Highest and Best Use:****Comments****Analysis:**

\$5,950 Cap at 10%=\$59,500

\$59,500/476=\$125/SF

Marketing Info: 11/26/18 - According to Teena Larson, the annual rent remains the same from 2015. See attached lease agreements from Teena.

Previous rent was \$4,760? Appraised 13-049) for annual lease renewal effective June 1, 2013 with market value estimate at \$59,500 or \$125/SF. Contract annual rent is 10% or \$5,950.

Confirmed with: Teena Larson

Teena Scovill

Confirmed date: 11/26/18

5/1/2014

Confirmed by: Slater

C.Horan

Revision Date: 6/26/2018

Record Number: 7659



041012_1400.jpg

041012_1400



Untitled.bmp

HORAN COMPANY, LLC**LAND COMPARABLE NUMBER 3**

Community: 17 CBJ - Town - CBD - Retail
Address: 490 490 South Franklin
City: Juneau
State: **Zip:**
Location: 490 South Franklin Street, Mt. Roberts Tram
Legal: Leased Site. Portions Lots 13, 16 17, Block 83, ATS 3, Plat 355 & a portion of Lot 1, Plat 89-9; Parcel Number: 1C100K830011

Instrument: Land
Serial: 1995-004154-0
Trans.Type: Land Rent
Rights: Lease Fee, Air Rights
Terms: Typical Juneau lease; 5 year renewal

Annual Rent: \$270,000
Trans. Date: March 2, 2015
Grantor: City and Borough of Juneau
Grantee: Goldbelt

Size (SF): 10,000
Frontage: ±175' on Gastineau Channel
Zone: WI

Utilities: Water, Sewer, Electric, Telephone
Access: Road, paved
Improvements: Tramway
Land Class: Waterfront, Tidelands, Commercial

Topography: Level
Vegetation: None
Soil: Typical, See Comments

Present Use: Tramway
Intended Use: Tramway
Highest and Best Use: Valued as Commercial retail per lease

Comments

This form shows fee land rent only. Estimated values set by Harbor Board. 10,000 SF Fee land for base tram site. In addition the air rights, 21,815 SF is rented for \$2,000/ year.

Analysis:

land rent-value as follows set by Harbor Board:

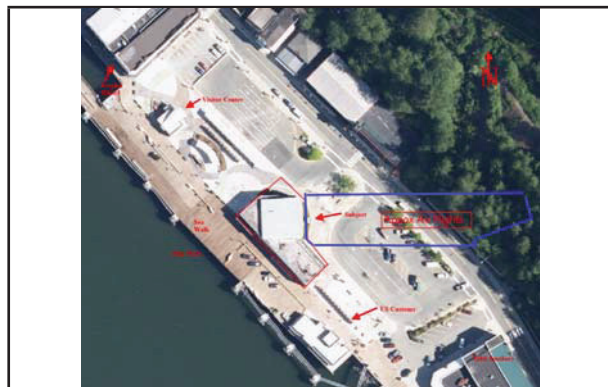
Fee land rent \$270,000/year/ 10,000 SF = \$27/SF/yr. cap @9% = \$300/SF Value

Air Rights rent \$2,000/year. \$2,000/9% land cap rate referred to in lease amendment \$22,222.22 = \$1.02/SF value (21,815SF)

Marketing Info: Revised rent effective 3/2/15 (30 days after effective date of CBJ Ordinance 2015-06) based on negotiations. Rent is retroactive to July 1, 2013 to June 30, 2020. from 2012 -2014. Going forward lease formula 9% of land value. \$2,000/yr air rights. To be reappraised in 5 years. Port memo noted the revised lease effective 7/1/2006, with the removal of royalties as \$104,000 annually, or as capitalized; \$1,300,000 for the site; \$130/SF at 8%. Original lease recorded 6/30/1995, rent 10% based on \$30/SF plus

Confirmed with: Teena, lease docs Teena, Ports
 Confirmed date: 3/31/2017 8/21/2011
 Confirmed by: C.Horan T.Riley

Revision Date: 1/2/2018
 Record Number: 7341



William C. Heumann
6000 Thane Road Juneau, Alaska 99801
907-723-4540 wheumann@msn.com

Mr. Carl Uchtyl
Port Director
Juneau Docks and Harbors
City and Borough of Juneau
155 Seward Street
Juneau, Alaska 99801

January 17, 2019

Re: Amendment to Tidelands Lease – People's Wharf

Dear Mr. Uchtyl:

I am requesting an amendment to the existing People's Wharf Tidelands Lease granted to me by Docks and Harbors to add 305 square feet of additional space as depicted in the drawing People's Wharf Tidelands Lease Amendment Application.

For the past two years Docks and Harbors has granted me a Use Permit depicted in the drawing People's Wharf Use Permit Application.

Late in 2018 the Assembly extended for another 3-year period the ordinance which allows for permitting outside seating in CBJ ROW's where identified as appropriate by the City Manager. A permit for 2019 has been approved.

The concept of outside seating, crab pots and propane tanks was a novel one when I first requested it three years ago and I believe it has withstood the test of time and the increase in the number of cruise ship passengers. It seems that we are now at the point where Docks and Harbors can facilitate this for a greater duration and forgo the yearly consideration of a use permit and the time and expense associated with the process.

I have added 227 square feet in this request to that which I was granted in the Use Permit. I feel this will meet the needs of Tracy's Crab Shack for the foreseeable future.

Thank you and the Docks and Harbors Board for considering my request.

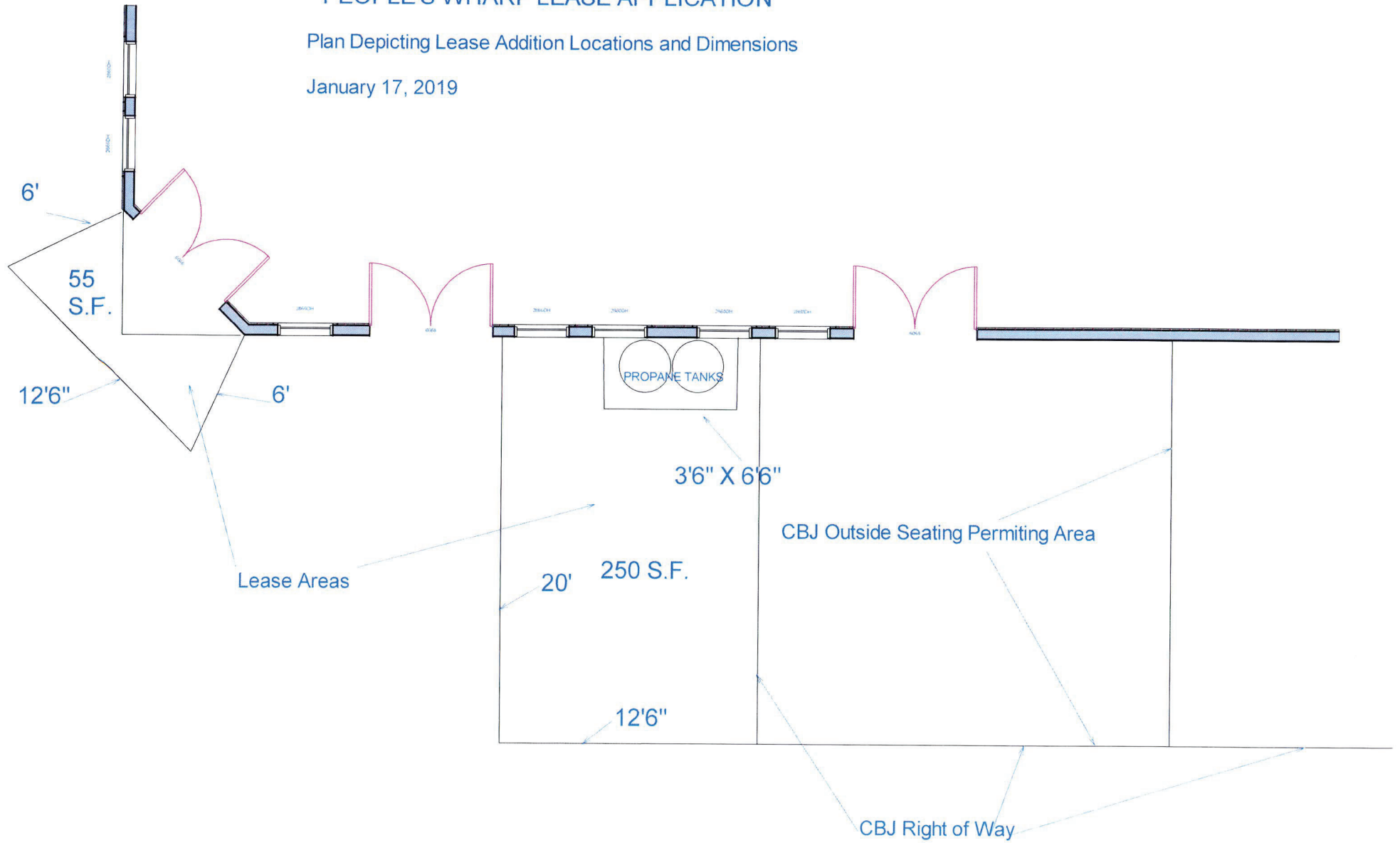
Sincerely,


William Heumann

PEOPLE'S WHARF LEASE APPLICATION

Plan Depicting Lease Addition Locations and Dimensions

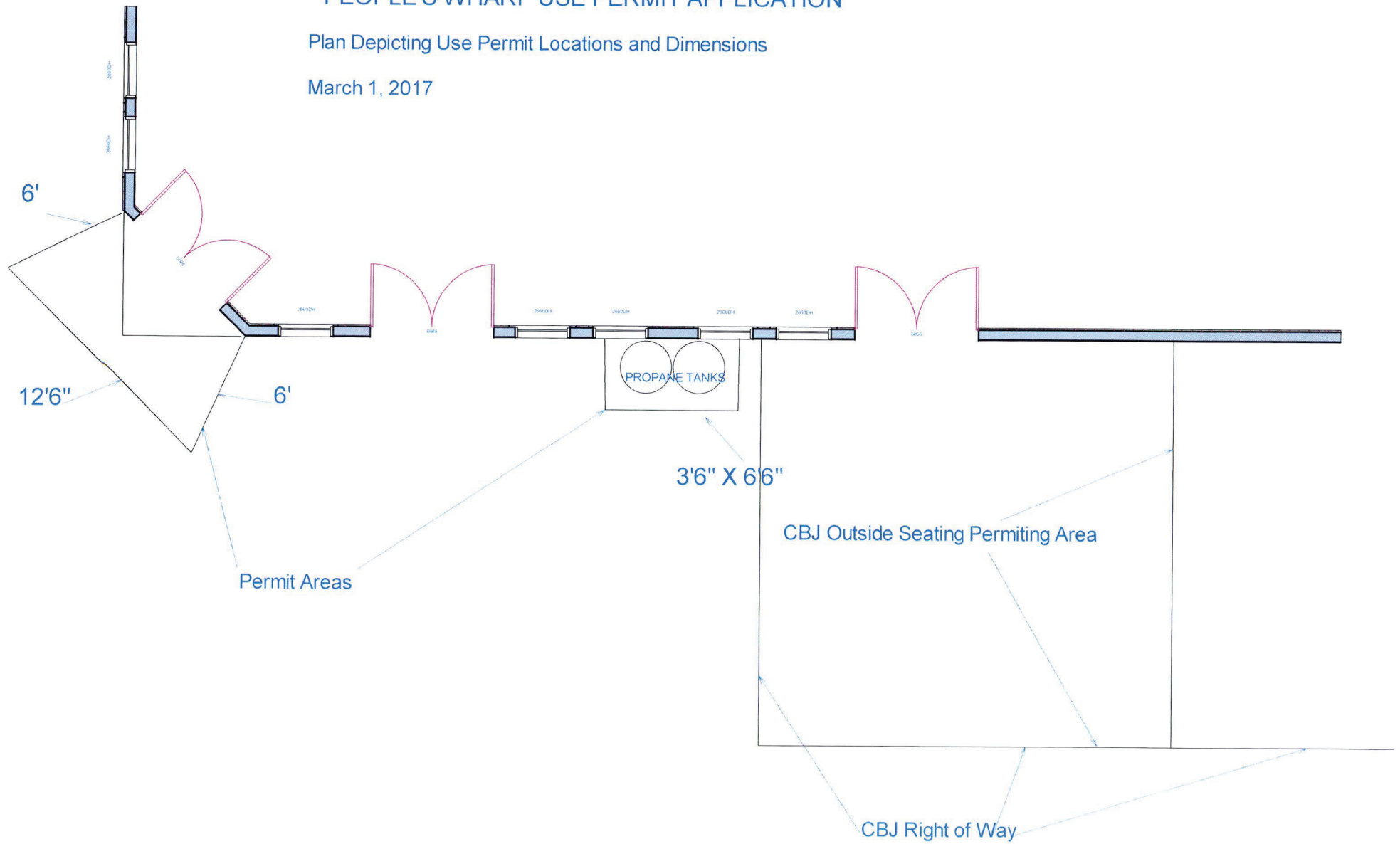
January 17, 2019



PEOPLE'S WHARF USE PERMIT APPLICATION

Plan Depicting Use Permit Locations and Dimensions

March 1, 2017



Presented by: The Manager
Introduced: 10/15/2018
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-46

An Ordinance Extending the Sunset Date Relating to Licenses to Use Certain Rights-of-Way for the Selling of Food and Beverages and Related Uses.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Sunset Date Extended. The sunset date initially imposed by Section 5 of Ordinance 2017-02, is extended three years. The amendments made in Sections 2-4 of Ordinance 2017-02 shall be automatically repealed on December 31, 2021.

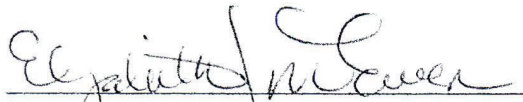
Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

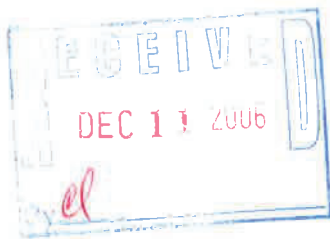
Adopted this 5th day of November, 2018.



Beth A. Weldon, Mayor

Attest:


Elizabeth J. McEwen, Municipal Clerk



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2006-008328-0

Recording Dist: 101 - Juneau

11/14/2006 2:43 PM Pages: 1 of 15



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PEOPLE'S WHARF TIDELAND LEASE

PART I. PARTIES. This lease is between the City and Borough of Juneau, Alaska, a municipal corporation in the State of Alaska, hereafter "City," and William C. Heumann, hereafter "Lessee."

PART II. LEASE ADMINISTRATION. All communications about this lease shall be directed as follows, and any reliance on a communication with a person other than that listed below is at the party's own risk.

City:

Attn: John M. Stone, P.E.
Port Director
City and Borough of Juneau

Lessees:

Attn: William C. Heumann
Lessee

155 S. Seward Street
Juneau, AK 99801
Phone: (907) 586-0494
Fax: (907) 463-2606

← RETURN
TO:

P.O. Box 35096
Juneau, AK 99803
Phone: (907) 586-1714

PART III. LEASE DESCRIPTION. This lease agreement is identified as the People's Wharf Tideland Lease. The following appendices are attached hereto and are considered a part of this lease agreement as well as anything incorporated by reference or attached to those appendices.

- Appendix A: Property Description & Additional Lease Provisions
- Appendix B: Lease Provisions Required by CBJ Chapter 53.20
- Appendix C: Standard Provisions

If in conflict, the order of precedence shall be: this document, Appendix A, B, and then C.

PART IV. LEASE EXECUTION. City and Lessee agree and sign below. This lease agreement is not effective until signed by City. Lessee has authorized and appointed Daniel G. Bruce to execute this lease agreement for Lessee in his name, place and stead, and for Lessee's use and benefit, by a Special Power of Attorney executed by Lessee on October 30, 2006. The Special Power of Attorney

was recorded at the Juneau Recording District on November 1, 2006, and is identified as recorded document 2006-008014-0 and attached to this lease agreement as Attachment A.

CITY:

LESSEE:

Date: NOV. 14, 2006

Date: Nov. 14, 2006

By: [Signature]
Authorized Representative
John M. Stone
Port Director

By: William C. Heumann by Daniel Bruce
William C. Heumann, Lessee
by Daniel G. Bruce
Special Power of Attorney for
William C. Heumann

CITY ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 14th day of NOVEMBER, 2006, before the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, John M. Stone personally appeared, to me known to be the Port Director of the City and Borough of Juneau, Alaska, a municipal corporation which executed the above and foregoing instrument, who on oath stated that he was duly authorized to execute said instrument on behalf of said corporation; who acknowledged to me that he signed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in the certificate first above written.



[Signature]
Notary Public in and for the State of Alaska
My Commission Expires: 05-01-07

LESSEE ACKNOWLEDGEMENT

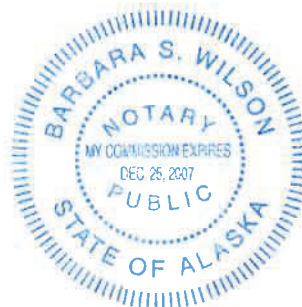
STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 14 day of November, 2006, before me, the undersigned, duly commissioned and sworn, Daniel G. Bruce personally appeared, to me known to be the identical individual described in and who executed the foregoing instrument for and on behalf of Lessee William C. Heumann pursuant to the Special Power of Attorney attached hereto as Attachment A; who on oath stated that he was duly authorized to execute said instrument for and on behalf of Lessee; who acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein mentioned.



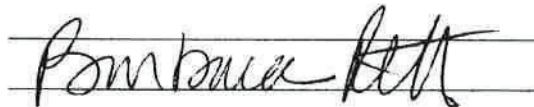
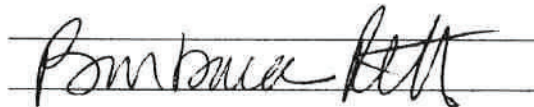
WITNESS my hand and official seal the day and year in the certificate first above written.


Notary Public in and for the State of Alaska
My Commission Expires: 12-25-2007



Risk Management Review:

Approved as to Form:

, Risk Manager
, Law Department



APPENDIX A: PROPERTY DESCRIPTION & ADDITIONAL LEASE PROVISIONS

1. DESCRIPTION OF PROPERTY

The property subject to this lease is referred to as "the Leased Premises" or "the Property." The Property is depicted on the maps attached hereto as Attachment B, and is more particularly described as follows:

Fractions of Lots 9B and 13B, Block 83 of the Tidelands Addition to the City of Juneau within A.T.S. No. 3, Juneau Recording District, First Judicial District, State of Alaska, being more particularly described as follows:

Commencing at the most southerly corner of Lot 12, Block 83, Tidelands Addition to the City of Juneau; thence S 45° 54' 00" E, 34.13 feet parallel to and offset 0.33 feet from the decking of the Downtown Seawalk as constructed; thence continuing parallel to and offset 0.33 feet from the said Seawalk decking, N 41° 17' 30" W, 39.56 feet; thence N 48° 37' 11" E, 8.01 feet to the most westerly corner of a fraction of Lot 9B, Block 83, as described in a Statutory Warranty Deed, Juneau Book 554, Page 470; thence along the southwest property line of said fraction of Lot 9B, S 41° 22' 28" E, 32.91 feet; thence along the southeast property line of said fraction of Lot 9B, N 46° 36' 00" E, 26.02 feet to a point on the southwest property line of said Lot 12; thence along southwest property line S 41° 32' 42" E, 5.95 feet to the point of the beginning and terminus of this description.

Containing 476 square feet, more or less.

2. AUTHORITY

This lease is entered into pursuant to the authority of City Code: CBJ 85.02.060(a)(5) and CBJ Chapter 53.20; and Ordinance 2006-32 enacted by the Assembly on October 9, 2006 and effective on November 8, 2006.

3. TERM AND RENEWAL OPTION

The effective date of this lease is upon signature by all parties. The term of the lease is 35 years, ending on November 7, 2041, unless sooner terminated. City grants Lessee an option to renew this lease for one, successive period of 35 years. Lessee shall exercise this option, if at all, by written notice given to City during the first six months of the last year of the underlying lease term.

4. LEASE PAYMENTS AND ADJUSTMENTS

For the first five-year period of this lease term, the annual rental amount shall be Four Thousand Seven Hundred and Sixty Dollars (\$4,760.00) per year, plus sales tax. Rental payments shall be made annually or monthly in advance. Beginning with the first month after the initial five-year period of this lease term, the annual rental shall be adjusted by the Port Director for the next five-year period of this lease, and then every five years thereafter, pursuant to Appendix B to this lease.

5. AUTHORIZED USE OF LEASED PREMISES

Lessee is authorized to use the Leased Premises for the construction, operation, and maintenance of a private seawalk that connects to the City's public seawalk to be constructed, or for the construction, operation, and maintenance of a retail commercial building that abuts the City's public seawalk to be

constructed; provided that if Lessee constructs a private seawalk on the Leased Premises, Lessee shall comply with all of the terms and conditions of Army Corps of Engineers (ACOE) Permit POA-2005-1958-D (Gastineau Channel) issued to the City and Borough of Juneau on January 11, 2006. Lessee shall be responsible to the ACOE and City for any violation of the ACOE Permit due to or resulting from Lessee's conduct or activities on the Leased Premises. In addition, Lessee shall be responsible for obtaining all necessary permits and approvals for Lessee's development of the Leased Premises.

City intends to construct a public seawalk, a portion of which will be located immediately seaward of the Leased Premises. Lessee shall grant City any required easements within the Leased Premises for construction of the seawalk, the exact location of which shall be determined by City; provided, that construction of the seawalk shall not interfere with Lessee's ability to pursue Lessee's development plan for the Leased Premises upon Lessee's receipt of all necessary permits and approvals, or interrupt or delay Lessee's construction or ingress and egress.

6. ADDITIONAL LEASE PROVISIONS

The following provisions apply to this lease:

Lessee agrees to comply with applicable port security requirements.

Lessee will be responsible for all utility, snow removal, maintenance or repair, engineering, design, slope stabilization, or other improvements or services to the Leased Premises. City will not provide any utility, snow removal, maintenance or repair, engineering, design, slope stabilization, or other improvements or services to the Leased Premises.

7. INSURANCE

Commercial General Liability Insurance

Lessee shall maintain at all times during this lease commercial general liability insurance in the amounts of \$1,000,000 per occurrence and \$2,000,000 general aggregate. The insurance policy shall name City as an "Additional Insured" and shall contain a clause that the insurer will not cancel or change the insurance without first giving City 31 days' prior written notice. Lessee will provide evidence of this insurance to City in a form acceptable to the City Office of Risk Management.

Property Insurance

Lessee acknowledges that City carries no fire or other casualty insurance on the Leased Premises or improvements located thereon belonging to Lessee, and that it is Lessee's obligation to obtain adequate insurance for protection of Lessee's buildings, fixtures, or other improvements, or personal property located on the Leased Premises, and adequate insurance to cover debris removal.



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Recording Dist: 101 - Juneau

11/1/2006 1:44 PM Pages: 1 of 2

SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, WILLIAM C. HEUMANN, of P.O. Box 35096, Juneau, Alaska 99803, have made, constituted, and appointed, and by these presents, do make, constitute and appoint DANIEL G. BRUCE my true and lawful attorney for me and in my name, place and stead, and for my use and benefit to do any and every act and exercise any and every power I might or could do if personally present, or exercise through any other person that he shall deem proper or advisable, insofar as such action is or may relate to the lease of the following property more particularly

described as:

Fraction of Lots 9B and 13B, Block 83, Tidelands Addition to the City of Juneau within A.T.S. No. 3, Juneau Recording District, Juneau, Alaska, being more particularly described as follows:

Commencing at the most southerly corner of Lot 12, Block 83, Tidelands Addition to the City of Juneau; thence S 45° 54' 00" E, 34.13 feet parallel to and offset 0.33 feet from the decking of the Downtown Seawalk as constructed; thence continuing parallel to and offset 0.33 feet from the said Seawalk decking, N 41° 17' 30" W, 39.56 feet; thence N 48° 37' 11" E, 8.01 feet to the most westerly corner of a fraction of Lot 9B, Block 83, as described in a Statutory Warranty Deed, Juneau Book 554, Page 470; thence along the southwest property line of said fraction of Lot 9B, S 41° 22' 28" E, 32.91 feet; thence along the southeast property line of said fraction of Lot 9B N 46° 36' 00" E, 26.02 feet to a point on the southwest property line of said Lot 12; thence along said southwest property line S 41° 32' 42" E, 5.95 feet to the point of beginning and terminus of this description.

Containing 476.0 square feet, more or less,

Special Power of Attorney, Heumann to Bruce

Page 1 of 2

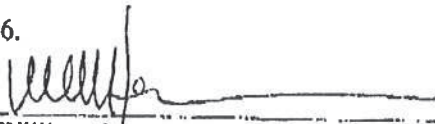
People's Wharf Tideland Lease
Page 6 of 15

Attachment A to People's Wharf
Tideland Lease, page 1 of 2



or any interest therein and/or building(s) thereon, including, but not limited to, the power to lease the same for any term or purpose, hereby ratifying and confirming whatsoever my said attorney shall or may do by virtue hereof in the premises, and I agree and represent to those dealing with my said attorney that this Power of Attorney may be voluntarily revoked alone by revocation given the same general distribution as this original Power of Attorney. This Power of Attorney shall be effective for the period from the date of signature until December 31, 2006.

DATED this 30th day of October, 2006.


William C. Heumann

STATE OF ALASKA)
 : ss.
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this 30th day of October, 2006, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared WILLIAM C. HEUMANN, to me known and known to me to be the person named in and who executed the within and foregoing instrument, and he acknowledged to me that he signed the same freely and voluntarily for the uses and purposes therein mentioned, as the free act and deed of said corporation.

WITNESS my hand and official seal the day and year in this certificate first above written.


Notary Public, State of Alaska
My commission expires: 9/29/2008

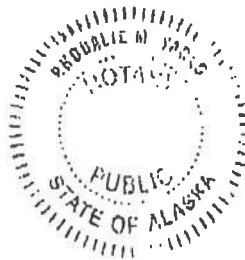
After recording return to:
Daniel G. Bruce, Esq.
Baxter Bruce & Sullivan P.C.
P.O. Box 32810
Juneau, AK 99803

Special Power of Attorney, Heumann to Bruce



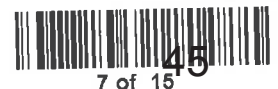
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People's Wharf Tideland Lease
Page 7 of 15



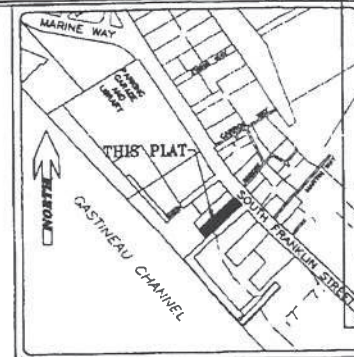
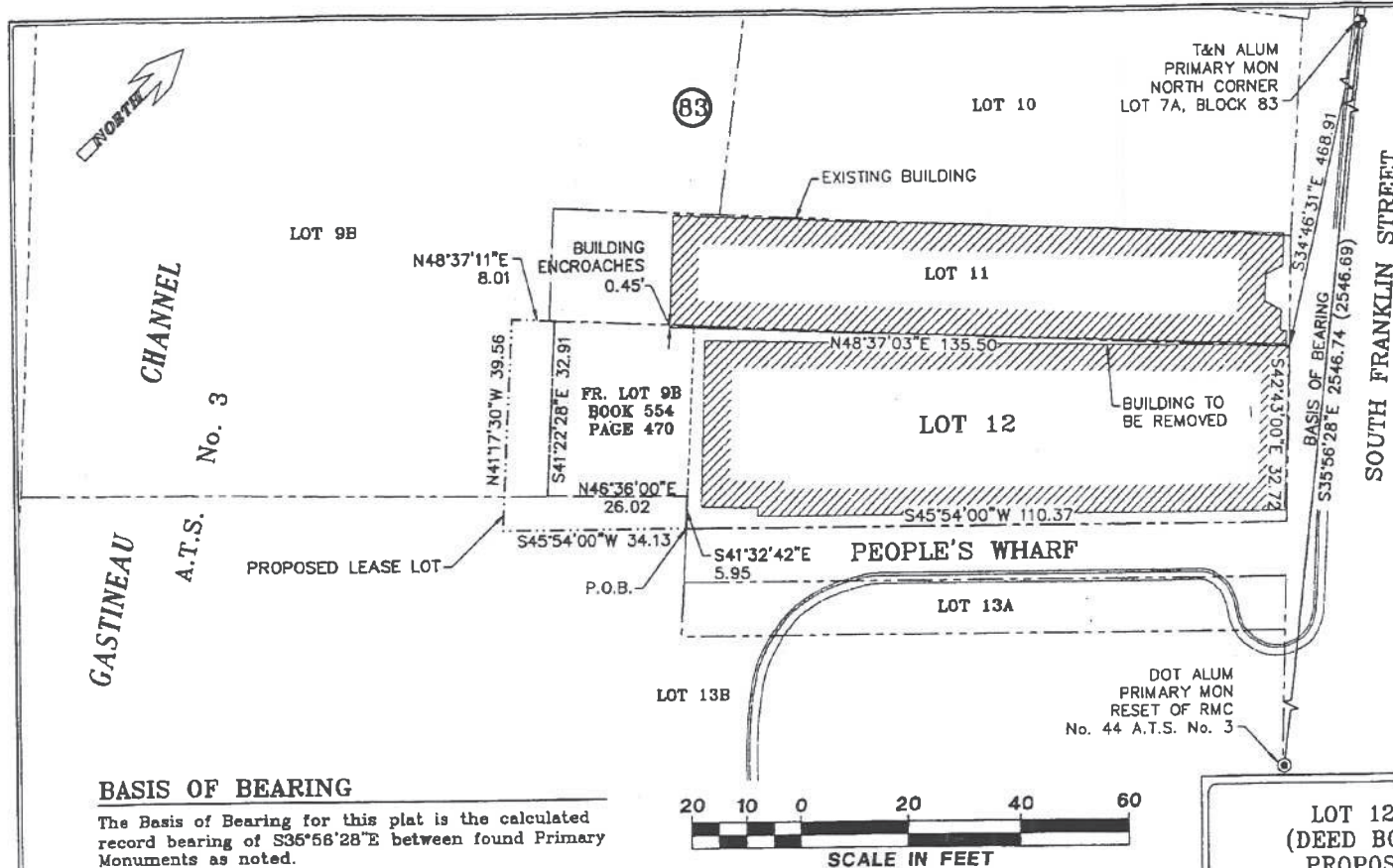
Page 2 of 2

Attachment A to People's Wharf
Tideland Lease, page 2 of 2



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2006-008328-0



VICINITY MAP
SCALE: N.T.S.
SOURCE: CBJ BASEMAP SERIES

AREAS

LOT 12 = 4727 SQ FT
FR. LOT 9B = 844 SQ FT
LEASE LOT = 476 SQ FT

SITE PLAN

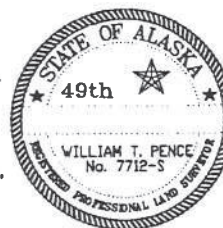
LOT 12, FRACTION OF LOT 9B
(DEED BOOK 554, PAGE 470) AND
PROPOSED LEASE AREA WITHIN
LOTS 9B AND 13B, BLOCK 83,
TIDELANDS ADDITION
TO THE CITY OF JUNEAU, A.T.S. No. 3
Juneau Recording District, Juneau, Alaska

TONER-NORDLING & ASSOCIATES INC
CIVIL ENGINEERING-LAND SURVEYING-CONSTRUCTION MANAGEMENT
5368 COMMERCIAL BOULEVARD
JUNEAU ALASKA 99801 907-780-3533

SCALE: 1:20	DATE: AUG. 2008	PROJECT NO: 06-4218	FILE NO:	SHEET NO: 1 OF 1
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SURVEYOR'S CERTIFICATE

I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska and that this plat represents a survey made by me or under my direct supervision, and the monuments shown hereon actually exist as described, and that all dimensions and other details are correct.



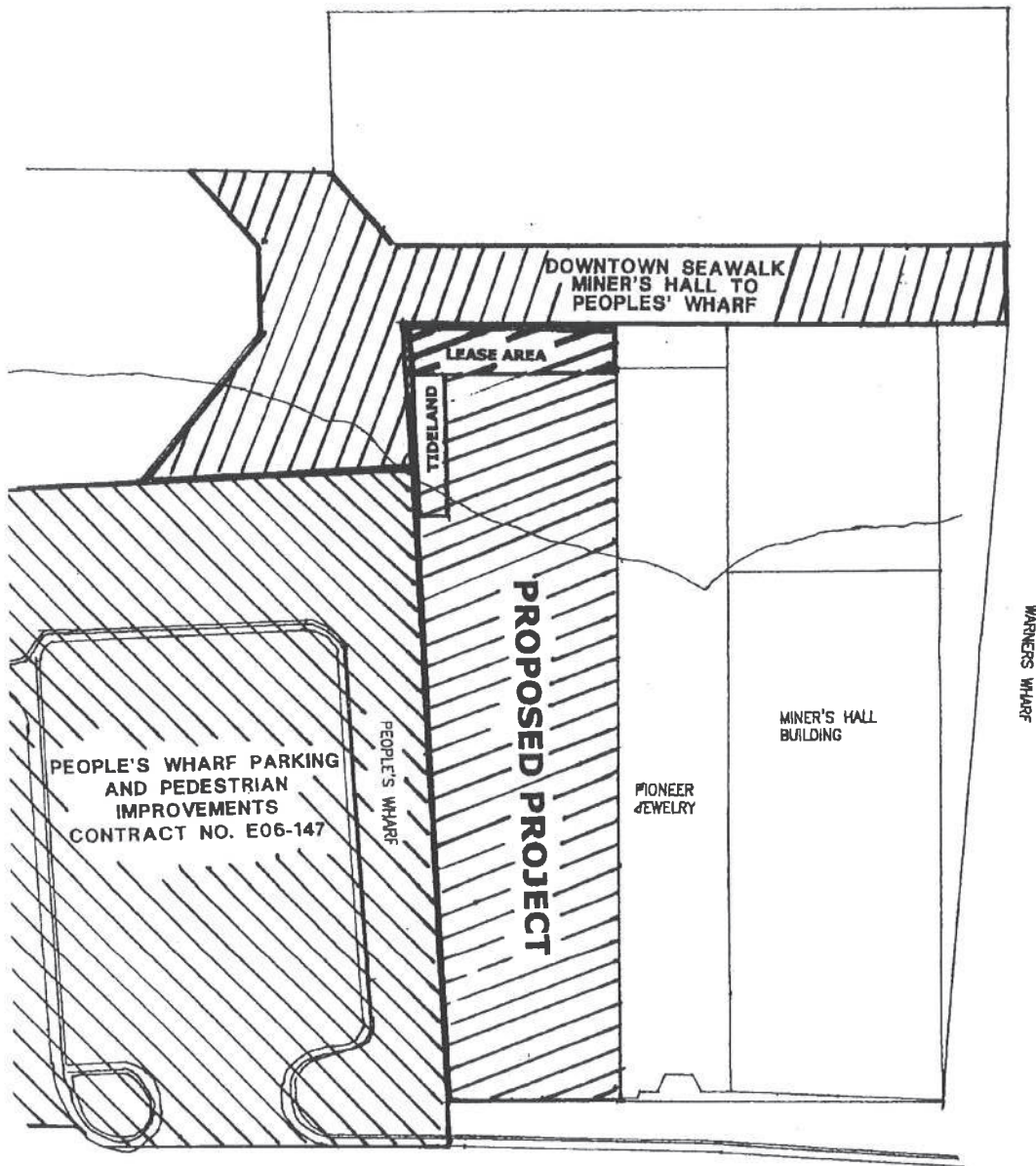
Attachment B to People's Wharf
Tideland Lease, page 1 of 2

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Page 8 of 15



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2006-008328-0

CRUISESHIP DOCK



SOUTH FRANKLIN STREET

1"=20'

September 9, 2006

People's Wharf Tideland Lease
Page 9 of 15

William Heumann
6000 Thane Rd.

11/22/2006

Attachment B to People's Wharf
Tideland Lease, page 2 of 2



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2006-008328-0

APPENDIX B: LEASE PROVISIONS REQUIRED BY CBJ CHAPTER 53.20

1. RESPONSIBILITY TO PROPERLY LOCATE ON LEASED PREMISES.

As required by CBJ 53.20.160, it shall be the responsibility of Lessee to properly locate Lessee's improvements on the Leased Premises and failure to so locate shall render Lessee's liable as provided by law.

2. APPROVAL OF OTHER AUTHORITIES.

As required by CBJ 53.20.180, the issuance by City of leases, including this lease, under the provisions of CBJ Title 53 does not relieve Lessees of responsibility for obtaining licenses, permits, or approvals as may be required by City or by duly authorized state or federal agencies.

3. TERMS AND CONDITIONS OF LEASES REQUIRED BY CBJ 53.20.190.

As required by CBJ 53.20.190, the following terms and conditions govern all leases and are incorporated into this lease unless modified by the Assembly by ordinance or resolution for this specific lease. Modifications of the provisions of this Appendix B applicable to this specific lease, if any, must specifically modify such provisions and be supported by the relevant ordinance or resolution to be effective.

(1) **Lease Utilization.** The Leased Premises shall be utilized only for purposes within the scope of the application and the terms of the lease, and in conformity with the provisions of City code, and applicable state and federal laws and regulations. Utilization or development of the Leased Premises for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation at any time.

(2) **Adjustment of Rental.** Lessee agrees to a review and adjustment of the annual rental payment by the Port Director not less often than every fifth year of the lease term beginning with the rental due after completion of each review period. Any changes or adjustments shall be based primarily upon the values of comparable land in the same or similar areas; such evaluations shall also include all improvements, placed upon or made to the land, to which City has right or title, excluding landfill placed upon the land by Lessee, except that the value of any improvements credited against rentals shall be included in the value. Lessee may protest the adjustment to the Port Director, and if denied wholly or in part, an appeal may be taken to the Assembly. The decision of the Assembly shall be final.

(3) **Subleasing.** Lessee may sublease Leased Premises or any part thereof leased to Lessee hereunder; provided, that the proposed sublessee shall first apply to City for a permit therefor; and further provided, that the improvements on the Leased Premises are the substantial reason for the sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing and be subject to the terms and conditions of the original lease; all terms, conditions, and covenants of the underlying lease that may be made to apply to the sublease are hereby incorporated into the sublease.

(4) **Assignment.** Lessee may assign its rights and obligations under this lease; provided that the proposed assignment shall be approved by City prior to any assignment. The assignee shall be subject to all of the provisions of the lease. All terms, conditions, and covenants of the underlying lease that may be made applicable to the assignment are hereby incorporated into the assignment.



(5) **Modification.** The lease may be modified only by an agreement in writing signed by all parties in interest or their successor in interest.

(6) **Cancellation and Forfeiture.**

(A) The lease, if in good standing, may be canceled in whole or in part, at any time, upon mutual written agreement by Lessee and City.

(B) City may cancel the lease if it is used for any unlawful purpose.

(C) If Lessee shall default in the performance or observance of any of the lease terms, covenants or stipulations thereto, or of the regulations now or hereafter in force, or any of the provisions of this code, and should the default continue for thirty calendar days after service of written notice by City without remedy by Lessee of the conditions warranting default, City may subject Lessee to appropriate legal action including, but not limited to, forfeiture of the lease. No improvements may be removed by Lessee or other person during any time Lessee is in default.

(D) Failure to make substantial use of the land, consistent with the proposed use, within one year shall in the discretion of City with the approval of the Assembly constitute grounds for cancellation.

(7) **Notice or Demand.** Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which the notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in a United States general or branch post office enclosed in a registered or certified mail prepaid wrapper or envelope addressed as hereinbefore provided.

(8) **Rights of Mortgagee or Lienholder.** In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage, conditional assignment or collateral assignment will have the option to acquire the lease for the unexpired term thereof, subject to the same terms and conditions as in the original lease.

(9) **Entry and Reentry.** In the event that the lease should be terminated as hereinbefore provided, or by summary proceedings or otherwise, or in the event that the demised lands, or any part thereof, should be abandoned by Lessee during the term, City or its agents, servants, or representative, may, immediately or any time thereafter, reenter and resume possession of the lands or such thereof, and remove all persons and property there from either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No reentry by City shall be deemed an acceptance of a surrender of the lease.

(10) **Release.** In the event that the lease should be terminated as herein provided, or by summary proceedings, or otherwise, City may offer the lands for lease or other appropriate disposal pursuant to the provisions of City code.

(11) **Forfeiture of Rental.** In the event that the lease should be terminated because of any breach by Lessee, as herein provided, the annual rental payment last made by Lessee shall be forfeited and retained by City as partial or total damages for the breach.



(12) **Written Waiver.** The receipt of rent by City with knowledge of any breach of the lease by Lessee or of any default on the part of Lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed a waiver of any provision of the lease. No failure on the part of City to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by City unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of City to enforce the same in the event of any subsequent breach or default. The receipt, by City, of any rent or any other sum of money after the termination, in any manner, of the term demised, or after the giving by City of any notice thereunder to effect such termination, shall not reinstate, continue, or extend the resultant term therein demised, or destroy, or in any manner impair the efficacy of any such notice or termination as may have been given thereunder by City to Lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by City.

(13) **Expiration of Lease.** Unless the lease is renewed or sooner terminated as provided herein, Lessee shall peaceably and quietly leave, surrender and yield up unto City all of the leased land on the last day of the term of the lease.

(14) **Renewal Preference.** Any renewal preference granted Lessee is a privilege, and is neither a right nor bargained for consideration. The lease renewal procedure and renewal preference shall be that provided by ordinance in effect on the date the application for renewal is received by the designated official.

(15) **Removal or Reversion of Improvements upon Termination of Lease.** Improvements owned by Lessee shall within sixty calendar days after the termination of the lease be removed by Lessee; provided, such removal will not cause injury or damage to the lands or improvements demised; and further provided, that City may extend the time for removing such improvements in cases where hardship is proven. Improvements owned by Lessee may, with the consent of City, be sold to the succeeding Lessee. All periods of time granted Lessee to remove improvements are subject to Lessee's paying to City pro rata lease rentals for the period.

(A) If any improvements and/or chattels not owned by City and having an appraised value in excess of five thousand dollars as determined by the assessor are not removed within the time allowed, such improvements and/or chattels shall upon due notice to Lessee, be sold at public sale under the direction of City. The proceeds of the sale shall inure to Lessee preceding if Lessee placed such improvements and/or chattels on the lands, after deducting for City rents due and owing and expenses incurred in making such sale. Such rights to the proceeds of the sale shall expire one year from the date of such sale. If no bids acceptable to the Port Director are received, title to such improvements and/or chattels shall vest in City.

(B) If any improvements and/or chattels having an appraised value of five thousand dollars or less, as determined by the assessor, are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest in, City.

(16) **Rental for Improvements or Chattels not Removed.** Any improvements and/or chattels belonging to Lessee or placed on the lease during Lessee's tenure with or without his permission and remaining upon the premises after the termination date of the lease shall entitle City to charge Lessee a reasonable rent therefor.



- (17) **Compliance with Regulations and Code.** Lessee shall comply with all regulations, rules, and the code of the city and borough of Juneau, and with all state and federal regulations, rules and laws as the code or any such rules, regulations or laws may affect the activity upon or associated with the leased land.
- (18) **Condition of Premises.** Lessee shall keep the premises of the lease in neat, clean, sanitary and safe condition and shall take all reasonable precautions to prevent, and take all necessary action to suppress destruction or uncontrolled grass, brush or other fire on the leased lands. Lessee shall not undertake any activity that causes or increases a sloughing off or loss of surface materials of the leased land.
- (19) **Inspection.** Lessee shall allow an authorized representative of City to enter the leased land for inspection at any reasonable time.
- (20) **Use of Material.** Lessee of the surface rights shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoils, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by City.
- (21) **Rights-of-Way.** City expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of City to do so. If City grants an easement or right-of-way across any of the leased land, Lessee shall be entitled to damages for all Lessee-owned improvements or crops destroyed or damaged. Damages shall be limited to improvements and crops only, and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate Lessee for loss of use.
- (22) **Warranty.** City does not warrant by its classification or leasing of land that the land is ideally suited for the use authorized under the classification or lease and no guaranty is given or implied that it shall be profitable to employ land to said use.
- (23) **Lease Rental Credit.** When authorized in writing by City prior to the commencement of any work, Lessee may be granted credit against current or future rent; provided the work accomplished on or off the leased area results in increased valuation of the leased or other city and borough-owned lands. The authorization may stipulate type of work, standards of construction and the maximum allowable credit for the specific project. Title to improvements or chattels credited against rent under this section shall vest immediately and be in City and shall not be removed by Lessee upon termination of the lease.



APPENDIX C: STANDARD PROVISIONS

- (1) **Holding Over.** If Lessee holds over beyond the expiration of the term of this lease and the term has not been extended or renewed in writing, such holding over will be a tenancy from month-to-month only.
- (2) **Interest on Late Payments.** Should any installment of rent or other charges provided for under the terms of this lease not be paid when due, the same shall bear interest at the rate established by ordinance for late payments or at the rate of 12 percent per annum, if no rate has been set by ordinance.
- (3) **Taxes, Assessments, and Liens.** During the term of this lease, Lessee shall pay, in addition to the rents, all taxes, assessments, rates, charges, and utility bills for the Leased Premises and Lessee shall promptly pay or otherwise cause to be discharged, any claim resulting or likely to result in a lien, against the Leased Premises or the improvements placed thereon.
- (4) **Easements.** Lessee shall place no building or structure over any portion of the Leased Premises where the same has been set aside or reserved for easements.
- (5) **Encumbrance of Parcel.** Lessee shall not encumber or cloud City's title to the Leased Premises or enter into any lease, easement, or other obligation of City's title without the prior written consent of City; and any such act or omission, without the prior written consent of City, shall be void against City and may be considered a breach of this lease.
- (6) **Valid Existing Rights.** This lease is entered into and made subject to all existing rights, including easements, rights-of-way, reservations, or other interests in land in existence, on the date of execution of this lease.
- (7) **State Discrimination Laws.** Lessee agrees, in using and operating the Leased Premises, to comply with applicable sections of Alaska law prohibiting discrimination, particularly Title 18 of the Alaska Statutes, Chapter 80, Article 4 (Discriminatory Practices Prohibited). In the event of Lessee's failure to comply any of the above non-discrimination covenants, City shall have the right to terminate the lease.
- (8) **Unsafe Use.** Lessee shall not do anything in or upon the Leased Premises, nor bring or keep anything therein, which will unreasonably increase or tend to increase the risk of fire or cause a safety hazard to persons or obstruct or interfere with the rights of any other tenant(s) or in any way injure or annoy them or which violates or causes violation of any applicable health, fire, environmental or other regulation by any level of government.
- (9) **Hold Harmless.** Lessee agrees to defend, indemnify, and save City, its employees, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit arising out of the use and occupancy of the Leased Premises by Lessee. This agreement to defend, indemnify, and hold harmless is without limitation as to the amount of fees, and without limitation as to any damages resulting from settlement, judgment, or verdict, and includes the award of any attorneys fees even if in excess of Alaska Civil Rule 82. The obligations of Lessee arise immediately upon notice to City of any action, claim, or lawsuit. City shall notify Lessee in a timely manner of the need for indemnification, but such notice is not a condition precedent to Lessee's obligations and may be

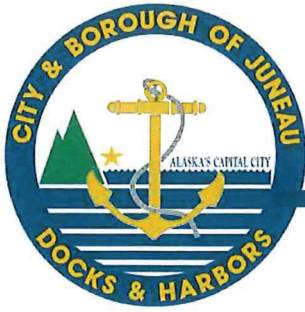


waived where Lessee has actual notice. This agreement applies, and is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against City.

(10) **Successors.** This lease shall be binding on the successors, administrators, executors, heirs, and assigns of Lessee and City.

(11) **Choice of Law; Venue.** This lease shall be governed by the law of the State of Alaska. Venue shall be in the State of Alaska, First Judicial District at Juneau.





Port of Juneau

City & Borough of Juneau • Docks & Harbors
155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

Scope of Work Project Agreement

Project Name: Appraisal for Lots 9B & 13B Blk 83 within ATS 3, People's Wharf

Contract Name and Number: Appraisal Professional Services DH18-050

Project Agreement Number: 19-005

Term Contractor: Horan & Company

Date: February 22nd, 2019

Project Manager: Teena Larson

Term Contractor Representative: Charles Horan

Project Overview

Project Description

Provide an Appraisal for an amendment to current lease of Lots 9B & 13B Blk 83 within ATS 3 People's Wharf lease. The amended area is for approximately 689 square feet to accommodate seasonal outdoor seating for Tracy's Crab Shack.

Scope of Work

Prepare an appraisal as outlined in 05 CBJAC 50.050 and all applicable standards in the current edition of Uniform Standards of Professional Appraisal Practice (USPAP) published by the Appraisal Foundation. The Appraiser must make an onsite inspection of this property and comparables. Reports must contain onsite photographs of all appraised properties and comparables that are inspected.

Comparable land data sheets are required for all reports, and must include a complete legal description, recording information, and a photograph of the comparable that meets the required standard for photographs.

A comparable land location map is required, showing the location of the comparable in relation to the appraised properties and other comparables.

Whenever possible, all transactions should be verified with a knowledgeable party (grantor, grantee, broker, lessor or lessee), either by the appraiser conducting the subject appraisal or by an appraiser who verified the information in another report. Failed efforts to reach knowledgeable parties shall be stated on the comparable land form.

The appraisal report shall include an annual land rent comparisons chart, stating location, date, rent, size in square feet and rent per square foot. When relating comparable transactions to the subject property, adjustments must be fully discussed and presented in an adjustment table. Such adjustments need to be defined in qualitative or quantitative terms, clearly stating which method is most reliable.

The appraiser should provide one hard copy of the report for review by the port director. The appraiser should then provide to the port director one hard copy and a PDF copy of the final, reviewed report.

Project Issues

The subject area of the amendment is developed vs undeveloped property; the use is for seasonal outdoor seating (no permanent structures to be placed on the amended area); and that if Tracy's Crab Shack vacates the amended area the lease of that area terminates.

Project Schedule

Please have the appraisal completed on or before March 15, 2019.

Project Cost Estimate

The Contractor will be paid based on Time and Materials for this project in accordance with the Contractor's estimate.

APPROVALS

**CITY AND BOROUGH OF JUNEAU
DOCKS AND HARBORS**

Gary Gillette date
Acting Port Director

TERM CONTRACTOR

 2/22/19

Charles Horan date
Horan and Company

QUALIFICATIONS OF CHARLES E. HORAN, MAI

Professional Designation	MAI, Member Appraisal Institute, No. 6534
State Certification	State of Alaska General Appraiser Certification, No. APRG41
Bachelor of Science Degree	University of San Francisco, B.S., Business Administration, 1973

Employment History:

8/04 – now	Owner, HORAN & COMPANY, LLC
3/87 –7/04	Partner, HORAN, CORAK AND COMPANY
1980 –2/87	Partner, The PD Appraisal Group, managing partner since November 1984 (formerly POMTIER, DUVERNAY & HORAN)
1976 – 80	Partner/Appraiser, POMTIER, DUVERNAY & COMPANY, INC., Juneau and Sitka, Alaska
1975 – 76	Real Estate Appraiser, H. Pomtier & Associates, Ketchikan, AK
1973 – 75	Jr. Appraiser, Ketchikan Gateway Borough, Ketchikan, AK

Lectures and Educational Presentations:

2017 “Municipal Assessment Record System” MARS Presentation on automated data collection and analysis for mass appraisals. Presented to Alaska Association of Assessing Officers, Anchorage.

2017 “Keeping it Simple – Local Market Value New Modeling” Presented to AAAO, Anchorage

2011, “Real Estate Market in Southeast Alaska” Presentations to Ketchikan, Juneau and Sitka Chambers of Commerce and Municipality of Skagway

2011, “Demystifying the Appraisal Process” Presentation to USFWS Market Analysis and UASFLA, Anchorage

2007, “Conservation Easements” Presentation - Alaska Association of Assessing Officers, Fairbanks, AK

1998, “Easement Valuation Seminar,” Alaska Chapter Appraisal Institute, Anchorage, AK

1998, “Easement Valuation Seminar,” Seal Trust, Juneau, Alaska

1997, “Sitka Housing Market,” Sitka Chamber of Commerce

1997, developed and taught commercial real estate investment seminar for Shee Atika, Inc.

1994, developed and taught seminar "Introduction to Real Estate Appraising," UAS, Sitka Campus

1985, Speaker at Sitka Chamber of Commerce, "What is an Appraisal? How to Read the Appraisal"

1984, Southeast Alaska Realtor's Mini Convention, Juneau, Alaska

Day 1: Introduction of Appraising, Cost and Market Data Approaches

Day 2: Income Approach, Types of Appraisals, AIREA Accredited Course

1983, "The State of Southeast Alaska's Real Estate Market"

1982, "What is an Appraisal?"

Types of Property Appraised:

Commercial - Retail shops, enclosed mall, shopping centers, medical buildings, restaurants, service stations, office buildings, auto body shops, schools, remote retail stores, liquor stores, supermarkets, funeral home, mobile home parks, camper courts. Appraised various businesses with real estate for value as a going concern with or without fixtures such as hotels, motels, bowling alleys, marinas, restaurants, lounges.

Industrial - Warehouse, mini-warehouse, hangars, docks barge loading facilities, industrial acreage, industrial sites, bulk plant sites, and fish processing facility. Appraised tank farms, bulk terminal sites, and a variety of waterfront port sites.

Special Land - Partial Interest and Leasehold Valuation - Remote acreage, tidelands with estimates of annual market rent. Large acreage land exchanges for federal, state, municipal governments and Alaska Native Corporations; retail lot valuations and absorption studies of large subdivisions; gravel and rock royalty value estimates; easements, partial interests, conservation easements; title limitations, permit fee evaluations. Appraised various properties under lease to determine leasehold and leased fee interests. Value easements and complex partial interests.

Special Projects - Special consultation for Federal land exchanges. Developed Land Evaluation Module (LEM) to describe and evaluate 290,000 acres of remote lands. Renovation feasibilities, residential lot absorption studies,

commercial, and office building absorption studies. Contract review appraiser for private individuals, municipalities, and lenders. Restaurant feasibility studies, Housing demand studies and overall market projections. Estimated impact of nuisances on property values. Historic appreciation / market change studies. Historic barren material royalty valuations, subsurface mineral and timber valuation in conjunction with resource experts. Mass appraisal valuations for Municipality of Skagway, City of Craig, Ketchikan Gateway Borough and other Alaska communities. Developed electronic/digital assessment record system for municipalities. Developed extensive state-wide market data record system which identified sales in all geographic areas.

Expert Witness Experience and Testimony:

2016 Expert Witness – D’s Investment Group, LLC vs Erwin Enterprises, et al 1JU-15-971CI, settled
 2012 Expert Witness – Dukowitz vs Chamberlain and First American Title Insurance Co. 1JU-12-778CI, settled
 2011 Expert Witness – Wise and Wise vs City and Borough of Juneau. 1JU-10-584CI, settled
 2009 Expert at mediation - Talbot's Inc vs State of Alaska, et al. IKE-07-168CI
 2008 Albright vs Albright, IKE-07-265CI, settled
 2006 State of Alaska vs Homestead Alaska, et al, 1JU-06-572, settled
 2006 State of Alaska vs Heaton, et al, 1JU-06-570CI, settled
 2006 State of Alaska vs Jean Gain Estate, 1JU-06-571, settled
 2004 Assessment Appeal, Board of Equalization, Franklin Dock vs City and Borough of Juneau
 2000 Alaska Pulp Corporation vs National Surety - Deposition
 U.S. Senate, Natural Resources Committee
 U.S. House of Representatives, Resource Committee
 Superior Court, State of Alaska, Trial Court and Bankruptcy Courts
 Board of Equalization Hearings testified on behalf of these municipalities: Ketchikan Gateway Borough, City of Skagway, City of Pelican, City and Borough of Haines, Alaska
 Witness at binding arbitration hearings, appointed Master for property partitionment by superior state court, selected expert as final appraiser in multi parties suit with settlements of real estate land value issues

Partial List of Clients:

Federal Agencies

Bureau of Indian Affairs
 Bureau of Land Mngmnt
 Coast Guard
 Dept. Of Agriculture
 Dept. Of Interior
 Dept. Of Transportation
 Federal Deposit Ins Corp
 Federal Highway Admin.
 Fish & Wildlife Service
 Forest Service
 General Service Agency
 National Park Service
 USDA Rural Develop.
 Veterans Administration

Municipalities

City & Borough of Haines
 City & Borough of Juneau
 City & Borough of Sitka
 City of Akutan
 City of Coffman Cove
 City of Craig
 City of Hoonah
 City of Ketchikan
 City of Klawock

Lending Institutions

Alaska Growth Capital
 Alaska Pacific Bank
 Alaska Ind. Dev. Auth.
 ALPS FCU
 First Bank
 First National Bank AK
 Key Bank
 Met Life Capital Corp.
 National Bank of AK
 Rainier National Bank
 SeaFirst Bank
 True North Credit Union
 Wells Fargo
 Wells Fargo RETECHS

Other Organizations

BIHA
 Central Council for Tlingit
 & Haida Indian Tribes
 of Alaska (CCTHITA)
 Diocese of Juneau
 Elks Lodge
 Hoonah Indian Assoc.
 LDS Church
 Moose Lodge

ANCSA Corporations

Cape Fox, Inc.
 Doyon Corporation
 Eyak Corporation
 Goldbelt
 Haida Corporation
 Huna Totem
 Kake Tribal Corporation
 Klawock-Heenya Corp.
 Klukwan, Inc.
 Kootznoowoo, Inc.
 Sealaska Corporation
 Shaan Seet, Inc.
 Shee Atika Corporation
 TDX Corporation
 The Tatitlek Corporation
 Yak-Tat Kwan
State of Alaska Agencies
 Alaska State Building
 Authority (formerly
 ASHA)
 Attorney General
 Dept. of Fish & Game
 Dept. of Natural Service,
 Div. of Lands

Companies

AK Electric Light & Power
 AK Lumber & Pulp Co.
 AK Power & Telephone
 Allen Marine
 Arrowhead Transfer
 AT&T Alascom
 Coeur Alaska
 Delta Western
 Gulf Oil of Canada
 Hames Corporation
 HDR Alaska, Inc.
 Holland America
 Home Depot
 Kennecott Greens Creek
 Kennedy & Associates
 Madsen Construction, Inc.
 Service Transfer
 Standard Oil of CA
 The Conservation Fund
 Union Oil
 Ward Cove Packing
 White Pass & Yukon RR
 Yutana Barge Lines

City of Pelican	SE AK Land Trust (SEAL)	Dept. of Public Safety
City of Petersburg	SEARHC	DOT&PF
City of Thorne Bay	Sitka Tribe of Alaska	Mental Health Land Trust
City of Wrangell	The Nature Conservancy	Superior Court
Ketchikan Gateway Borg.		University of Alaska
Municipality of Skagway		

Education

Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), Rockville, MD Sept 2017, Oct 2010, May 2002 Valuation of Conservation Easements, Fairfield, CA, Sept 2016 Business Practices and Ethics, Seattle, WA, Jan 2016 7-Hour National USPAP Update Course, Jan 2016, Jan 2015, Apr 2013, May 2009, Jun 2007, Feb 2005 Online Small Hotel/Motel Valuation, Chicago, IL June 2015 Advanced Spreadsheet Modeling for Valuation Applications, Rockville, MD April 2015 Fall Real Estate Conference 2012, Seattle, WA Nov, 2012 Appraising the Appraisal: Appraisal Review-General, Rockville, MD, May 2012 Information Security Awareness for Appraisal Professionals Webinar, December, 2012 Fall Real Estate Conference 2011 Seattle, WA October, 2011 Appraisal Curriculum Overview (2-day General) Milwaukee, WI, August 2011 Business Practices and Ethics, Seattle, WA, Apr 2010 Fall Real Estate Conference, Seattle, WA, Dec 2009 Fall Real Estate Conference, Seattle, WA, Nov 2008 Attacking and Defending an Appraisal in Litigation, Kent, WA, Sep 2008 Sustainable Mixed-Use N.I.M., Seattle, WA, Feb 2008 Appraising 2-4 Unit Properties, Bellevue, WA, Sep 2007 Business Practices and Ethics, Seattle, WA, Jun 2007 Residential Market Analysis and Highest and Best Use, Seattle, WA, Apr 2007 Basic Appraisal Procedures, Seattle, WA, Feb 2007 Rates & Ratios: Making Sense of GIMs, OARs, and DCF, Anchorage, AK, Feb 2005 Best Practices for Residential Appraisal Report Writing, Juneau, AK, Apr 2005 Scope of Work - Expanding Your Range of Services, Anchorage, AK May 2003 Litigation Appraising - Specialized Topics and Applications, Dublin, CA, Oct 2002 USPAP, Part A, Burr Ridge, IL, Jun 2001 Partial Interest Valuation - Undivided, Anchorage, AK, May 2001 Partial Interest Valuation - Divided, Anchorage, AK, May 2001	Easement Valuation, San Diego, CA, Dec 1997 USPAP, Seattle, WA, Apr 1997 The Appraiser as Expert Witness, Anchorage, AK, May 1995 Appraisal Practices for Litigation, Anchorage, AK, May 1995 Forestry Appraisal Practices, Atterbury Consultants, Beaverton, OR, Apr 1995 Advanced Sales Comparison & Cost Approaches, Univ. of Colorado, Boulder, CO, Jun 1993 Computer Assisted Investment Analysis, University of Maryland, MD, Jul 1991 USPAP, Anchorage, AK, Apr 1991 General State Certification Review Seminar, Anchorage, AK, Apr 1991 State Certification Review Seminar, Dean Potter, Anchorage, AK, Apr 1991 Highest and Best Use and Market Analysis, Baltimore, MA, Mar 1991 Financial Institution Reform, Recovery & Enforcement Act of 1989, Doreen Fair Westfall, Appraisal Analyst, OTS, Juneau, AK, Jul 1990 Real Estate Appraisal Reform, Gregory Hoefer, MAI, OTS, Juneau, AK, Jul 1990 Standards of Professional Practice, Anchorage, AK, Oct 1987 Federal Home Loan Bank Board Memorandum R41C Seminar, Catherine Gearhearth, MAI, FHLBB District Appraiser, Juneau, AK, Mar 1987 Market Analysis, Boulder, CO, Jun 1986 Federal Home Loan Bank Board Regulation 41b, Inst. Bob Foreman, MAI, Seattle, WA, Sep 1985 Litigation Valuation, Chapel Hill, North CA, Aug 1984 Standards of Professional Practices, Bloomington, IN, Jan 1982 Course 2B, Valuation Analysis & Report Writing, Stanford, CA, Aug 1980 Course 6, Introduction to Real Estate Investment Analysis, Aug 1980 Course 1B, Capitalization Techniques, San Francisco, CA, Aug 1976 Course 2A, Case Studies in Real Estate Valuation, Aug 1976 Course 1A, Real Estate Principles and Valuation, San Francisco, CA, Aug 1974
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Rev 03/2018



[DRAFT] MEMORANDUM

DATE: March 4, 2019
TO: Planning Commission and Docks and Harbors Board
FROM: Assembly
SUBJECT: Planning Commission Review of CBJ Land Conveyances

The Assembly has identified potential regulatory amendments to make conveying CBJ land more practical and less confusing.

As described in CBJC 53.09.260 and following the practice of the Assembly, the current process for conveying CBJ land has unnecessary layers of review and process. The Assembly proposes eliminating steps four and five below:

- (1) **Public Meeting 1:** The Assembly Lands Committee reviews the application and makes a recommendation to the Assembly. The Chair has discretion to accept oral public comments at a committee meeting.
- (2) **Public Meeting 2:** The Assembly decides whether the application should be considered and how. Interested people are free to provide written comments.
- (3) **Manager Negotiations:** The Manager, with the assistance of the Lands Division and upon consultation with interested departments, negotiates terms with the applicant.
- (4) **CDD Staff Report (1):** The Community Development Department drafts a staff report to recommend more or different land conveyance terms than what the Manager proposes.
- (5) **Public Meeting 3:** The Planning Commission reviews—not for regulatory purposes but as a property owner—and makes a recommendation to the Assembly whether to convey the CBJ property.
- (6) **Public Meeting 4:** The Assembly Lands Committee then reviews the draft negotiated land conveyance proposal to make a final recommendation for the Assembly.
- (7) **Public Meeting 5:** An ordinance is introduced to authorize the land conveyance. The purpose of this meeting is to provide public notice of the topic and to schedule the subsequent public hearing.
- (8) **Public Meeting 6:** The Assembly holds a public hearing to decide whether to adopt the ordinance.
- (9) **Public Meeting 7:** If a conditional use permit is required, the Community Development Department drafts another staff report and the Planning Commission determines if the proposed use complies with Title 49. *E.g.*, *Zenk v. CBJ*, S-16118, 2017 WL 2825797 (Alaska 2017).

There are multiple reasons to change the review process.

- **Separation of Power:** The Community Development Department and Planning Commission function best as regulators and not as quasi-property owners conveying land. The Lands Division is the real estate arm of the CBJ and is best suited to negotiate land conveyance terms on behalf of the Manager, who takes direction from the Assembly.
- **Reduce Confusion:** The vast majority of the Planning Commission duties are as a quasi-judicial body, granting, denying or conditioning development permits. The public, staff, and applicants are typically perplexed when the Commission reviews a land conveyance. Many conveyances have associated development reviews that must later go to the Commission for review. At that time, it is appropriate for the Commission to grant, deny, or condition development.
- **Clarify Land Conveyances are a Policy Decision:** All parties will more easily understand that granting or denying a land conveyance is a policy decision by the Assembly. Public comments will be more appropriately directed to the Assembly.
- **Efficiency:** The time required for Community Development Staff to draft a staff report and for the Planning Commission to hold a public hearing is unnecessary and duplicative of the Assembly process.
- **Preserve Public Notice and Comment Opportunities:** The draft ordinance would amend the Planning Commission's review of CBJ land conveyances in Title 49, Title 53, and Title 85 to codify the Assembly's existing practice of having the Assembly Lands Committee review the conveyance applications and relieve the Planning Commission of that burden.
- **Clarify Regulatory Review:** The draft ordinance clarifies that land conveyances are legislative matters for the Assembly and not a regulatory matter. If the proposed use of the land also needs a conditional use permit, then the Planning Commission would still hold a public hearing to determine if the development complies with Title 49. This proposed process would clarify some of the confusion that led to litigation in the past.

In summary, the attached draft ordinance is an opportunity to make the process for conveying CBJ land more efficient and to clarify roles. Consistent with CBJ Charter 3.16(c), the Assembly requests comments from the Planning Commission and the Docks and Harbors Board.

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2019-_____

**An Ordinance Amending the CBJ Codes Related to Planning Commission
Review of CBJ Real Property Transactions**

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJ 49.10.170 is amended to read:

49.10.170 Duties.

(a) *Comprehensive plan review.* The commission shall undertake a general review of the comprehensive plan two years after the adoption of the most recent update, and shall recommend appropriate amendments to the assembly. Proposed map changes shall be reviewed on a neighborhood or community basis as directed by the planning commission.

(b) *Review of the capital improvements program.* Upon adequate notice which shall be provided by the director, the commission shall review annually the capital improvements program of the City and Borough and submit its recommendations to the assembly.

(c) *City and borough ~~land acquisitions, disposals and~~ projects.* The commission shall review and make recommendations to the assembly on ~~land acquisitions and disposals as prescribed~~

1
2 by title 53, or capital improvement projects by any City and Borough agency. The report and
3 recommendation of the commission shall be based upon the provisions of this title, the
4 comprehensive plan, and the capital improvements program.

5
6 (d) *Development code amendments.* The commission shall make recommendations to the
7 assembly on all proposed amendments to this title, zonings and rezonings, indicating
8 compliance with the provisions of this title and the comprehensive plan.

9 (e) *Land use actions.*

10 (1) All plats approved by the platting board prior to adoption of Serial No. 87-49 are
11 ratified, notwithstanding the use of the commission seal or resolution.

12
13 (2) The commission shall hear and decide all major development permit
14 applications, density bonus requests, and appeals of decisions made by the director.

15
16
17 **Section 3. Amendment of Section.** CBJ 53.09.260 is amended to read:

18 **53.09.260 Negotiated sales, leases, and exchanges.**

19 (a) *Application, initial review, assembly authority to negotiate.* Upon application, approval
20 by the manager, and payment of a \$500.00 fee, a person or business entity, may submit a
21 written proposal to lease, purchase, exchange, or otherwise acquire City and Borough land for
22 a specified purpose. The proposal shall be reviewed by the assembly for a determination of
23 whether the proposal should be further considered and, if so, whether by direct negotiation
24 with the original proposer or by competition after an invitation for further proposals. Upon
25

1
2 direction of the assembly by motion, the manager may commence negotiations for the lease,
3 sale, exchange, or other disposal of City and Borough land.

4
5 (b) Review and approval process ~~Planning commission review, final assembly approval.~~

6 Upon satisfactory progress in the negotiation or competition undertaken pursuant to
7 subsection (a) of this section, ~~and~~ after review by the assembly lands committee ~~planning~~
8 ~~commission~~, and authorization by the assembly by ordinance, the manager may conclude
9 arrangements for the lease, sale, ~~or~~ exchange or other disposal of City and Borough land. The
10 final terms of a disposal pursuant to this section are subject to approval by the assembly
11 unless the minimum essential terms and the authority of the manager to execute the disposal
12 are set forth in the ordinance enacted pursuant to this subsection. The disposal may not be
13 executed until the effective date of the ordinance.

14
15 **Section 4. Amendment of Section.** CBJ 53.09.300 is amended to read:

16 **53.09.300 Easements.**

17 (a) *Authorized.* The manager may convey or lease an easement in City and Borough owned
18 land upon approval by the assembly. Easements shall be nonexclusive unless otherwise
19 provided in the easement document.

20
21 (b) *Application and fee.* The applicant for an easement shall apply to the manager on a form
22 prescribed by the manager. The application shall be accompanied by plans, reports, a
23 narrative, and other material sufficient to permit the City and Borough to evaluate need for
24 and the use to be made of the requested easement. The application shall also be accompanied
25 by a base fee of \$15.00 plus an amount determined by the manager to cover the cost of an

1
2 appraisal of the value of the easement. From time to time, the manager shall adjust the base
3 fee to reflect changes in the cost of municipal services.

4
5 (c) Review process ~~Departmental and planning commission action~~. The application for the
6 easement shall be referred to the planning department and public works department for
7 comment. The manager may refer the application to other departments which may have an
8 interest in the parcel subject to the proposed easement. Upon receipt of the comments of other
9 departments, the planning department shall refer the application and departmental
10 comments to the assembly lands committee ~~planning commission~~ for its recommendation to
11 the assembly. The assembly lands committee ~~planning commission~~ may hold a public hearing
12 on the application prior to making its recommendation.

13
14 (d) *Assembly action*. Upon receipt of the assembly lands committee ~~planning~~
15 ~~commission~~ recommendation, the assembly may, by resolution, authorize the manager to
16 execute the easement under such terms and conditions as are authorized by the assembly.

17
18 (e) *Survey*. Prior to the execution of an approved easement, the applicant shall provide a
19 survey of the easement to the standards required by the manager.

20
21 (f) *Easement price*. The sale or lease price of an easement shall be the appraised value
22 established not more than 90 days prior to assembly authorization of the easement. Upon
23 execution of the easement by the City and Borough, the applicant shall pay to the City and
24 Borough the market value of any marketable materials, timber, or other resources within the
25 easement area which will be destroyed, cut, or removed. The manager shall determine the
value of resources of any marketable materials, timber, or other resources within the
easement area which will be destroyed, cut, or removed.

1
2 (g) *Improvements and changes.* No improvements or changes to improvements may be made
3 within an easement unless first approved by the manager.

4
5 (h) *As-built plans.* Immediately upon completion of the construction of any improvements
6 within the easement area, the easement holder shall provide the manager with accurate,
7 complete, and legible as-built drawings of such improvements. Upon making any changes or
8 additions to such improvements, the permittee shall provide the manager with as-built
9 drawings showing such changes or additions.

10 (i) *Relocation.* The assembly, by resolution, may direct the holder of an easement granted
11 under this section to relocate the holder's improvements within the easement or to relocate
12 the improvements to a new easement granted by the City and Borough for that purpose. Such
13 relocation shall be at the sole expense of the easement holder, and the City and Borough shall
14 not be liable to the easement holder for reimbursement of any expenses or compensation for
15 any losses or damages suffered by the easement holder or others arising out of the relocation.
16 Unless the assembly, in the resolution directing the relocation of the improvements, permits
17 otherwise, the easement holder shall remove all improvements he or she has constructed in
18 the area to be vacated. No compensation shall be due the City and Borough for the value of
19 resources which must necessarily be cut, damaged, or removed to permit the relocation, nor
20 shall the easement holder be liable for the cost of any survey required to describe a new
21 easement area.
22

23
24 (j) *Restoration.* The manager may require restoration and the posting of such security for
25 restoration as he or she determines necessary.

Section 5. Amendment of Section. CBJ 53.09.310 is amended to read:

1
2 **53.09.310 Use permits.**

3
4 (a) *Purposes.* Permits for less than one year for the use of City and Borough owned land
5 may be granted by the manager after review and an opportunity to comment by the assembly
6 lands committee ~~planning commission~~ for nonconsumptive uses which do not cause or require
7 significant damage to the property when it is certain that the use can be completed within
8 one year or when an application is pending for an easement, sale, or lease of the parcel to the
9 permit applicant. Permits shall be nonexclusive unless otherwise provided in the permit.

10 (b) *Application and fee.* An application for a use permit shall be filed with the manager and
11 shall be accompanied by plans, reports, a narrative, and other material sufficient to permit
12 evaluation of the proposed activities of the applicant in the permit area. The application shall
13 be accompanied by a base fee of \$15.00 plus an amount determined by the manager to be
14 sufficient to cover the cost of an appraisal of the permit right requested.
15

16 (c) *Review process* ~~Departmental and commission comment.~~ The completed application shall
17 immediately be referred to ~~the planning commission~~, the engineering department, the
18 planning department, and such other departments as the manager determines may have an
19 interest in the land or proposed activities. Unless the manager determines that the issuance
20 of the permit would be contrary to the public interest, the manager, upon full consideration of
21 the departmental comments and consistent with the assembly lands committee's
22 recommendation ~~commission comments~~, may issue a permit to the applicant with such
23 restrictions and conditions as appropriate. ~~If any department or the commission has~~
24 ~~submitted a written objection to the issuance of the permit, or has submitted a requested~~
25 ~~restriction which the manager's designee does not propose to include in the permit, the~~

1
2 ~~manager's designee shall deliver written notice of the decision to the director of that~~
3 ~~department or the planning commission, as appropriate, at least three working days before~~
4 ~~the permit is issued. The commission or the director of such department may appeal the~~
5 ~~matter to the manager.~~
6

7 (d) *Permit fee.* The permit fee shall be the appraised value of the permit. Prior to issuance of
8 the permit, the applicant shall pay to the City and Borough an amount equal to the value of
9 any materials, timber, or other resources which will be damaged, cut, or removed from the
10 permit area. The manager shall determine the value of resources of any marketable
11 materials, timber, or other resources within the easement area which will be destroyed, cut,
12 or removed. If the manager determines that a survey of the permit area should be made, the
13 permittee shall provide such a survey prior to making any use of the permit.
14

15 (e) *Improvements and changes.* No improvements or changes to improvements may be made
16 in a permit area unless first approved by the manager.

17 (f) *As-built plans.* Upon the construction of any improvements in the permit area, the
18 permittee shall immediately provide the manager with complete, accurate, and legible as-
19 built drawings of the improvement. Upon making any changes or additions to such
20 improvements, the permittee shall provide the manager with as-built drawings showing such
21 changes or additions.
22

23 (g) *Revocability.* Use permits issued under this section are revocable at the sole discretion
24 of the manager. Upon issuing a notice of revocation to the permit holder, the manager may
25 also require the permit holder to remove any improvements placed within the permit area
and to restore the permit area to its original condition or such lesser condition as the

1
2 manager may authorize. The City and Borough shall not be liable to the permit holder or any
3 other person for any costs, losses or damage arising out of the revocation or order to remove
4 improvements and restore the permit area.

5
6 (h) *Security for restoration.* The manager may require such security for restoration as
7 appropriate.

8
9 **Section 6. Amendment of Section.** CBJ 85.02.060, General Powers is amended to
10 read:

11 (a) Subject to state laws and City and Borough ordinances, the City and Borough Docks and
12 Harbors Board shall generally exercise all powers necessary and incidental to operation of all
13 port and harbor facilities in the public interest and in a sound business manner. In
14 particular, and without limitation on the foregoing, the board shall:
15

16 ***

17 (5) Administer and dispose of City and Borough tideland, submerged land, and other
18 land as provided by the Assembly by resolution as subject to Docks and Harbors Board
19 Administration, subject to the following limitations:
20

21 (A) No sale, purchase, or trade of land shall be made without prior review by
22 the assembly lands committee ~~planning commission~~ and approval by the Assembly by
23 resolution.
24
25

1
2 (B) Unless otherwise designated in advance by the assembly by resolution, any
3 lease of land shall be limited to marine-related uses, and those uses accessory to
4 tenancy on the boat harbor or use of the port.

5
6 (C) All land transactions by the board in accordance with this section shall be
7 consistent with the land management plan developed under CBJ 85.02.063.

8 (i) Land shall be leased as provided in chapter 53.20, provided that the
9 provisions of section 53.20.020 relating to a declaration of availability and
10 identification in the land management plan shall not apply.

11
12 (ii) For purposes of applying title 53 pursuant to this subsection (C), any
13 action required by Title 53 of the manager may be performed by the port director.
14

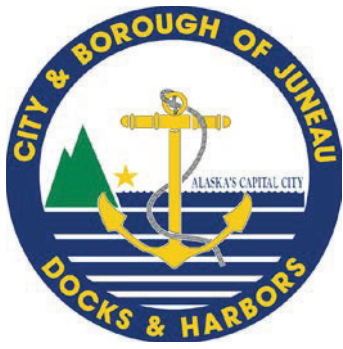
15 **Section 7. Effective Date.** This ordinance shall be effective 30 days after its
16 adoption.

17 Adopted this _____ day of _____, 2019.
18
19

20 _____
Beth A. Weldon, Mayor

21 Attest:

22 _____
23 Elizabeth J. McEwen, Municipal Clerk
24
25



Port of Juneau

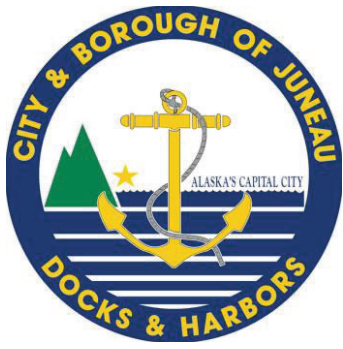
155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

From: Carl Uchytel, Port Director
To: Docks & Harbors Board
Thru: Docks & Harbors Operations-Planning Committee
Date: March 19th, 2019
Re: FY2019 DOCKS BUDGET SUPPLEMENTAL - REQUEST

1. At the January 31th, 2019 regular meeting, the Docks & Harbors Board approved a modest increase of one Harbor Technician and one Harbor Officer to augment the 17 authorized Docks Enterprise seasonal staff from April through September. The documentation and justification for this increase was provided in enclosure (1).
2. The current authorized FY19 personnel costs for the Docks Enterprise is \$598,046. The additional cost with benefits associated with a 0.5 FTE Harbor Officer is \$39,224.25. The additional costs with benefits associated with 0.5 FTE Harbor Technician is \$28,270.13. The additional cost in FY19 to cover the months of April, May and June for the two positions is \$33,747.19. The personnel costs for FY20 have been identified in the proposed budget to be adopted by the Assembly.
3. I request the FY2019 Docks Budget be increased by \$35,000 through the supplemental process.

#

Encl (1): Memo dated January 18th, 2019



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

From: Carl Uchytel, Port Director
To: Docks & Harbors Board
Thru: Docks & Harbors Operations-Planning Committee
Date: January 18th, 2019
Re: REQUEST FOR TWO ADDITIONAL PORT SEASONAL EMPLOYEES

1. At the October 2018 Board meeting, Harbormaster Dave Borg and Port Supervisor Scott Hinton provided a brief on the staffing demands at the downtown cruise ship docks. The 17 seasonal employees currently assigned to the Docks Enterprise are tasked primarily to provide service to the cruise ship vessel. There have been no personnel changes since the commissioning of the new cruise ship docks in 2017. At one time, the Port Director envisioned that our seasonal Port staffing needs could perhaps decrease with the physical security of a floating berth and technological improvements with security cameras. This has not been the case, it is a fact that staffing requirements within our Coast Guard approved Facility Security Plan (FSP) have increased since the completion of the new docks. The updated requirements include checking all passengers and crew for boarding credentials, as well as escorting non-vessel, non-TWIC holder contractors to the cruise ship's Vessel Security Officer. In addition to providing the security service to the vessel, the Docks Enterprise Harbor Technicians and Harbor Officers perform duties such as:

- Coordinating transferring potable water to serve the vessel;
- Coordinating the discharge of grey water from the vessel;
- Coordination of emergency vehicle access to the floating docks;
- Parking/staging lot management of three major areas (Alaska Steamship Wharf, Cruise Ship Terminal, Columbia Lot, Taku Lot) and shuttle are for the AJ Dock transfer buses;
- Maintenance of the Docks & Harbors managed port facilities;
- Oversight of the vendor brokerage booths;
- Removal of trash along the Seawalk and Marine Park;
- Ambassadors to 1,350,000 passengers arriving in 2019.

2. The surge of cruise ship passengers has increased 50% in the past decade. At the Alaska Steamship (AS) Wharf, prior to 2017, the largest vessels were less than 800 feet and carried around 2100 passengers and crew. We have already seen an increase of 182% of passengers arriving at the AS Wharf since completion of the new cruise ship berths. In 2019 this growth will continue. The *Ovation of the Seas* will moor at AS Wharf bringing 6400 passengers and crew. This unprecedented increase both in number of cruise ships arriving and

their associated cargo merits additional Docks & Harbors staffing.

3. The Docks Enterprise remains staffed to serve the cruise ship vessels. Typically, this requires personnel to be physically on site from 5:30 am to 11 pm during most of the season. **Docks & Harbors management is recommending a modest increase of one Harbor Technician and one Harbor Officer to augment the 17 authorized seasonal staff from April through September.** The Harbor Officer is a more experienced position and is authorized to write citations. The Harbor Technician is an entry level position in Docks & Harbors. The current authorized personnel costs for the Docks Enterprise is \$598,046. The additional cost with benefits associated with a 0.5 FTE Harbor Officer is \$39,224.25. The additional costs with benefits associated with 0.5 FTE Harbor Technician is \$28,270.13.

4. The attached document is provided for information only. Docks & Harbors staff has prepared an estimate for additional staffing should the Coast Guard implement new security procedures. We are in discussion with senior members of the Coast Guard Sector regarding whether additional screening measures are warranted at our facilities. The proposed increased security procedures would require matching a photo id to the ticketed passenger entering our facilities, in similar fashion to an airline passenger entering a TSA screening area. Docks & Harbors staff, and our partners, believe this would create an onerous, duplicative and unnecessary step. The Docks & Harbors Board will be kept abreast of this proposed change in the coming weeks.

#

Encl: Estimated staffing costs

Docks and Harbors Insurance Language: Proposed Changes

Commercial Use Permits

05 CBJAC 01.060 - Insurance and indemnification.

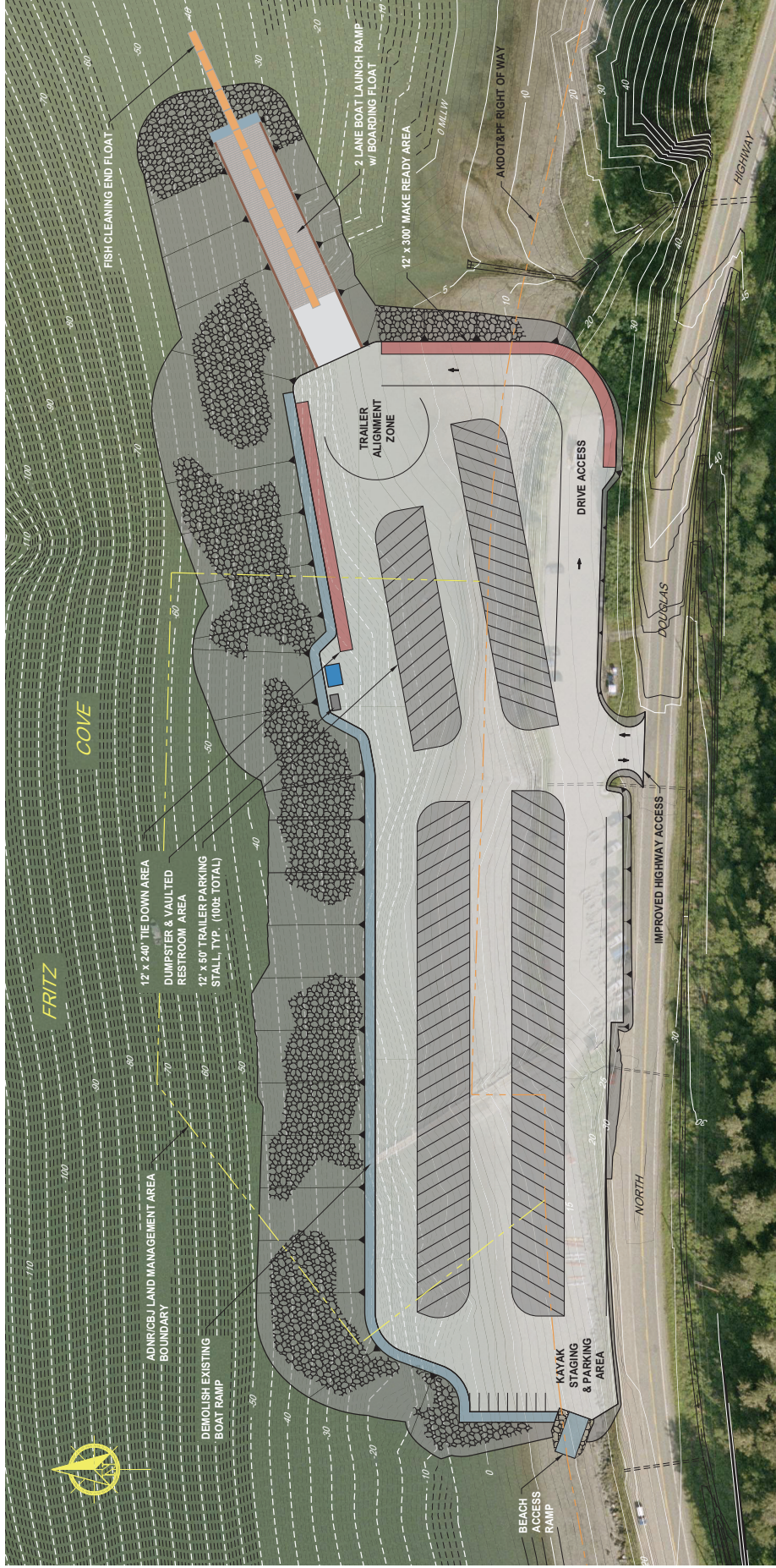
(a) Prior to issuance of a permit, the permittee must provide the department with a broker's certificate of insurance showing that the permittee has obtained ~~public liability~~ insurance coverage in for the types and amounts and for the risks determined by risk manager City and Borough Risk Management of the City and Borough for the proposed use. ~~The certificate must~~ Some policies may be required to establish that the City and Borough is named as an additional insured ~~on the policy~~, and ~~that the insurer-permittee shall be~~ required to notify the City and Borough if the policy is modified or, canceled, ~~or terminated~~.

(b) Permittees, upon acceptance of 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 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.

Waterfront Sales Permits

05 CBJAC 10.070 - General operating requirements.

- (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 insurance coverage for the types and amounts determined by City and Borough Risk Management for the proposed use. Some policies may be required to establish that the City and Borough is named as an additional insured, and the permittee shall be required to notify the City and Borough if the policy is modified or canceled. ~~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.



QUANTITY SUMMARY	
ITEM	VOLUME (CY)
ROCK EMBANKMENT & ARMOR	335,000
12x60 TRAILER PARKING STALLS	100



REVISIONS		REV.	DATE	DESCRIPTION	DWN	CHKD	APP.

ENGINEERS, INC.
 9760 Glacier Highway Ste 100
 Juneau, Alaska 99801
 Phone: 907-586-2093
 Fax: 907-586-2099
 www.pndengineers.com

DESIGN: CRS
 CHECKED: CRS
 SCALE: AS SHOWN
 DRAWN: PJD
 APPROVED: CRS

DATE: MAR., 2019
 PND PROJECT NO.: 192082

PRELIMINARY
CITY & BOROUGH OF JUNEAU
NORTH DOUGLAS BOAT LAUNCH STUDY

SHEET TITLE: NORTH DOUGLAS BOAT LAUNCH
 CONCEPT NO.3

SHEET: 3
 OF: 3



NORTH DOUGLAS BOAT LAUNCH CONCEPT 3



BUDGET ESTIMATE

Prepared by: PND ENGINEERS, INC.

March 13, 2019

Item	Item Description	Units	Quantity	Unit Cost	Amount
1505.1	Mobilization	LS	All Req'd	\$1,047,400	\$1,047,400
1570.1	Erosion & Sediment Control	LS	All Req'd	\$50,000	\$50,000
2060.1	Demolition, Salvage & Disposal	LS	All Req'd	\$75,000	\$75,000
2201.1	Clearing & Grubbing	LS	All Req'd	\$25,000	\$25,000
2202.1	Mining Area Restoration and Road Cleaning Guarantee	CS	All Req'd	\$10,000	\$10,000
2202.2	Unusable Excavation	CY	1,000	\$20	\$20,000
2202.3	Usable Excavation	CY	2,500	\$10	\$25,000
2202.4	Class A Shot Rock Borrow	CY	15,000	\$30	\$450,000
2202.5	Class B Shot Rock Borrow	CY	300,000	\$25	\$7,500,000
2204.1	Roadway Base Course	CY	4,000	\$50	\$200,000
2204.2	Base Course Grading A	CY	400	\$50	\$20,000
2205.1	Class II Armor Rock	CY	5,000	\$40	\$200,000
2205.3	Class IV Armor Rock	CY	15,000	\$40	\$600,000
2501.3	24-Inch CPP Storm Drain Pipe	LF	2,000	\$100	\$200,000
2501.6	Board Insulation	BD	50	\$40	\$2,000
2502.1	Storm Drain Catch Basin, Type IV	EA	3	\$2,500	\$7,500
2502.3	Storm Drain Manhole, Type I	EA	5	\$5,000	\$25,000
2502.5	Storm Drain Water Quality Unit with 24-Inch Bypass	LS	All Req'd	\$30,000	\$30,000
2502.6	Storm Drain Outfall Structure	EA	2	\$30,000	\$60,000
2702.1	Construction Surveying	LS	All Req'd	\$75,000	\$75,000
2714.1	Geotextile Fabric, All Types	SY	10,000	\$5	\$50,000
2718.1	Signage	LS	All Req'd	\$10,000	\$10,000
2720.1	Painted Traffic Markings	LS	All Req'd	\$30,000	\$30,000
2801.1	AC Pavement, Type II, Class B, 3-Inch Thick	TON	5,000	\$200	\$1,000,000
2870.1	Site Furnishings	LS	All Req'd	\$40,000	\$40,000
2893.1	8'x300' Timber Boarding Float	LS	All Req'd	\$425,000	\$425,000
2896.1	Furnish & Install 16 Inch dia. Steel Pipe Pile	EA	8	\$10,000	\$80,000
2910.1	Planting Soils	LS	All Req'd	\$50,000	\$50,000
2930.1	Exterior Plants & General Landscaping	LS	All Req'd	\$100,000	\$100,000
3303.1	6-Inch Thick Concrete Walkway on Grade	SY	1,000	\$150	\$150,000
3303.3	Curb and Gutter, Types I-VII	LF	3,000	\$38	\$114,000
3303.4	Curb and Gutter, Type VIII	LF	400	\$60	\$24,000
3304.2	Beach Access Ramp	LS	All Req'd	\$100,000	\$100,000
3305.1	Boat Launch, Apron and Abutment	LS	All Req'd	\$70,000	\$70,000
3305.2	Boat Launch, Precast Concrete Ramp Planks	LS	All Req'd	\$550,000	\$550,000
5120.2	Bollards	EA	10	\$500	\$5,000
13121.1	Covered Shelter	LS	All Req'd	\$150,000	\$150,000
13121.2	Covered Kiosk	LS	All Req'd	\$20,000	\$20,000
13121.3	Vaulted Restroom	LS	All Req'd	\$100,000	\$100,000
16000.1	Electrical - Power, Lighting & Security	LS	All Req'd	\$450,000	\$450,000
ESTIMATED CONSTRUCTION COST					\$14,139,900
CONTINGENCY (15%)					\$2,120,985
AEL&P ELECTRICAL PRIMARY WORK					\$150,000
NEPA, NMFS IHA, PERMITTING & COMPENSATORY MITIGATION					\$1,000,000
SITE SURVEYS & GEOTECHNICAL INVESTIGATION					\$200,000
FINAL DESIGN & CONTRACT DOCUMENTS					\$989,793
CONTRACT ADMINISTRATION & CONSTRUCTION INSPECTION					\$989,793
TOTAL RECOMMENDED PROJECT BUDGET					\$19,590,471

1 **MEMORANDUM OF AGREEMENT**

2 This Memorandum of Agreement (hereinafter, the “Agreement”) is made and entered
3 into effective as of March ____ 2019, by and between Cruise Lines International Association
4 Alaska and Cruise Lines International Association (“Plaintiffs or CLIA”), on the one hand and
5 The City and Borough of Juneau, Alaska and Rorie Watt (hereinafter “CBJ” and “Watt”
6 respectively and collectively “Defendants”), on the other hand (Plaintiffs and Defendants may
7 sometimes be referred to hereinafter collectively as the “Parties,” or any one of them
8 individually, a “Party”).

9 **RECITALS**

10 A. WHEREAS, on or about April 13, 2016, Plaintiff filed an action in the United
11 States District Court for the District of Alaska entitled Cruise Lines International Association
12 Alaska and Cruise Lines International Association v. The City and Borough of Juneau, Alaska
13 and Rorie Watt, bearing case number 1:16-cv-0008-HRH (the "Action"). In the Action,
14 Plaintiffs challenged two fees imposed on vessels by the CBJ (the Marine Passenger Fee (MPF)
15 a \$5-per passenger fee and the Port Development Fee (PDF) a \$3-per passenger fee, collectively
16 referred to as “Fees”) that enter CBJ public or private docks, alleging the Fees were either
17 facially unconstitutional or being expended by CBJ in an unconstitutional manner. Defendants
18 disputed the Plaintiffs’ claims made in the Action, and generally and specifically disputed that
19 the Fees were unconstitutional or unlawful, while asserting that CBJ’s use of the Fees was
20 proper in all respects.

21 B. WHEREAS, Plaintiffs and Defendants filed cross motions for summary
22 judgement and Defendants filed a motion to determine the law of the case. After oral argument
23 the United States District Court Judge, Hon. H. Russel Holland, issued an Order on December 6,
24 2018 (“MSJ Order”) holding the Fees are permissible under the Tonnage Clause (“Tonnage
25 Clause”) of the United States Constitution and the Rivers and Harbors Appropriation Act of
26 1899 (RHAA) codified at 33 U.S.C. section 5; provided said Fees are used for services to a
27 vessel or rendered to facilitate the marine enterprise/operations of the vessel and not for services
28 that only benefit passengers. While Judge Holland’s rulings clarified the law, they leave the
29 parties discretion to amicably apply the Court Rulings. Thereafter, on January 25, 2019, Judge
30 Holland entered a Final Judgement in the Action affirming the holding of the MSJ Order (MSJ
31 Order and Final Judgement collectively referred to as “Court Rulings”).

32 C. WHEREAS, it is the desire of the Parties hereto to abide by this Agreement and
33 resolve the Disputes raised by the Parties in the Action in a manner consistent with the terms of
34 the MSJ Order and in compliance with the Final Judgement, unless the underlying legal
35 authority changes. The parties agree that amicable resolution of the issues is better than
36 continued litigation. This Agreement shall further set forth the terms and conditions of the
37 Parties continuing relationship based on the terms of the MSJ Order and Final Judgment and

1 under which Fees, if any, will be collected and expended. The MSJ Order and Final Judgment
2 shall be subject to the good faith interpretation of the Parties for certain projects. The Parties
3 wish to avoid the costs and the expenditure of resources in pursuing and defending continued
4 litigation pertaining to the various claims and/or defenses raised in the Action. The Parties agree
5 that the terms and conditions set forth in this Agreement are intended to be fully enforceable.

6 D. WHEREAS, other communities in Southeast Alaska are concerned about the
7 impact of the Court Rulings on their communities and have voluntarily offered the CBJ
8 monetary support to appeal the Court Rulings, and as such, any amicable resolution between
9 CBJ and CLIA must be practical, not harmful to other communities in Southeast, and should
10 acknowledge each community must exercise local control in its decision making because each
11 community has unique approaches and issues. The Parties also acknowledge that CBJ's Marine
12 Passenger Fee and Port Development Fee are fees imposed upon a vessel, and not fees imposed
13 upon a passenger like the State Commercial Passenger Vessel excise tax (A.S. 43.52.200 et.
14 seq). The Parties agree that the State Commercial Passenger Vessel excise tax was not litigated
15 or an issue in the Action. The State of Alaska and a predecessor of CLIA settled a dispute
16 involving the State Commercial Passenger Vessel excise tax in 2010 resulting from No. 3:09-cv-
17 00015-TMB, United States District Court for the District of Alaska.

18 E. WHEREAS, CBJ acknowledges that the construction of the western seawalk
19 project from Gold Creek to Overstreet Park may or may not have survived legal challenge and
20 that because CLIA chose not to seek an injunction for this part of the construction, this project
21 was not delayed and was successfully constructed; and while CLIA acknowledges that the
22 western seawalk project may or may not have survived a legal challenge, CLIA also
23 acknowledges the entire seawalk has been a part of CBJ's Long Range Waterfront Plan for more
24 than 10 years, the project has the support of the Juneau public and such public support is
25 instrumental and necessary to the development of the Juneau waterfront and the growth of the
26 cruise industry;

27 F. WHEREAS, the Parties shall engage in annual meetings to discuss their
28 respective issues and positions, regarding major development projects, as early as possible. For
29 example, during the 2019 consultations with the City Manager, CLIA did not object to the CBJ
30 using fees, subject to Assembly appropriation, imposed on a vessel or passenger to lease space
31 away from the downtown Juneau area to temporarily stage containers during the cruise season to
32 enable vessels to efficiently unload, load, and timely depart instead of having containers trucked
33 through the Maritime Industry Zone during peak periods;

34 G. WHEREAS, the Parties affirm that nothing in this Agreement is an attempt to
35 interfere with the Assembly's responsibility to govern the affairs of the City and Borough of
36 Juneau but is provided to the Assembly as best practices pertaining to the collection and
37 appropriation of Passenger fees so that future disputes may be avoided.

1 NOW, THEREFORE, for valid and binding consideration acknowledged by the Parties,
2 the Parties hereby agree as follows:

3 **DEFINITIONS**

4 A. The term “Cruise Lines International Association” shall include its Members
5 calling in Juneau, Alaska, specifically and without limitation to include: Carnival Cruise Lines,
6 Crystal Cruises, Disney Cruise Lines, Holland America Line, Norwegian Cruise Line, Oceana
7 Cruises, Princess Cruises, Regent Seven Seas Cruises, Royal Caribbean International and
8 Silverseas Cruises and any person or entity, past or present, acting on behalf of any of the
9 foregoing, including, but not limited to, each of their present and former agents, representatives,
10 owners, officers, executives, partners, directors, employees, insurers and/or attorneys.

11 B. The term “Cruise Lines International Association Alaska” (together with Cruise
12 Lines International Association, “CLIA”) shall also include CLIA Northwest & Canada and any
13 person or entity, past or present, acting on behalf of any of the foregoing, including, but not
14 limited to, each of their present and former agents, representatives, owners, officers, executives,
15 partners, directors, employees, insurers and/or attorneys.

16 C. The term “The City and Borough of Juneau, Alaska” shall include any person or
17 entity, past or present, acting on its behalf, in the collection and expenditure of those certain Fees
18 collected from cruise vessels calling at the docks and local waters within the jurisdiction of CBJ,
19 including, but not limited to, each of their present and former members, representatives, officers,
20 executives, partners, directors, employees, insurers and/or attorneys, but not individual
21 Assemblymembers.

22 D. The term “Rorie Watt” shall include Mr. Watt in his official capacity as City
23 Manager of Juneau, Alaska and any person or entity, past, present or future, acting in the official
24 capacity as City Manager of Juneau, Alaska, including, but not limited to, each of their
25 successors, assigns, representatives, officers, executives, partners, directors, employees, insurers
26 and/or attorneys.

27 E. The term “Dispute(s)” shall be defined as all claims, defenses and/or allegations
28 arising out of and in any way connected with the pleadings filed in the Action. The term shall not
29 include future business dealings with respect to the collection and expenditure of Fees, except as
30 otherwise agreed in this Agreement.

31 F. The term “Marine Passenger Fee” (“MPF”) shall mean that certain five U.S.
32 dollar (US\$5.00) per passenger fee assessed on certain passenger vessels as codified by CBJ
33 Code Sections 69.20.030 and 69.20.040.

1 G. The term “Port Development Fee” (“PDF”) shall mean that certain three U.S.
2 dollar (US\$ 3.00) per passenger fee assessed on vessels carrying passengers for compensation on
3 port calls in the City and Borough of Juneau pursuant to Resolution 2552 (2010).

4 H. The term “Motion for Summary Judgment Order” (“MSJ Order”) is defined
5 above. The terms of the MSJ are incorporated herein by this and any other reference. The MSJ
6 Order is attached hereto as Exhibit A.

7 I. The term “Final Judgment” refers to that certain Judgment In A Civil Case filed
8 by the United States District Court Judge for the District of Alaska, Hon. H. Russel Holland, on
9 January 25, 2019, and entered in the Action at Docket No. 217; the terms of which are
10 incorporated herein by this and any other reference. The Final Judgment is attached hereto as
11 Exhibit B.

12 J. The term “Maritime Industry Zone” shall refer to that certain map attached hereto
13 as Exhibit D.

14 K. The term “Effective Date” shall be defined as the date of full execution of this
15 Agreement by both parties.

16 AGREEMENTS

17 1. **Incorporation.** This Agreement hereby incorporates the Recitals and Definitions
18 stated above.

19
20 2. **Operational Services Budget.** Attached as Exhibit C to this Agreement and
21 incorporated herein by this reference is a true and correct copy of the CBJ FY 2019
22 Budgeted MPFs expenditures. The Parties acknowledge the allocation of Fees stated
23 therein and, for purposes of this Agreement, CLIA does not object to each of the line
24 item expenditures for FY 2019. With respect to the allocation of Fees for General
25 Government Services in the successive years following FY 2019 governed by this
26 Agreement, the Parties agree that in lieu of a line item allocation for General
27 Government Services, CBJ will obtain a cost allocation study of said General
28 Government Services and will allocate Fees based on the results of the future study
29 effective FY2021 (July 1, 2020). The Parties understand and agree the intent of
30 procuring an audit under this paragraph is that the cost of operational services will not
31 vary significantly (+/- ten percent) from historical allocations for operational services.
32 The parties agree that from time to time inflationary adjustments will likely be
33 necessary.

34
35 3. **Agreed Use of Fees in Maritime Industry Zone.** The Parties acknowledge and
36 agree to the collection and expenditure of Fees in the Maritime Industry Zone. The

Parties attach hereto as Exhibit D an area map of downtown Juneau wherein CBJ provides (Zone A) or could provide (Zone B) the infrastructure for cruise vessels, the support services for such vessels while in port, and infrastructure and services that further the marine enterprise/operation of such vessels. The following expenditures are agreed to by the Parties:

- a. Debt service on the Cruise Ship Berth Enhancement project (commonly known as 16B) and the planning, design and construction necessary to improve private and public cruise ship docks. The cost of acquiring land, tidelands, and easements required for the construction of capital improvements would be considered eligible project costs. For purposes of this Agreement, CLIA does not object to Fee expenditures for those purposes.
- b. For the purposes of this Agreement, CLIA does not object to Capital improvements within Zone A of the Maritime Industry Zone including: dockage, lightering, ship to shore infrastructure including utilities and debt service, ship to ship infrastructure including debt service, seawalks, restrooms, signage/wayfinding, motor coach staging, passenger queuing facilities, access and parking facilities for vehicles serving a vessel, and any infrastructure required or recommended by the Department of Homeland Security (i.e. USCG and USCBP). The Parties agree to the expenditure of Fees for this infrastructure in Zone A and acknowledge that the CBJ may need to expand or change such services and infrastructure in Zone A due to a change in circumstances, such as changes in vessel size, scheduling, and demands for such services or infrastructure by the changes in circumstance. The cost of acquiring land, tidelands, and easements required for the construction of capital improvements would be considered eligible project costs. For purposes of this Agreement, CLIA does not object to Fee expenditures for those purposes.
- c. Operational Services provided within Zone A pursuant to Paragraph 2, including but not limited to the following services that the CBJ provided in 2018 to CLIA, its passengers or crew: dockage, lightering, restroom maintenance, crossing guards, police/security patrols and infrastructure, fire and emergency medical service, weather monitoring, tug assist, trash collection and disposal, and any service required or recommended by the Department of Homeland Security (i.e. USCG and USCBP). The Parties agree to the expenditure of Fees for these services in Zone A and acknowledge that the CBJ may need to expand or change such services and infrastructure in Zone A due to a change in circumstances, such as changes in vessel size, scheduling, and demands for such services or infrastructure by the changes in circumstance. For purposes of this Agreement, CLIA does not object to Fee expenditures for those purposes.

- 1 d. For proposed capital improvements or operational services within Zone B, the
2 parties agree to discuss these ideas at the annual meeting.
3 e. The Parties agree that expenditure of Fees outside of Zones A and B may be
4 necessary. In such case, the parties shall discuss such ideas in accordance with
5 paragraph 7.
6

- 7 4. **Statter Harbor Improvement Project.** CBJ has developed construction plans for
8 improvements to Statter Harbor that will promote marine commerce in the area and
9 provide services to vessels. CLIA contends the full scope of construction of the
10 Statter Harbor Project may be beyond the scope of permissible expenditure of Fees
11 set forth in the MSJ Order, but for purposes of this Agreement, CLIA does not object
12 to a Fee expenditure up to seventy-five percent (75%) of a total project budget not to
13 exceed twelve million four hundred thousand dollars (US\$12,400,000.) CBJ agrees
14 to finance the remainder of the Statter Harbor Project construction through other
15 funding sources.
16
- 17 5. **Attorney's Fees.** Both Parties shall be reimbursed for their respective attorney's fees
18 incurred litigating the Disputes brought in the Action. The Parties agree that CBJ
19 shall cause one million five hundred thousand dollars (\$1,500,000) to be paid from
20 the MPF collected from CLIA Members to partially reimburse CLIA for its attorney's
21 fees incurred in the Action. The Parties acknowledge that CBJ incurred
22 approximately Eight Hundred Thousand (\$800,000) in legal fees defending the
23 Action and prior to the Effective Date of this Agreement has used approximately
24 Three Hundred and Fifty Thousand Dollars (\$350,000) from MPF collected from
25 CLIA Members. The Parties agree that CBJ may cause the remaining Four Hundred
26 and Fifty Thousand Dollars (\$450,000) to be paid from the MPF collected from CLIA
27 Members and use those funds as an "other funding source" in accordance with
28 paragraph 5. Payment to CLIA shall be made on or shortly after March 22, 2019. The
29 Parties acknowledge that the CBJ has initially provided the \$1.95M payments from
30 FY2019 general funds (Ord. 2018-11(AF)); For purposes of this Agreement, CLIA
31 does not object to the CBJ reimbursing the \$1.95M payments of general funds with
32 FY20 MPF funds (Ord. 2019-14). Neither payment shall be deemed or constitute an
33 admission of liability or wrongdoing by either Party nor shall either Party be
34 considered the prevailing party.
35
- 36 6. **Public Records.** CBJ shall keep true and accurate records, sufficient to determine the
37 amount of Fees collected and the appropriation, allocation and expenditure of said
38 Fees during any Fiscal Year wherein Fees are collected from CLIA. Consistent with
39 Alaska public records laws (e.g. A.S. 40.25.110 and CBJC 01.70), these records shall
40 be maintained and open to inspection at CLIA's expense at reasonable intervals by an

1 independent auditor during regular business hours of CBJ. All audit expenses shall
2 be considered costs recoverable to the prevailing party in any dispute resolution
3 initiated pursuant to Paragraph 9.

- 4 7. **Annual Consultation.** Guided by the timelines in CBJC 69.20.120(b) (March 14,
5 2019), the Parties agree for each and every Fiscal Year, the Parties shall endeavor to
6 meet in person to discuss in good-faith any new proposed projects and services for
7 which Fees are sought to be expended in the following Fiscal Year with the ultimate
8 decision resting with the Assembly.
9

- 10 8. **Amount of Fees.** CBJ acknowledges and agrees the MPF should remain at \$5.00 per
11 passenger and the PDF should remain at \$3.00 per passenger for at least the next three
12 years from the Effective date. However, if an Assembly determines otherwise during
13 the next three years, the parties agree to meet and discuss consistent with paragraph 7.
14 If there is any change to the State Commercial Passenger Vessel statutes (A.S.
15 43.52.200-295) during the three year period, then the intent of this section is null and
16 void.
17

- 18 9. **Dispute Resolution.** In the event of any dispute, claim, question, or disagreement
19 arising out of or relating to this Agreement or the annual project planning meeting or
20 any breach thereof, including any claims relating to collection and expenditure of the
21 Fees, the Parties hereto shall use their best efforts to settle such disputes, claims,
22 questions or disagreements through direct discussions and, if the matter cannot be
23 settled through direct discussions, the parties agree to first endeavor to settle the
24 dispute in an amicable manner by non-binding mediation, before resorting to
25 litigation. The parties agree that upon notice to the other demanding mediation, the
26 statute of limitations for the matter is tolled. If the parties cannot reach a resolution
27 through mediation, then either party may file their claim in the United States District
28 Court for the District of Alaska, which shall be the sole and exclusive forum for
29 resolving such matters. The Parties agree that all claims shall be filed and
30 adjudicated in the United States District Court for the District of Alaska. The intent of
31 this paragraph is to provide a process to resolve only justiciable issues that the CBJ
32 has undertaken or is reasonably certain to undertake with Fees; This paragraph is not
33 intended to limit or compel the legislative discretion of the Assembly.
34

- 35 10. **Cost of Enforcement.** In the event that either party shall institute any action
36 (whether mediation and/or court litigation), at law or in equity, against the other party
37 to enforce or interpret any provision(s) of the this Agreement, or for breach hereof or
38 default hereunder, the prevailing party shall be entitled to reasonable legal fees and
39 costs, and such other relief to which it may be entitled, for the enforcement of any of
40 its rights hereunder consistent with Alaska Civil Rule 79 and 82.

- 1
2 11. **Complete Agreement.** This Memorandum of Agreement represents the complete
3 and exclusive agreement by and between the Parties and supersedes all prior and
4 contemporaneous promises and agreements of any kind relating to the resolution of
5 the Disputes, as well as all negotiations and discussions between the Parties hereto
6 and/or their respective legal counsel with respect to the subject matters covered
7 hereby. No other agreements, covenants, representations or warranties, express or
8 implied, oral or written, have been made by any of the Parties hereto concerning the
9 subject matter hereof. This is an integrated agreement.
10
- 11 12. **Term of Agreement.** The term of this Agreement shall be ten years from the
12 effective date with automatic ten year renewals unless either Party provides written
13 notice to the other, sixty days prior to the renewal date, to terminate this Agreement.
14
- 15 13. **Successors and Assigns.** All of the terms and provisions of the Agreement shall be
16 binding upon and inure to the benefit of and be enforceable by the respective
17 successors and assigns of the Parties.
18
- 19 14. **Governing Law.** This Agreement, the rights and obligations of the parties hereto,
20 and any claims or disputes relating thereto, shall be governed by and construed in
21 accordance with the laws of the United States of America and the State of Alaska.
22
- 23 15. **Waiver of Breach.** No waiver of any breach of any term or provision of this
24 Agreement shall be construed to be, or shall be, a waiver of any other breach of this
25 Agreement. No waiver shall be binding unless in writing and signed by the party
26 waiving the breach.
27
- 28 16. **No Admission of Liability:** The Parties agree that the execution of this Agreement is
29 done solely for the purposes of compromise, and to eliminate the burden and expense
30 of further litigation, and does not constitute, and shall not be construed as, an
31 admission of liability, wrongdoing, fault or as evidence with respect thereto, by any
32 Party, on account of any claims or matters arising between CLIA on the one side and
33 the CBJ on the other side raised in the Action. The Parties further agree that this
34 Agreement shall not be offered or received against any of the Parties as evidence of a
35 presumption, concession or admission with respect to any liability, fault or
36 wrongdoing, other than such proceedings as may be necessary to effectuate the terms
37 of this Agreement, the MSJ Order and Final Judgment. The parties acknowledge and
38 agree that nothing in this Agreement is intended to prohibit disclosure by CLIA
39 Members to their passengers and guests of Fees paid to CBJ pursuant to this

1 agreement or to prohibit CLIA Members from continuing to assess passengers/guests
2 for reimbursement of fees paid to CBJ.

3 17. **Third party claims.** In the event that a third-party files a claim or lawsuit against the
4 CBJ resulting from or related to this Agreement and/or the collection and expenditure
5 of the Fees, CLIA shall have no obligation to defend or indemnify the CBJ for such
6 claim and/or lawsuit. CLIA's agreements and/or cooperation with respect to the
7 CBJ's collection and expenditure of Fees, does not bind the CBJ in any manner to
8 collect and expend the Fees nor does CLIA have any responsibility for the
9 expenditure of the Fees once the Fees are collected from CLIA Members.

10 18. **Notice.** Any notice required to be given pursuant to this Agreement shall be deemed
11 to have been sufficiently given either when served personally or when served by first-
12 class mail addressed to the other Parties.

13
14 a. Notice to CLIA shall be effective only when addressed to:
15 President, CLIA Alaska
16 Juneau, Alaska
17

18 b. Notice to CBJ shall be effective only when addressed to:
19 City and Borough of Juneau
20 c/o City Manager
21 155 S. Seward St
22 Juneau, AK 99801
23
24

25 19. **Mutual Drafters.** All Parties have cooperated in the drafting and preparation of this
26 Agreement. Hence, this Agreement shall not be construed against any party on the
27 basis that the party was the drafter.
28

29 20. **Severability.** If any provision of this Agreement shall be held by any court of
30 competent jurisdiction to be illegal, void or unenforceable, such provision shall be of
31 no force and effect, but the illegality or unenforceability of such provision shall have
32 no effect upon and shall not impair the enforceability of any other provision of this
33 Agreement.
34
35
36
37
38

1 **IN WITNESS WHEREOF**, the Parties hereto have executed this Memorandum of
2 Agreement.

3 **Cruise Lines International Association Alaska**

4 **By:** _____

5 **Its:** _____

6 **Dated:** _____

7
8 **Cruise Lines International Association**

9 **By:** _____

10 **Its:** _____

11 **Dated:** _____

12
13 **The City and Borough of Juneau**

14 **By:** _____

15 **Its:** _____

16 **Dated:** _____

17
18 **Rorie Watt**

19 **By:** _____

20 **Dated:** _____