



# CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS  
330 Harbor Drive  
Sitka, AK  
(907)747-1811

## Meeting Agenda City and Borough Assembly

*Mayor Mim McConnell  
Deputy Mayor Matt Hunter  
Vice-Deputy Mayor Phyllis Hackett, Steven Eisenbeisz,  
Benjamin Miyasato, Aaron Swanson, and Tristan J. Guevin*

*Municipal Administrator: Mark Gorman  
Municipal Attorney: Robin L. Koutchak  
Municipal Clerk: Colleen Ingman, MMC*

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Tuesday, December 9, 2014

6:00 PM

Assembly Chambers

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### REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

IV. CORRESPONDENCE/AGENDA CHANGES

AA [14-230](#) Correspondence

Attachments: [Calendars.pdf](#)

[Reminders.pdf](#)

[Assembly update 12 1 2014.pdf](#)

[Assembly Package November 2014.pdf](#)

[Tjosmsland Certificate etc.pdf](#)

V. CEREMONIAL MATTERS

BB [14-231](#) Alaska Municipal League 2014 Awards: 1) Municipal Elected Official of the Year, and 2) Community Award of Excellence

Attachments: [CEREMONIAL.docx.pdf](#)

VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Sitka Community Hospital, Municipal Departments, School District, Students and Guests (time limits apply)



- E**      [ORD 14-34](#)      Amending SGC at 2.40 elections, adding Section 2.40.095 Candidate biographical information, amending sections 2.40.110 Withdrawal or amendment of nomination, 2.40.115 Write-in candidates, renaming Chapter Section VI to add Advanced voting, amending Sections 2.40.190 Eligibility, 2.40.200 Assisted voting, adding Section 2.40.205 Voting by electronic transmission, amending Sections 2.40.220 Issuance of absentee or advanced ballots, 2.40.230 Casting absentee or advanced ballots, 2.40.250 Election officials (E) Oath, 2.40.310 Ballot box, 2.40.315 (D)(2) Marking of ballot, 2.40.315 (G) Improperly marked ballots, adding Sections 2.40.315 (H) closing of polls, and 2.40.316 Poll watchers, amending Sections B2.40.320 reports of unused and damaged ballots, 2.40.330 (B), (C), (D) Counting ballots - hand-counted, 2.40.390 (H) Counting ballots, 2.40.420 Canvass board, 2.40.430 Election results, renaming Section 2.40.440 Assembly approval, amending Sections 2.40.460 Certificate of election, 2.40.470 Notice of election contest, 2.40.500 Costs, and 2.40.520 Prohibited practices  
*Attachments:* [ORD 14-34 2.40 Elections.pdf](#)
- F**      [ORD 14-40](#)      An ordinance amending SGC Chapter 15.01 Entitled "Electric Utility Policies" by adding a new Section 15.01.090 entitled "Rebate Program for Electric Heat Pump Heating Systems"  
*Attachments:* [Motion ORD 14-40.pdf](#)  
[2014-40 Heat Pump Rebate Program.pdf](#)

**New Business First Reading Amended Ordinances**

- G**      [ORD 14-37](#)      Adjusting the FY15 Budget  
*Attachments:* [ORD 14-37A FY15 Budget.pdf](#)
- H**      [ORD 14-38](#)      Amending SGC Title 22 Zoning regarding commercial home horticulture  
*Attachments:* [Memo Ord 2014-38.pdf](#)  
[ORD 14-38A Horticulture and Motion.pdf](#)  
[Appeals Period Memo.pdf](#)  
[Misc Docs relating to Ord 2014-38.pdf](#)
- I**      [ORD 14-39](#)      Amending SGC Section 2.08.015 Selection of acting administrator to include a procedure for unforeseen appointments  
*Attachments:* [ORD 14-39A Acting Administrator and Motion.pdf](#)

**Additional New Business Items**

- J      [14-232](#)      Approve a Tidelands Lease between Alaska Bulk Water Inc. and the City and Borough of Sitka at Sawmill Cove fronting the Gary Paxton Industrial Park

**Attachments:** [Motion.pdf](#)

[Tidelands bulk water lease MEMO \(5\).doc.pdf](#)

[TAB Tidelands Lease.pdf](#)

[bulk water corp drawings.pdf](#)

[TABBWOriginalContract2006.pdf](#)

[TAB Amendment No1signed.pdf](#)

[TAB Amendment No 2-1 2010signed.pdf](#)

[TAB Amendment 3 signed.pdf](#)

[TAB Amendment 4 signed.pdf](#)

- K      [14-233](#)      Award a contract to Coastal Excavation, L.L.C. in the amount of \$812,433.13 for completion of the Hollywood Way and New Archangel Street Utility and Street Improvement project

**Attachments:** [Hollywood New Archangel.pdf](#)

- L      [14-229](#)      Appoint Marjorie Hennessy to a term on the Tree & Landscape Committee

**Attachments:** [Appointment Marjorie Hennessy.pdf](#)

**XII. PERSONS TO BE HEARD:**

*Public participation on any item on or off the agenda. Not to exceed 3 minutes for any individual.*

**XIII. EXECUTIVE SESSION**

*Sitka Community Hospital Finances*

- M      [14-235](#)      Sitka Community Hospital Finances

**Attachments:** [Exec. session Hospital 08.doc](#)

[Executive Session Outline.docx](#)

**XIV. ADJOURNMENT**

*Colleen Ingman, MMC*

*Municipal Clerk*

*Publish:12-5-14*





## Legislation Details

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**File #:** 14-230      **Version:** 1      **Name:**  
**Type:** Correspondence      **Status:** AGENDA READY  
**File created:** 12/2/2014      **In control:** City and Borough Assembly  
**On agenda:** 12/9/2014      **Final action:**  
**Title:** Correspondence  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** [Calendars.pdf](#)  
[Reminders.pdf](#)  
[Assembly update 12 1 2014.pdf](#)  
[Assembly Package November 2014.pdf](#)  
[Tjosmsland Certificate etc.pdf](#)

Date	Ver.	Action By	Action	Result
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### Assembly Calendar

[2014](#)  
 [Jan](#)  
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 [2016](#)

January 2015

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
28 Dec	29	30	31	1 Jan	2	3
Hackett	Hackett	1:00pm SCVB Board		12:00pm - 1:30pm SEDA Board Meeting		
4	5	6	7	8	9	10
	Eisenbeisz	Eisenbeisz 7:00pm Planning 7:00pm School	Eisenbeisz 7:00pm Library Board	Eisenbeisz 12:00pm LEPC 12:00pm Parks & Rec	Eisenbeisz	
11	12	13	14	15	16	17
		6:00pm Reg Assembly Mtg	6:00pm Historic Preservation			
18	19	20	21	22	23	24
		12:00pm Tree/Landscape 7:00pm Planning 7:00pm School	6:30pm STA	6:30pm Hospital Board		
25	26	27	28	29	30	31 Feb
		1:00pm SCVB Board 6:00pm Regular Assembly Mtg	6:00pm Police and Fire Commission - Fire Hall			

## Assembly Calendar

[2013](#)   [Jan](#)   [Feb](#)   [Mar](#)   [Apr](#)   [May](#)   [Jun](#)   [Jul](#)   [Aug](#)   [Sep](#)   [Oct](#)   [Nov](#)   [Dec](#)   [2015](#)

**December 2014**

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
30 Nov	1 Dec	2 7:00pm Planning 7:00pm <u>School</u>	3 7:00pm Library Board	4 12:00pm - 1:30pm SEDA Board Meeting 6:30pm Hospital Board Meeting	5	6
7	8	9 Miyasato 5:30pm Worksession: Jeff Comer - SCH 6:00pm Reg Assembly Mtg	10 6:00pm Historic Preservation 6:00pm Police and Fire Commission	11 12:00pm LEPC 12:00pm Parks & Rec	12 6:00pm CBS Holiday Party at Harrigan Hall	13 Hackett
14 Hackett	15 Hackett	16 Hackett 12:00pm Tree/Landscape 7:00pm Planning 7:00pm <u>School</u>	17 Hackett 6:30pm STA	18 Hackett	19 Hackett	20 Hackett
21 Hackett	22 Hackett	23 Hackett 6:00pm Regular Assembly Mtg	24 Hackett	25 Hackett	26 Hackett	27 Hackett
28 Hackett	29 Hackett	30 1:00pm SCVB Board	31	1 Jan	2	3
				12:00pm - 1:30pm SEDA Board Meeting		

# REMINDERS

<u>DATE</u>	<u>EVENT</u>	<u>TIME</u>
Tuesday, December 9	Regular Meeting	6:00 PM
Friday, December 12	CBS Holiday Party	6:00 PM
Monday, December 22	Worksession:	5:00 PM
Tuesday, December 23	TBD Municipal Solutions	
Monday, December 22	Regular Meeting	6:00 PM
Tuesday, December 23	TBD	



## **PUBLIC WORKS ASSEMBLY UPDATE - WORK COMPLETED IN NOVEMBER 2014**

### **Kettleton Memorial Library Expansion:**

#### **Milestones This Period**

- Material submittals provided by contractor.
- Concrete shear walls being formed and poured.
- Exterior demolition including roof, walls, and windows started.
- Site utility installation continuing.
- Storm sewer installation continuing.
- Backfill and site grading continuing.

#### **Future Milestones**

- Framing of new structure to be complete January 2015.
- Construction is anticipated to be complete October 2015.

### **Background**

The State funding of \$5.7 million awarded to CBS is a direct appropriation with no funding match requirements. A private donation of \$400,000 has also been given to the project by the John J. and Eleanor Brust Family and the City has committed \$200,000 in CPET funding and \$357,000 from the General Fund. The Friends of the Library have also raised almost \$90,000. \$350,000 of the budget was allocated to the Centennial Hall Parking Lot Project to relocate the Swan Lake storm drain, leaving a current project budget of approximately \$6.4 million for the expansion and renovation of the Library. Construction completion is anticipated by Fall 2015.

### **Ultra Violet (UV) Disinfection Facility:**

#### **Milestones This Period**

- Basement walls poured and forms stripped.
- Upper floor poured.

#### **Future Milestones**

- Excavation for upper floor.
- Form and pour upper floor.
- Christmas break December 15, 2014 to January 8, 2015.
- Construction completion anticipated by fall 2015.

### **Background**

The Blue Lake drinking water system is a surface water system, which must comply with the EPA Enhanced Surface Water Treatment Rules (ESWTRs). The UV Disinfection Facility will provide the additional microbial and disinfection controls required under the ESWTRs. The current total project cost estimate is \$8,966,000. Funding for this project is provided by State of Alaska Department of Environmental Conservation (ADEC) loans and grants:

- \$4,000,000 FY 2011 ADEC Loan (Includes \$2,500,000 financed with \$1,500,000 subsidized)
  - \$2,550,000 FY 2012 ADEC Loan
  - \$3,500,000 FY 2012 ADEC Grant (30% local match requirement).
  - \$2,061,000 FY 2013 ADEC Grant (30% local match requirement).
- \$12,111,000 Total Project Funding

## **Centennial Hall Renovation:**

### **Milestones This Period**

- In order to keep the scope of the project within the project funding of \$16.3 million, the full phase new construction is being reduced by approximately 3,000 square feet. The museum addition has been cut to roughly the size of the original Phase 1 size. Additional museum area may be bid as an additive alternate. The new Assembly meeting and storage addition has been slightly reduced and all of the back stage small additions have been eliminated. The revised building area is now below the size threshold which triggers additional fire protection requirements, which saves construction costs. Other building design elements are being modified or eliminated to reduce estimated project costs and keep the project within its budget.
- The drawing set modifications are underway and when completed, the production of the construction documents will resume. The project will bid in the spring of 2015.
- Finalize the plan for utilizing alternative venues for city/government/non-profit meetings and events and the Harrigan Centennial Hall (HCH) staff when the HCH will be closed.

### **Future Milestones**

- Finalize project scope reduction, additive alternates list, revised cost estimate, & revised schedule.
- Finalize agreement(s) for alternative venues for the duration of construction.
- Completion of construction documents winter/spring 2015.
- Begin construction summer/fall 2015.
- Target construction completion is under review.

### **Background**

The adjusted 35% design estimated cost for this project was \$16.3 million for the full scope of the remodel project. However, the rectified 65% design estimated cost for this project is ~ \$18.5 million for the full scope of the remodel project. The current funding includes four State grants totaling \$11,500,000; a \$1,991,271 FY10 Legislative Grant designated for a lightering facility visitor's center (previously planned for under the O'Connell Bridge), \$1,180,000 FY 11 CPET Head Tax grant, \$1,400,000 Marine Passenger Funds, and a \$232,620 heat pump grant for a total project budget/funds of \$16.3 million.

## **Jarvis Control and Crescent Harbor Shelter Re-roofing:**

### **Milestones This Period**

- Issued a Notice to Proceed October 24, 2014.

### **Future Milestones**

- Begin design and submittal set November 2014.
- Review/approve engineered systems and other submittals December 2014.
- Complete construction before June 2015.

### **Background**

The Crescent Harbor Shelter roof is the original from the 1985 construction of the Shelter and is failing. It will be replaced with architectural shingles and will match the roofs planned for Harrigan Centennial Hall and Kettleson Memorial Library. The Jarvis Substation Control Building flat (low slope) roof is leaking, under-insulated, and expensive to maintain, thus a shingled gable roof and added insulation will be constructed to reduce annual operating and replacement costs. The Assembly awarded a Design-Build contract in the amount of \$185,500 to CBC Construction for completion of this project during the September 23, 2014 assembly meeting. Total project funding includes \$105,493 from the Harbor Fund and \$120,000 from the Electric Fund for a total approved budget of \$225,493.

### **Lake Street / Monastery Street Lift Station Improvements:**

#### **Milestones This Period**

- Received ADEC approval to construct.
- Constructed access road to new Lake Street lift station pad. Installed force main pipe within easement in front of 805 Lake Street. Installed new gravity sewer main from existing wet well in front of 805 Lake Street to new pad on 807 Lake Street.
- Contractor began procurement of materials needed to complete the job.

#### **Future Milestones**

- Construction completion is anticipated by the end of February 2015.

#### **Background**

The Lake Street and Monastery Street lift stations require an inordinate amount of maintenance and repair by the wastewater staff and are in need of immediate replacement; the pumps are outdated and replacement parts are difficult to find. Access into the Lake Street lift station is dangerous due to the location of the ladder rungs. Current available funding is from the Wastewater Enterprise Fund (\$350,000 for Lake Street and \$420,000 for Monastery Street) and from an ADEC loan for \$1,379,170. The Assembly awarded a design-build contract to CBC Construction for \$841,000 on August 12, 2014.

### **Baranof Warm Springs Dock Replacement:**

#### **Milestones This Period**

- The Alaska Department of Transportation and Public Facilities are continuing with design effort.

#### **Future Milestones**

- Provide review/comment for State of Alaska as needed to keep project moving forward.
- Design development through fall/winter 2014.
- Construction is anticipated in fall 2015.

#### **Background**

The City and Borough of Sitka (CBS) received a \$1,900,000 FY2013 Alaska Legislature Grant to reconstruct the Baranof Warm Springs Dock. The funding was provided with the understanding that CBS would assume ownership and maintenance responsibilities for the dock once it is reconstructed. The Assembly approved the Administrator to execute a Memorandum of Agreement with the Alaska Department of Transportation and Public Facilities (ADOT&PF) for completion of the Baranof Warm Springs Dock Reconstruction and Ownership Transfer. ADOT&PF will be reimbursed the cost of designing and constructing the improvements from the FY13 Legislative Grant.

### **Jeff Davis Street Water and Sewer Improvements:**

#### **Milestones This Period**

- As-built survey of existing roadway and adjacent properties completed by consultant and reviewed by CBS.

#### **Future Milestones**

- Advertisement for professional design services.
- Final design of the project is expected in fall 2015.
- Construction is anticipated summer 2016.

#### **Background**

The project will replace approximately ~50-year old undersized water main with new, large diameter pipe within Jeff Davis Street. The project will also remove 3 residences on Jeff Davis from a section of failing 1930's vintage wood stave sewer and connect them to the existing sewer main. Funding for

the project is provided by the following sources; \$644,000 FY2015 ADEC Grant and \$812,000 FY2014 ADEC Water Loan

### **Eagle Way & Old Harbor Mountain Road Utility and Road Upgrades:**

#### **Milestones This Period**

- Five proposals were received and are under review by Public Works staff.

#### **Future Milestones**

- Review and select design team early December 2014.
- Request Assembly approval to award design contract December 2014/January 2015.
- Final design of the project is expected in summer/fall 2015.
- Construction is anticipated summer 2016.

#### **Background**

The Eagle Way project will include a minimum of 24-foot-wide paved road with possible pedestrian amenities and storm drainage within the right of way (ROW). The existing sewer main is in good repair, and only requires bringing two buried manholes to grade. The project will include a new water main and services within the Eagle Way ROW.

The Old Harbor Mountain Road project will include a minimum of 24-foot wide paved road and storm drain improvements within the ROW. Funding for both projects is \$1,500,000 2013 Commerce Community and Economic Development Grant

### **Nelson Logging Road Upgrades:**

#### **Milestones This Period**

- Six proposals were received and are under review by Public Works staff.

#### **Future Milestones**

- Review and select design team early December 2014.
- Request Assembly approval to award design contract December 2014/January 2015.
- Final design of the project is expected in summer/fall 2015.
- Construction is anticipated summer 2016.

#### **Background**

This project includes upgrading Nelson Logging Road to 28 feet wide for two-way traffic and upgrading both inadequate bridges. The roadway will likely be moved toward the south to raise the roadway above the winter and spring flooding at the Starrigavan Creek estuary and eliminate sloughing off of the roadway into Starrigavan estuary. The project also includes three parking areas, the Tony Hrebar Shooting Range, the USDA Forest Service Off-Road Vehicle Recreation Area and the State Park Forest and Muskeg Trailhead. Funding for the project is provided by \$2,343,000 2013 Commerce Community and Economic Development Grant

### **Gary Paxton Industrial Park Dock:**

#### **Milestones this period**

- The GPIIP Board of Directors has received two major proposals from private enterprise entities, each of which proposes to utilize the GPIIP via either long-term lease or land purchase. The acceptance of either or both of these proposals could have some effect on the general configuration and utilization of the multi-purpose dock. In July, the consultant was been put on hold until the proper course of action is decided regarding the two business proposals.



## **Future Milestones**

- The business proposals will be reviewed, analyzed and discussed by the GPIIP Board of Directors. Work will resume on the design of the multi-purpose dock when the Board of Directors and the relevant CBS staff are satisfied that the basis of design is amenable to the activities that may develop from the business developed by either of the major proposers.
- When the CBS has reviewed the draft alternatives analysis report, and discussed with the consultant the findings presented there, a final AA Report will be prepared and submitted. At that point the CBS will decide on the specific type of structure that is preferred, and the Engineering Consultant will progress into starting the Design Phase of the Project.

## **Background**

The project is funded by a Designated Legislative Grant, administered by the State of Alaska, Department of Commerce, Community & Economic Development, and Division of Community & Regional Affairs. The total amount of the Grant is \$7.5 M. On the local level, the project is administered by Public Works and the Gary Paxton Industrial Park Director Garry White. Moffatt & Nichol (M&N) has been awarded a contract to provide the design for the GPIIP Dock Project. By the end of the month of June M&N had prepared a Draft Alternatives Analysis Report (AA), utilizing recently collected data, the Basis of Design document prepared in May, and site data from past projects. This report presents three possible ways to build a dock structure at the Sawmill Cove location, and provides an “opinion of Probable Construction Costs” (OPCC) for each alternative. This analysis will help the CBS to see which construction method gives the most facility for the limited funds available. In September 2014 the consultants delivered a geotechnical data report which presents the findings of the on-site geotechnical investigations, including subsurface drilling and sampling.

## **Edgecumbe Drive Street Reconstruction:**

### **Milestones This Period**

- Presented the proposed multi-use path to the Parks and Recreation Committee (P&R) on November 6, 2014. The multi-use path, paved with asphalt and located on the mountain side of the road, will accommodate slow-moving bike traffic and will be separated from the road with a 6-inch curb. The on-road bike lane will be deleted. P&R endorsed the concept.
- Hosted a public meeting on November 12, 2014, describing the multi-use path and changes to the Kostrometinoff, Kashevaroff and Kimsham intersections.
- Received 35% design drawings and several submittals from design-build team.

### **Future Milestones**

- Construction to begin in April 2015. Substantial completion date is August 21, 2015. Final completion date is October 30, 2015.

## **Background**

The project includes drainage, sidewalk, curb and gutter, road subgrade and pavement improvements on Edgecumbe Drive from Peterson Street to Cascade Creek Road. The total project budget is \$5.46M. The Assembly approved award of a design-build contract to S&S for \$4,636,500 on May 27, 2014.

## **Monastery and Baranof Water and Sewer Project:**

### **Milestones This Period**

- Design contract signed by all parties and notice to proceed issued.

### **Future Milestones**

- Preliminary sections to be provided by early December 2014
- Initial public meeting to be scheduled for week of December 15, 2014
- Final design of the project is expected in March 2015.
- Construction is anticipated as early as summer 2015.

### **Background**

The project includes replacement of the water and wastewater systems, new pavement with curb and gutter, storm drain improvements and sidewalk on one side on Baranof Street.

Funding for the project is provided by the following sources:

- \$533,000 FY 2014 ADEC Sewer Loan
  - \$497,000 FY2014 ADEC Water Loan
  - \$763,000 FY 2015 ADEC Grant (30% local match requirement)
  - \$102,000 CBS Capital Improvement Monastery Street FY15
  - \$81,000 CBS Capital Improvement Baranof Street FY15
- \$1,976,000 Total Project Funding

## **Stormwater Management Plan:**

### **Milestones This Period**

- A draft stormwater ordinance and design standards were prepared by the consultant and emailed to local contractors/developers for comment. To date no comments have been received.

### **Future Milestones**

- Introduce stormwater ordinance to Planning Commission in December 2014.
- Seek Assembly approval for adoption of storm water ordinance in early 2015.

### **Background**

The first phase of the Stormwater Master Plan was completed in late June 2012 with Tetra Tech Alaska, LLC gathering existing infrastructure data and condition inventory to include in our GIS system along with precipitation analysis and drainage basin delineation as part of the first phase of the project. The second year grant funding (FY13) was approved by the Alaska Department of Environmental Conservation and the grant agreement was authorized by the Assembly in July 2012. The grant amount of \$43,388 required a 40% percent CBS match of \$28,925. This phase included collecting more field data, preparing the Stormwater Management plan, Sitka specific rainfall intensities, recommended Best Management Practices, Capital Improvement Plan and an example Stormwater Ordinance. A change order was subsequently approved by the Assembly to complete a stormwater ordinance and design guidelines.

## **Alternative Water Source Filtration (Blue Lake Project):**

### **Milestones This Period**

- The Indian River Temporary Filtration System completed operations when the Blue Lake source came on line mid-November. There were issues with the fluoride system and a new fluoride pump was installed. As of Monday, November 24, 2014, the fluoride system is now up and running correctly. New flow control valves and strainers were installed during shut down and are working great. Staff is pleased with how things are working.
- Temporary facility filters units and contact tanks cleaned and moved for shipping back to owners.

### **Future Milestones**

- Complete site cleanup and storage of control and testing units to be used for UV disinfection Facility.

### **Background**

Temporary surface water filtration was required during the Blue Lake Project outage. Award of the design contract to CH2M Hill was approved by the Assembly on February 12, 2013. Construction was completed by Barnard Construction under a change order for the Blue Lake Dam project managed by the Electric Department.

### **Federal Land Access Program (FLAP) Grant: Phases 4&5:**

#### **Milestones This Period**

- Construction on the section from Yaw Drive back towards Gavan trail intersection is nearing completion. Next section scheduled for work is the separated pathway along Yaw Drive which will end at the Indian River Trailhead parking lot. Work will continue this winter as long as weather permits.
- Paperwork for third quarter reporting for the Western Federal Lands Access Program completed.

#### **Future Milestones**

- Compensatory mitigation negotiated with a restrictive covenant (conservation easement) on a tract of City land located near the Cross Trail project, Corps of Engineers has reviewed the R&M Wetlands study.
- US Geologic Survey easement agreement and permit reviewed. Awaiting final document from USGS.
- Restrictive Covenant paperwork awaiting CBS signatures for final submittal to Corps.
- The completion date is estimated around November 2015.

### **Background**

The City and Borough of Sitka has been awarded a \$916,897 MAP-21 Federal Lands Access Program (FLAP) Grant for Phase 5 Cross Trail multimodal pathway (Cross TMP), Baranof Street and Yaw Drive connectors, by Western Federal Lands (WFL). The Assembly approved submission of the grant in Resolution 2013-03 in February 2013.

Phase 4 of the project, a \$926,000 STIP Grant for a multimodal pathway reconstruction and re-routing from Yaw Drive to the CBS property was funded by the Department of Transportation in the 2009 STIP. DOT planners, with the concurrence of Western Federal Lands (WFL) and CBS, initiated action to combine the two projects as a single \$1.8 million grant and have the project managed by Western Federal Lands for greater efficiency and cost savings.

### **Federal Land Access Program (FLAP) Grant: Phase 6:**

#### **Milestones This Period**

- Grant application was submitted and awarded on June 26, 2014 by Western Federal Lands.
- Match agreement signed and sent off to Western Federal Lands for their signature.

#### **Future Milestones**

- Secure a reimbursable agreement.
- Hire a consulting company for starting planning, design, and complete environmental and permitting.
- The completion date is estimated around May 2016.

### **Background**

The City and Borough of Sitka has been awarded a \$250,000 MAP-21 Federal Lands Access Program (FLAP) Grant for Phase 6 Cross Trail multimodal pathway (Cross TMP), connector from Kramer Drive to Alaska Marine Ferry Terminal, by Western Federal Lands (WFL). The Assembly approved submission of the grant in Resolution 2014-06 in April 2014. The Western Federal Lands Access Program application was submitted in April 2014, and then awarded on July 26, 2014. This is listed as a FY16 budgeted project with Western Federal Lands Access Program.

### **Solid Waste Management Plan:**

#### **Milestones This Period**

- SWAC meeting November 13, 2014, the group decided to open up a bid process to obtain quotes for commingle curbside recycle pick up and trash pickup.

#### **Future Milestones**

- Proposed Project Schedule: SWAC meeting March or April 2015
- Request for Proposals to be sent out for commingle recycling and garbage pickup.

### **Background**

The City and Borough of Sitka currently does not have a Solid Waste Management Plan to address the current or future needs of the Solid Waste Fund and general operations. As we approach the end of the current collection and off-island disposal contracts in 2015, we believe it is in the best interest of the CBS to be better prepared with a plan that details the goals and direction of our solid waste management backed with data and a financial plan. At the June 6, 2013 Assembly Meeting, the Assembly approved advertising for a Request of Qualifications and select a consultant to develop a Solid Waste Management Plan. The funding for a Solid Waste Management Plan will come from the working capital of the Solid Waste Fund which is approximately \$1.3 million. The Solid Waste Management Plan is a time and materials, not to exceed \$250,000 contract. The total amount is dependent on the complexity of future goals and the amount of public process exploring options.

### **Sitka Transient Float Replacement:**

#### **Milestones This Period**

- Bathymetric and shoreline survey completed.
- Draft Breakwater Evaluation indicates a minimum 16' wide float will be required to meet harbor wave protection and pedestrian comfort and safety requirements. The budget was established assuming a 12' wide float would be constructed. The budget may be sufficient to absorb the additional costs.

#### **Future Milestones**

- Geotechnical investigation planned for December 2014.
- Concept plans and cost estimate is anticipated in January 2015.
- Construction is anticipated to begin in fall 2015.

### **Background**

CBS received a FY15 State of Alaska Municipal Harbor Facility Matching Grant, for the Sitka Transient Float Replacement Project, which will cover 50% of eligible construction costs not to exceed 2,700,000 in match funding. CBS has allocated a total of \$3,450,000 from the Harbor Enterprise Fund for the project for a total budget of \$6,150,000.

### **Hollywood & New Archangel Water, Sewer and Road Upgrades:**

#### **Milestones This Period**

- Bid opening on November 25, 2014.

#### **Future Milestones**

- Award construction contract in December 2014.
- Construction is anticipated in 2015.

### **Background**

The project includes water, sewer, storm drain, pavement, curb and gutter and sidewalk improvements on Hollywood Way from DeGroff Street to Sawmill Creek Road and New Archangel Street from Halibut Point Road to Marine Street. Funding is available from ADEC Loans (\$750,000), an ADEC Grant (\$552,300) and from the General Fund (\$232,000) for ADEC-ineligible expenses.

### **Seaplane Base:**

#### **Milestones This Period**

- None.

#### **Future Milestones**

- Engage upland property owners (Mt. Edgecumbe High School) to discuss potential for them to provide tidelands access for new seaplane facility.

### **Background**

In August 2002, the Sitka Seaplane Base Master Plan was completed and includes a Condition & Needs Assessment and Master Plan Alternatives Report. The plan considered 12 alternative sites for a new seaplane base and found the north end of Japonksi Island, between the Coast Guard Base and the cove behind the SEARHC buildings on Seward Avenue was the best alternative. In February 2009, the Assembly unanimously approved Resolution 2009-35 "Supporting the development of the Sitka Seaplane Base." This approved staff applying for and executing a Federal Aviation Administration Airport Improvement Program grant for up to \$500,000 to develop the siting plan, issues resolution, design, environmental, and permitting phases of the project. Utilizing proceeds from that grant, in June 2012, an updated Sitka Seaplane Base Siting Analysis was completed which considered a new site and redevelopment of the existing site in addition to the previously recommended Japonski site. The Japonski site was again selected as the preferred site. The findings of this study were presented to the Port and Harbors Commission on April 11, 2012 where they unanimously approved further study of the Japonski Island site. Preliminary discussions with the US Coast Guard (USCG) regarding potential Seaplane Base access from USCG property were encouraging.

### **Airport Terminal Upgrades:**

#### **Milestones This Period**

- None

#### **Future Milestones**

- Host a workshop with the Airport Users Group to develop passenger-flow improvements in December 2014.
- After improvements are fully developed, MCG will make a winter presentation to the Assembly with cost estimates and recommendations.

### **Background**

The original project included design of improvements to the baggage makeup and TSA baggage screening areas, which will primarily be covered by a TSA grant. Funding collected from a previous PFC program amounts to \$275,000 and can be used to scope passenger-flow improvement options.

## **Centennial Hall & Crescent Harbor Parking Lot Development:**

### **Milestones This Period**

- None

### **Future Milestones**

- Installation of additional guardrail near the boat harbor will be completed this winter. Pavement repairs and sealing the decorative pavers will be completed next spring.

### **Background**

The project included the complete reconstruction of the Centennial Hall Parking Lot and Crescent Harbor Parking lot. The improvements included storm drain, water, sewer, curb and gutter, paving, lighting, pedestrian plaza and landscaping. The project was accepted as substantially complete on September 30, 2013. S&S General Contractors was awarded the construction contract in the amount of \$2,613,651.

**MONTHLY UPDATE FOR CITY ASSEMBLY**

**BLUE LAKE EXPANSION PROJECT**

Month ending November 30, 2014

Report No. 24

**SCOPE**

- 83 ft. dam raise with modified tunnel system and new 15.9 MW powerhouse (\$89 million)
- Eight supply contracts for Owner-Furnished equipment and materials (\$16 million)

**PROJECT HIGHLIGHTS DURING THIS MONTH**

- November 3 – Issued Certificate of Substantial Completion of underground work.
- November 4 – Conducted 2 Unit full load governor tests.
- November 10 – Temporary Filtration Plant was taken out of service.
- November 12 – Operators moved into the new Blue Lake control room.
- November 12 – Contract 9, Change Order 13 executed.
- November 13 – Conducted a Ribbon cutting ceremony in the Blue Lake powerhouse.
- November 13 – Completed mechanical run on FVU.
- November 14 – Issued Certificate of Substantial Completion of Powerhouse, Penstock, and Water Treatment Building.
- November 14 – Gilkes and UEE site representatives left site.
- November 19 – Received request for substantial completion of the Temporary Filtration Plant.
- November 4-14 – UEE conducted training for the Electric Department Generation Crew.
- November – The spillway repair was completed.
- November – All concrete forms were removed from the dam.
- November – Dam misc. metals were 90% completed.

**COST SUMMARY - updated 11/30/2014**

Project Element	Current Contract Total or Projected Amount	Payments	
		Paid this Month	Paid to Date*
Supply Contracts			
Contract 1 - Turbine Generator Equipment	\$11,801,058	\$ 543,760	\$ 12,338,875
Contract 2 - Switchgear	\$647,672	\$ -	\$ 612,799
Contract 2A/2B - SS/Raw Water Switchgear	\$300,000	\$ -	\$ 208,547
Contract 3 - Gates and Hoist	\$780,185	\$ -	\$ 703,376
Contract 4 - Penstock	\$836,315	\$ -	\$ 837,593
Contract 5 - 69 kV Transformers	\$603,406	\$ -	\$ 573,369
Contract 6 - Bridge Crane Equipment	\$270,518	\$ -	\$ 272,298
Contract 7 - Steel Building	\$1,145,712	\$ -	\$ 1,147,754
Contract 8, Debris Management**	\$2,258,714	\$ -	\$ 1,150,610
Contract 9, General Construction	\$91,729,796	\$ 3,715,937	\$ 91,165,805
Temporary Filtration**	\$1,651,424	\$ 85,517	\$ 1,116,190
Diesel Fuel	\$1,260,000	\$ 18,105	\$ 236,412
Remaining Project Costs			
License Amendment	\$1,400,000	\$ 37,405	\$ 1,337,238
Engineering	\$9,498,393	\$ 27,302	\$ 11,996,173
Construction Management	\$8,076,201	\$ 168,820	\$ 7,701,346
City Performed Work	\$1,495,000	\$ 42,807	\$ 2,113,128
Incentive Payment	\$1,600,000	\$ -	\$ -
Cost of Bond Issuance/Reserve Account	\$3,500,000	\$ -	\$ -
<b>TOTALS</b>	<b>\$138,854,394</b>	<b>\$ 4,639,654</b>	<b>\$ 133,511,514</b>
<b>ESTIMATED TOTAL PROJECT COST</b>	<b>\$145,256,724</b>		

\*Paid to Date includes unpaid retainage

**COST CHANGES THIS MONTH**

- Contract 9, Change Order 13 reduced Barnard contract by \$3,154,400.14.
- Certain project elements have exceeded their budgeted cost, however, due to underruns in other elements the overall budget is not expected to be exceeded.
- It will be necessary to transfer funds within the project to balance the individual contracts and project elements.



**CONSTRUCTION SCHEDULE MILESTONES: PLANNED/ACTUAL**

Construction Start	11-20-2012 / 12-03-2012	Sub. Comp. BLU #3	10-26-2014 / 10-25-2014
Drainage Tunnel complete	07-01-2013 / 05-05-2013	Sub. Comp. FVU	11-12-2014 /
Tunnel Ex. complete	08-19-2013 / 07-24-2013	Sub. Comp. BLU #5	11-22-2014 / 10-24-2014
Intake Structure complete	06-04-2014 / 06-04-2014	Substantial Completion	02-01-2015 /
Begin Generation outage	08-24-2014 / 08-17-2014		
End Generation outage	10-26-2014 / 10-24-2014		

**NOTES ON PROJECT SCHEDULE**

- The most recent look-ahead schedule submitted by Barnard shows the following work to be performed in December:
  - Reach substantial completion on all project features.
  - Perform work itemized on the punch list.
  - Crane demobilization is expected to take place from 12/2-12/10.
  - Barnard will complete the construction of the No. 2 switchyard in December.
  - Barnard will reach substantial and final completion about 1 month ahead of schedule.
- CBS will be responsible for the reinstallation of the repaired WEG transformer.
- The damaged WEG transformer is being returned to the factory.
- NAES will install the conduit and wire for the FVU in December.
- Bruce Belley will install the FVU controls in January.

**OTHER ITEMS OF INTEREST**

- The weather and rainfall during the construction of the project have been so good that there is ample water in the reservoirs for forecasted generation over the next to water years.
- All interruptible loads are being returned to service.
- The Generation Division is transitioning from construction to generation.
- A site service representative from Gilkes, UEE and EPS will be required to return in February to complete electrical testing of the FVU and synchronous motor mode operation of the BLU units.
- The Temporary Indian River water supply has been dismantled.
- The final executive partnering meeting will occur December 2.
- Blue Lake has peaked at 406' elevation with a minimal amount of floating debris in the reservoir. McG Constructors, Inc. will continue performing the Reservoir Debris Management under Contract 8.
- The official Blue Lake Project dedication ceremony has been scheduled for May 7 & 8, 2015.

**PROJECT RISK PROFILE**

The City believes that since construction is reaching Substantial Completion there is very low risk relative to construction.

## PROJECT PHOTO RECORD THIS MONTH

Photos are taken of each work area each month from a fixed location to document construction progress by work area. Relevant photos of the project for this month are provided on the following pages.



Figure 1. Dam and Left Abutment Area, Barnard crews removed all concrete forms.



**Figure 2. Intake Portal and Right Abutment, Spillway sack and patch work completed.**





**Figure 3. Gate House Location, Reservoir access road paving completed.**



**Figure 4. Dam Staging area, In preparation for crane demob, the staging area has been cleared.**





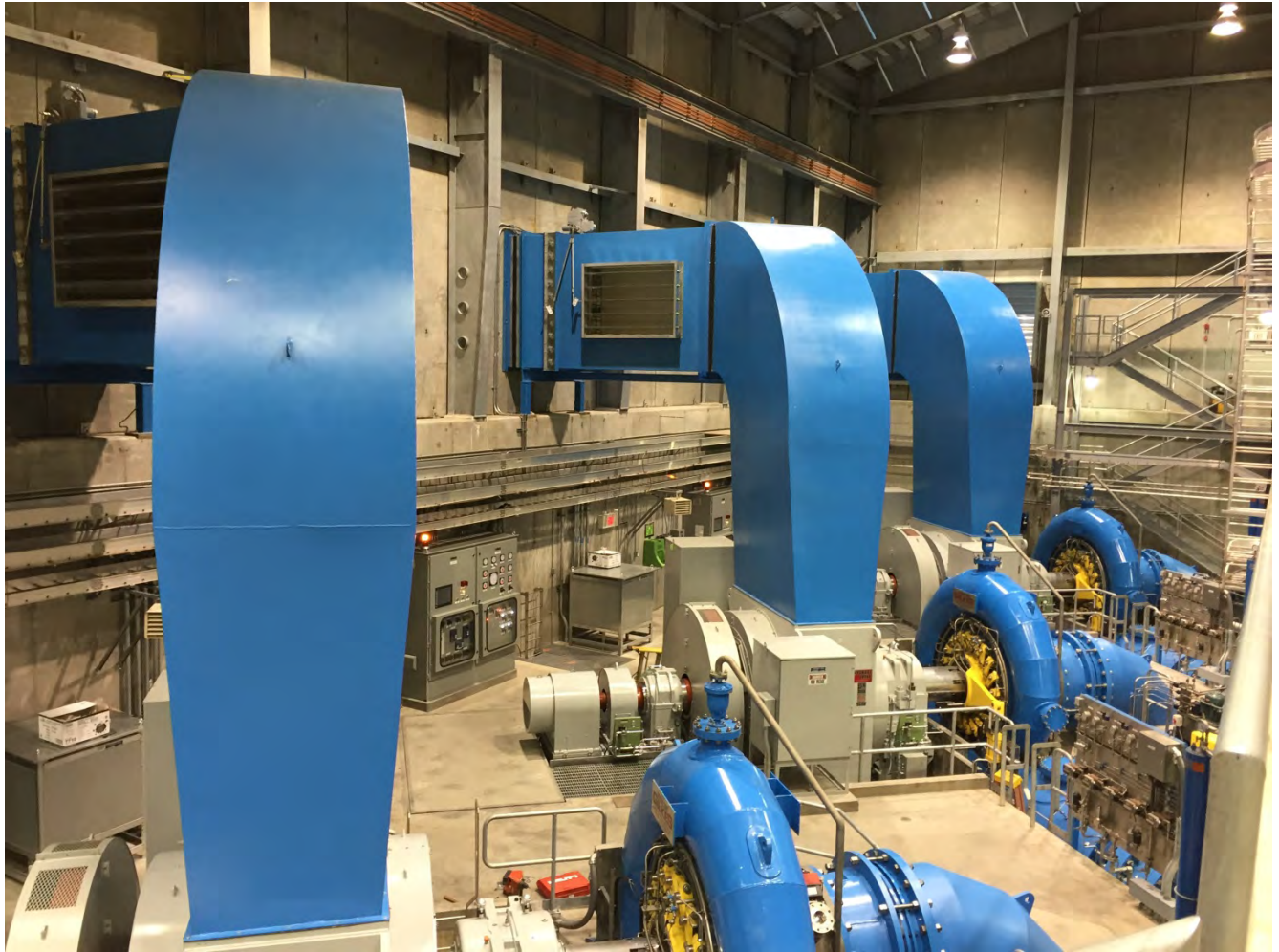
**Figure 5. Lower Portal Area, Final fill is being placed on the penstock.**





**Figure 6. Powerhouse Site, no change this month.**





**Figure 7. Powerhouse Interior, Conducted 2 Unit full load governor tests. Operators moved into the new Blue Lake control room.**

## **Blue Lake Level Forecast**

The Lake Level Forecast has been removed from this report because it will no longer impact the project construction or performance.

*Appendix 1 to Monthly Update for City Assembly*

**November 30, 2014**

**Summary of Temporary Filtration Project Status**

**Alternative Water Source Filtration System (Blue Lake Project):**

Completed.

**Summary of Titan 130 Diesel Turbine Project Status**

Only punch list items remain on this project.

# **BLUE LAKE EXPANSION PROJECT MONTHLY CONSTRUCTION REPORT**

For Period Ending: NOVEMBER 30, 2014

Prepared by: BARNARD CONSTRUCTION COMPANY, INC.

## **1. Progress of work**

This will be the final monthly construction report for the Blue Lake Expansion Project.

### Environmental Protection

Barnard continues to install erosion and sediment control measures as required at the dam site, storage yard at Sawmill Cove Industrial Park and powerhouse area as ground disturbing activities continue. BMP maintenance and repair is ongoing as needed throughout the project site. Barnard is removing BMP's as final restoration is done in completed work areas.

### Gate Chamber

Gate Chamber construction is complete.

### Gate House

Final punchlist work continues in the gate house. Barnard completed the final scaling of the gate house access road and placed the D1 road surfacing material. The reservoir access road concrete paving was also completed in late November.

### Dam Raise

Barnard crews completed formwork removal on the dam in November. The majority of the permanent handrails and walkways were also completed in November. The spillway sack and patch work was completed. The left abutment thrust block and cutoff wall punch-list work was also completed in November.

### Fish Valve Unit

BCCI completed installation and testing of the Fish Valve Unit in November. Final punch-list items will be completed in early December.

### Powerhouse

Final commissioning was completed on all three units in November. The City operators began continuous commercial operation of the Blue Lake powerhouse on November 13. Barnard and its subcontractors continued to work on the final punchlist work in the powerhouse.

Barnard completed the required installation and testing on the Blue Lake water treatment facility. The facility was commissioned and brought online in early November.

Barnard also completed installation of a second 60" diameter culvert under the old Blue Lake Powerhouse road.

### Switchyard

AMCL completed demolition of the number 2 side of the existing transformer yard. AMCL and NAES began construction of the T2 transformer foundation and conduit installations.

## **BLUE LAKE EXPANSION PROJECT MONTHLY CONSTRUCTION REPORT**

For Period Ending: NOVEMBER 30, 2014

Prepared by: BARNARD CONSTRUCTION COMPANY, INC.

### Temporary Filtration Plant

The temporary filtration plant was demobilized in November following the completion and startup of the Blue Lake Water Treatment Plant. The only remaining work is permanent fence installation.

## **2. Status of Construction**

### Status of Ongoing Major Construction Activities

- Powerhouse Excavation –Complete
- Powerhouse Steel Building – Complete
- Powerhouse Roof - Complete
- Precast Wall Panels – Complete
- Dam Raise –Complete
- Dam Spillway – Complete
- Dam Parapet Walls and Crest Slab – Complete
- Left Abutment Thrust Block and Cutoff Wall – Complete
- Powerhouse Concrete – Complete
- Commissioning – Complete

See Section 1 above for construction work completed in November 2014.

## **3. Construction Issues**

No major construction issues in November 2014.

## **4. Contract Status**

Barnard's key subcontractors for the Blue Lake Project are as follows:

<b>Name</b>	<b>Scope</b>
ASRC McGraw Constructors, LLC	Powerhouse Construction
Southeast Earthmovers, Inc.	Excavation
Blue Lake Tunnelers	Underground Construction
Crux Subsurface	Foundation Grouting, Micropiles, PRW's
O'Neill Surveying and Engineering	Land Survey
Baranof Materials Test Lab	Quality Control
NAES Power Contractors	Turbine-Generator Installation/Electrical

Barnard's key material suppliers for the Blue Lake Project are as follows:

<b>Name</b>	<b>Scope</b>
ASRC McGraw Constructors, LLC	Concrete Supply
Gerdau Reinforcing Steel	Concrete Reinforcing Steel
Haskell Corporation	Misc. Metal Fabrication

## **BLUE LAKE EXPANSION PROJECT MONTHLY CONSTRUCTION REPORT**

For Period Ending: NOVEMBER 30, 2014

Prepared by: BARNARD CONSTRUCTION COMPANY, INC.

### **5. Critical Events and Dates**

Please see attached summary progress schedule updated November 30, 2014.

Critical Dates for the Blue Lake Project are as follows:

<b>Milestone</b>	<b>Date</b>	<b>Required Status of Construction</b>
1	07/01/2013	Drainage Tunnel Complete – <b>Completed May 6, 2013</b>
2	08/19/2013	Initial Intake Excavation Complete – <b>Completed July 21, 2013</b>
3	06/04/2014	Intake Structure Complete – <b>Completed June 4, 2014</b>
4	08/24/2014	Ready for Generation Outage – <b>Completed August 16, 2014</b>
5	65 days after start of Generation Outage	Substantial Completion of 1 <sup>st</sup> Blue Lake Turbine Generator – <b>Completed October 24, 2014.</b>
6	91 days after start of Generation Outage	Substantial Completion of 2 <sup>nd</sup> Blue Lake Turbine Generator – <b>Completed October 25, 2014</b>
7	80 days after start of Generation Outage	Substantial Completion of Fish Valve Unit - <b>Completed November 14, 2014</b>

### **6. Reservoir Filling**

N/A

### **7. Foundations**

Not applicable for this report.

### **8. Sources of Major Construction Material**

The City and Borough of Sitka will be providing most of the major construction materials for this project. Please see list below.

<b>Contract No.</b>	<b>Vendor</b>	<b>Scope of Supply</b>
1	Gilbert Gilkes and Gordon, Ltd.	Turbines and Generators
2	Myers	12.47 kV Switchgear
3	Linita Design and Manufacturing	Bulkhead Gate, Fixed Wheel Gate and Hoist
4	T Bailey, Inc.	Penstock and Manifold
5	WEG Electric	69kV Transformers
6	Benchmark Industrial Services	Powerhouse Bridge Crane
7	CHG Building Systems	Powerhouse Building

### **9. Material Testing and Results**



## **BLUE LAKE EXPANSION PROJECT MONTHLY CONSTRUCTION REPORT**

For Period Ending: NOVEMBER 30, 2014

Prepared by: BARNARD CONSTRUCTION COMPANY, INC.

Compaction testing was completed during installation of a new culvert under the existing powerhouse access road.

Concrete testing for the project is nearly complete.

No issues have been encountered to date.

### **10. Instrumentation**

Not applicable for this report.

### **11. Photographs**



**Figure 1: Dam Raise**

## **BLUE LAKE EXPANSION PROJECT MONTHLY CONSTRUCTION REPORT**

For Period Ending: NOVEMBER 30, 2014

Prepared by: BARNARD CONSTRUCTION COMPANY, INC.



**Figure 2: Powerhouse in Operation**



**Figure 3: Ribbon Cutting Ceremony - 11/13/14**

### **12. Erosion Control and Other Environmental Issues**



## **BLUE LAKE EXPANSION PROJECT MONTHLY CONSTRUCTION REPORT**

For Period Ending: NOVEMBER 30, 2014

Prepared by: BARNARD CONSTRUCTION COMPANY, INC.

Barnard is continuing to install the required environmental protection measures on the project site ahead of ground disturbing activities. Ongoing maintenance of dewatering system at powerhouse excavation site will be required to maintain water quality in Sawmill Creek.

### **13. Other Items of Interest**

The Blue Lake Powerhouse was put into commercial operation on November 13, 2014. A ribbon cutting ceremony was held at the powerhouse.



# City and Borough of Sitka

100 Lincoln Street Sitka, Alaska 99835

*Coast Guard City, USA*

December 2, 2014

David Tjosmsland  
PO Box 6293  
Sitka, AK 99835

Dear TJ,

On behalf of the City and Borough of Sitka, I want to thank you for your contributions of time and service to our community.

The Port and Harbors Commission relies on the guidance and leadership of its board members; your time and energy were appreciated and we hope that you, too, benefited from the experience.

We wish you all the best, and hope that you may consider volunteering again in the future.

Warmest wishes,

Sara Peterson  
Deputy Clerk



# Service Award

The Assembly of the City and Borough of Sitka awards to

**David Tjosmsland**

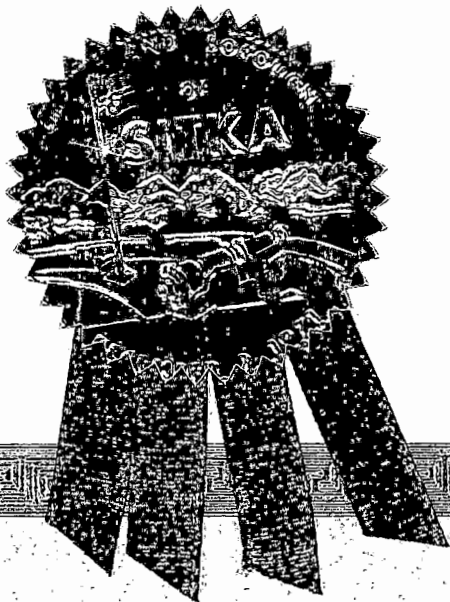
this expression of grateful acknowledgment for your valued service  
rendered in the public interest while serving on the  
Port and Harbors Commission.

*Signed and sealed this 2<sup>nd</sup> day of December 2014*

Attest:



Colleen Ingman, MMC  
Municipal Clerk





## Legislation Details

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File #: 14-231      Version: 1      Name:

Type: Ceremonial      Status: AGENDA READY

File created: 12/2/2014      In control: City and Borough Assembly

On agenda: 12/9/2014      Final action:

Title: Alaska Municipal League 2014 Awards: 1) Municipal Elected Official of the Year, and 2) Community Award of Excellence

Sponsors:

Indexes:

Code sections:

Attachments: [CEREMONIAL.docx.pdf](#)

Date	Ver.	Action By	Action	Result
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## **CEREMONIAL**

### **Alaska Community Awards for Excellence 2014**

The Purpose of the Alaska Municipal League Elected Municipal Official of the Year Award is to recognize local government officials who have demonstrated a commitment to excellence in local government. This year's recipient was past Assembly member Mike Reif.

Community Awards of Excellence are designed to recognize those communities that have shown exemplary ways to improve their community. Sitka's Health Summit was one of this year's recipients.



## Legislation Details

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File #: 14-208      Version: 1      Name:  
Type: Special Report      Status: AGENDA READY  
File created: 10/21/2014      In control: City and Borough Assembly  
On agenda: 11/25/2014      Final action:  
Title: Solid Waste Advisory Committee - update Representative Jonathan Kreiss-Tomkins <10  
Sponsors:  
Indexes:  
Code sections:  
Attachments: [Scheduled Reports.pdf](#)

Date	Ver.	Action By	Action	Result
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## **SCHEDULED REPORTS UNDER 10 MINUTES**



Solid Waste Advisory Committee - Progress  
Representative Jonathan Kreiss-Tomkins



## Legislation Details

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File #: 14-228      Version: 1      Name:  
Type: Minutes      Status: AGENDA READY  
File created: 12/2/2014      In control: City and Borough Assembly  
On agenda: 12/9/2014      Final action:  
Title: Approve the minutes of the November 25, 2014 Assembly meeting  
Sponsors:  
Indexes:  
Code sections:  
Attachments: [Minutes and Motion.pdf](#)

Date	Ver.	Action By	Action	Result
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# **CONSENT AGENDA**

## **POSSIBLE MOTION**

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**I MOVE TO APPROVE THE CONSENT AGENDA  
CONSISTING OF ITEM A**

I wish to remove Item(s) \_\_\_\_

**REMINDER – Read aloud a portion of each item being  
voted on that is included in the consent vote.**



# CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS  
330 Harbor Drive  
Sitka, AK  
(907)747-1811

## Minutes - Draft City and Borough Assembly

*Mayor Mim McConnell  
Deputy Mayor Matt Hunter  
Vice-Deputy Mayor Phyllis Hackett, Steven Eisenbeisz, Benjamin  
Miyasato, Aaron Swanson, and Tristan J. Guevin*

*Municipal Administrator: Mark Gorman  
Municipal Attorney: Robin L. Koutchak  
Municipal Clerk: Colleen Ingman, MMC*

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Tuesday, November 25, 2014

6:00 PM

Assembly Chambers

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### REGULAR MEETING

- I. CALL TO ORDER
- II. FLAG SALUTE
- III. ROLL CALL

Present: 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

- IV. CORRESPONDENCE/AGENDA CHANGES

14-227 Correspondence: Reminders, Calendars, Local Purchase Report

- V. CEREMONIAL MATTERS

Retiring employee Chris Wilbur was presented with a Certificate of Service. He relayed that he had started the building maintenance program and the best thanks the Assembly could give him was to continue to fund the maintenance projects. He added that he would not have been successful without employees Clancy Boord and Kenny Winger.

- VI. SPECIAL REPORTS: Government to Government, Municipal Boards/Commissions/Committees, Sitka Community Hospital, Municipal Departments, School District, Students and Guests (time limits apply)

Sitka Community Hospital - Angela McGraw announced she had been promoted to the Director of Community Relations for Sitka Community Hospital. She gave an overview of things to come: revamping of the SCH website to include highlighting hospital services, reinstatement of traveling logo, creation of a new logo and the change of clinic names. McGraw also announced Doug Osborne would be joining the SCH staff in January.

14-208

Solid Waste Advisory Committee - update Representative Jonathan Kreiss-Tomkins <10

Report rescheduled to December 9th meeting.

## VII. PERSONS TO BE HEARD

William Davis updated the Assembly regarding the Greater Sitka Legacy Fund.

## VIII. REPORTS

### a. Mayor, b. Administrator, c. Attorney, d. Liaison Representatives, e. Clerk, f. Other

Mayor - Attended the Alaska Municipal League conference last week which began with the Mayors' Conference. Heard an update from AML lobbyist, Ray Gillespie. His view of the future was bleak. He noted we could expect inflation to increase state costs, and a hit on municipalities as costs are shifted from state to cities. Also expected was a small capital budget with a focus on life, health and safety issues. Projects would be done in phases with local matching grants being the winners in leveraging state funds.

The SE Conference of Mayors adopted its final version of the transboundary resolution similar to the one this Assembly adopted. We then went on to move this resolution through AML's process to have it successfully adopted by the membership. I put my name in for a seat on the AML Board of Directors and was elected. Sitka received recognitions at AML that will be presented at the December 9th Assembly meeting.

Attended the School District strategic planning session November 22nd. There was a small but broad representation of Sitkans at the facilitated session. It was engaging and productive. Our task was to pick two of the School Board's five goals that would receive special attention through a process called Action Research. The final two were the 5 Year Strategic Budget Plan and All Staff Professional Growth.

Nominated, as mayor, to appear in a documentary. The focus of the request for nominees was on mayors that were committed and passionate about making a difference in their community. No City funding was involved in this nomination.

Administrator - Announced plans to hold a joint work session with GPIB Board and Assembly. Attended Edgumbe Drive public meeting that was scheduled to start early 2015 and conclude by the end of the summer. Announced the State had \$11.5 billion in reserves and this year would draw \$3 billion. At this rate the State would exhaust their reserves in three years. Met with Norm Campbell about the possibility of putting local artwork in City Hall that would rotate art and artists periodically. Presented at the Rotary Club luncheon. Extended an invitation to the Assembly to test the commemorative beer "That Dam Beer" (the name is still being considered under a federal application process), December 1st. Asked Chief Finance and Administrative Officer, Jay Sweeney, to report on the utility customer service hours at City Hall.

Attorney - Planned to meet with the Planning Department about possible changes to zoning regulations and Port and Harbors Commission on various matters. Reported Proposition 2, which passed in Sitka 70/30, required that a local regulatory authority be developed. Koutchak noted this was something the Assembly would need to address in the near future.

Liaisons - Hunter reported on the Port and Harbors Commission.

Clerk - AML plans to create a Resolutions/Legislative Committee with statewide representation and expertise in areas such as: Education, Energy, Oil etc. The Mayor can keep the public informed as this moves forward in the event there is any interest from Sitkans to serve.

Other - Congratulations to the Mt. Edgecumbe High School Lady Braves for winning the State Volleyball Championships. Mayor announced that the Alaska Housing Finance Class had to be rescheduled and reminded that in order to qualify for the Affordable Housing Loan one must attend the class. Noted the Salvation Army had bell ringing opportunities and could use help. Hackett would like to see board appointments not appear on the Consent Agenda in the future but rather under New Business. No objections were heard on the idea.

## IX. CONSENT AGENDA

- A 14-222** Approve the minutes of the November 10, 2014 Assembly meeting  
This item was APPROVED on the Consent Agenda.
- B 14-225** Appoint Scott Wagner to a term on the Gary Paxton Industrial Park Board  
This item was APPROVED on the Consent Agenda.
- C 14-226** Authorize an award for the replacement of Compressor #2 for the Marine Service Center to Wyatt Refrigeration in accordance to 3.16.060 Exceptions to Competitive Bidding Requirements  
This item was APPROVED on the Consent Agenda.

## X. UNFINISHED BUSINESS:

## XI. NEW BUSINESS:

### New Business First Reading

- D ORD 14-38** Amending SGC Title 22 Zoning regarding commercial home horticulture

Lisa Sadlier-Hart, Tom Hart and Michelle Putz spoke in support of the ordinance.

A question was asked regarding how long an appeal could take. Lisa Sadlier-Hart relayed the process covered two planning meetings. Eisenbeisz wanted to ensure folks were required to have a business license and collect sales tax.

**A motion was made by Miyasato that this Ordinance be PASSED ON FIRST**

**READING. The motion PASSED by the following vote.**

**Yes:** 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

**E ORD 14-37 Adjusting the FY15 Budget**

**A motion was made by Swanson that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.**

**Yes:** 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

Hunter recalled last year Sitka Convention and Visitor's Bureau (SCVB) came forward asking for additional funding. He would rather see their requests be specific and not with an automatic transfer built in. If they have a specific project or additional marketing needs he'd like to see them bring that to us specifically. Hackett wondered about potentially holding some funds back to subsidize some of the operations of Harrigan Hall for conventions and marketing. Many don't pay to use this building and that is something we should consider. She agreed with Hunter's reasoning. Hackett stated CBS was perpetuating the fact that this organization was operating out of compliance and that wasn't right.

Jay Sweeney, Chief Finance and Administrative Officer, reflected that the bed tax was champion to create a visitor's bureau. The original ordinance indicated 92%, but the percentage was removed as they did not want to bind future assemblies.

Tristan supported the amendment but wanted the issue to come back with SCVB representation, yet wanted the assembly to move forward. Eisenbeisz disagreed with the proposed amendment and felt they should receive the money.

**Hunter made a motion to AMEND by striking Line 25 Sitka Convention and Visitor's Bureau transfer. The amendment PASSED on the following vote.**

**Yes:** 5 - Hunter, Hackett, Swanson, Miyasato, and Guevin

**No:** 2 - McConnell, and Eisenbeisz

**F ORD 14-36 Repealing SGC Chapter 2.52 Parks and Playgrounds**

**A motion was made by Hunter that this Ordinance be PASSED ON FIRST READING. The motion PASSED by the following vote.**

**Yes:** 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

**G ORD 14-34 Amending SGC at 2.40 elections, adding Section 2.40.095 Candidate biographical information, amending sections 2.40.110 Withdrawal or amendment of nomination, 2.40.115 Write-in candidates, renaming Chapter Section VI to add Advanced voting, amending Sections 2.40.190 Eligibility, 2.40.200 Assisted voting, adding Section 2.40.205 Voting by electronic transmission, amending Sections 2.40.220 Issuance of absentee or advanced ballots, 2.40.230 Casting absentee or advanced ballots, 2.40.250 Election officials (E) Oath, 2.40.310 Ballot box, 2.40.315 (D)(2) Marking of ballot, 2.40.315 (G) Improperly marked ballots, adding Sections 2.40.315 (H) closing of polls, and 2.40.316 Poll watchers, amending Sections B2.40.320**

reports of unused and damaged ballots, 2.40.330 (B), (C), (D) Counting ballots - hand-counted, 2.40.390 (H) Counting ballots, 2.40.420 Canvass board, 2.40.430 Election results, renaming Section 2.40.440 Assembly approval, amending Sections 2.40.460 Certificate of election, 2.40.470 Notice of election contest, 2.40.500 Costs, and 2.40.520 Prohibited practices Deferred back to staff for edits -- PULLED

This item was removed prior to the meeting for further clarifying edits prior to introduction.

**H ORD 14-35** Repealing SGC Chapter 2.48 District Civil Defense Council without replacement

A motion was made by Miyasato that this Ordinance be **PASSED ON FIRST READING**. The motion **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

**I ORD 14-39** Amending SGC Section 2.08.015 Selection of acting administrator to include a procedure for unforeseen appointments

A motion was made by Swanson that this Ordinance be **PASSED ON FIRST READING**. The motion **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

Hunter brought up that if the intent was to provide the administrator with more flexibility then we need to get rid of the reference(s) to rank order.

A motion for an amendment was made by Hunter to delete on Line 29 "rank-order" and to eliminate the second sentence starting on Line 31 beginning with "the first person and ending with "the third person listed." The amendment **PASSED** by the following vote.

Yes: 7 - McConnell, Hunter, Hackett, Swanson, Miyasato, Eisenbeisz, and Guevin

#### Additional New Business Items

**J 14-224** Discussion/Consideration on appointing existing commission members to seats on the Strategic Planning Commission

Eisenbeisz felt it was a great idea, the only concern was in asking commission members to volunteer more of their time. Guevin liked the idea and stated it behooved us to use the expertise of folks already serving. Hackett wondered if the liaisons might query their respective boards for interest. It was decided the Assembly would talk more about this issue at their upcoming visioning session. Mayor McConnell said that sometimes it's better to do nothing until we are clear on where we want to go.

**K 14-223** Discussion/Direction on the strategy and scheduling of an Assembly Visioning Session(s)

Hackett would like to see a date set before the beginning of the year. Gorman brought up that the Municipal Solutions report was not back yet and that was



something that came out of the last session. Hunter would like to see the taxable report prior to scheduling. It was decided to wait until these reports had been received.

**XII. PERSONS TO BE HEARD:**

None.

**XIII. ADJOURNMENT**

A motion was made by Miyasato to ADJOURN. Hearing no objection the meeting ADJOURNED at 7:35 PM.

**ATTEST:**

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Colleen Ingman, MMC  
Municipal Clerk



## Legislation Details

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File #: ORD 14-35    Version: 1    Name:  
Type: Ordinance    Status: SECOND READING  
File created: 11/14/2014    In control: City and Borough Assembly  
On agenda: 12/9/2014    Final action:  
Title: Repealing SGC Chapter 2.48 District Civil Defense Council without replacement  
Sponsors:  
Indexes:  
Code sections:  
Attachments: [ORD 14-35 Motion.pdf](#)  
[Ord 2014-35.pdf](#)

Date	Ver.	Action By	Action	Result
11/25/2014	1	City and Borough Assembly		

**Suggested Motion**


I MOVE TO approve Ordinance 2014-35 on second and final reading.



City & Borough of Sitka  
**Municipal Clerk's Office**  
100 Lincoln Street, Sitka AK 99835  
Telephone: 907-747-1811 Fax: 907-747-4004



## Memorandum

To: Mayor and Assembly  
Cc: Municipal Administrator Mark Gorman  
From: Municipal Clerk Colleen Ingman   
Date: 11-14-14  
Subject: **Ordinances resulting from Legal Analysis**

---

In September of 2014, CBS contracted with Code Publishing to complete a legal analysis of our code. Their attorney recommended items that they felt needed immediate action to bring the code into legal compliance and, where possible, has recommended amending language for this purpose.

Chapter 2.48 District Civil Defense Council was repealed when the State of Alaska declared that all homeland security and civil defense functions of the state be coordinated through the Department of Military and Veteran's Affairs. All duties mentioned in this chapter are now completed by state personnel. This ordinance has been reviewed with both legal and Chief Miller.

Attachment: Ordinance 2014-35

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-35

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA  
REPEALING SITKA GENERAL CODE CHAPTER 2.48  
DISTRICT CIVIL DEFENSE COUNCIL WITHOUT REPLACEMENT

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstances shall not be affected.

3. **PURPOSE.** Chapter 2.48 District Civil Defense Council’s authority was repealed when the State of Alaska declared that all homeland security and civil defense functions of this state be coordinated by and through the Department of Military and Veterans' Affairs. All duties mentioned in Chapter 2.48 are now conducted by state personnel.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that

A. Chapter 2.48 District Civil Defense Council in its entirety be repealed without replacement, including footnote 8.

~~Chapter 2.48~~

~~DISTRICT CIVIL DEFENSE COUNCIL~~

~~Sections:~~

~~2.48.010 Formation.~~

~~2.48.020 Civil defense organization.~~

~~2.48.030 Powers.~~

~~2.48.010 Formation.~~

~~There is created the civil defense organization as an agency of the municipality to be composed of the mayor and such other persons that may be appointed by the assembly from time to time. The assembly shall appoint a civil defense director and a staff to serve at the pleasure of the assembly. (Ord. 73-69 § 4, 1973.)~~

~~2.48.020 Civil defense organization.~~

~~All municipal officers and employees, together with those volunteer forces enrolled to aid them prior to or during a disaster, shall constitute the civil defense organization, as provided by law. (Ord. 73-69 § 5, 1973.)~~

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~~2.48.030 Powers.~~

~~The civil defense organization shall have the authority to set the hours of black-out of the municipality and to make other regulations (which shall have the force of law), as may be reasonable in light of circumstances existing at the time, to protect life and property, provided a majority of any assembly members immediately available consent. Oral consent is sufficient, but any such oral consent shall be reduced to writing within such time as is feasible. Should the civil defense director not be available, the next ranking civil defense officer shall act in his place. These are emergency powers to continue only for the duration of any emergency, as declared and terminated by order of the assembly. (Ord. 73-69 § 6, 1973.)Chapter 2.48~~

~~8 For statutory provisions regarding local civil defense organization, see AS 26.20.060 et seq.~~

5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of its passage.

**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska this 8th day of December, 2014.

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Mim McConnell, Mayor

**ATTEST:**

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Colleen Ingman, MMC  
Municipal Clerk





## Legislation Details

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File #: ORD 14-36    Version: 1    Name:  
Type: Ordinance    Status: SECOND READING  
File created: 11/14/2014    In control: City and Borough Assembly  
On agenda: 12/9/2014    Final action:  
Title: Repealing SGC Chapter 2.52 Parks and Playgrounds  
Sponsors:  
Indexes:  
Code sections:  
Attachments: [ORD 14-36 Playgrounds.pdf](#)

Date	Ver.	Action By	Action	Result
11/25/2014	1	City and Borough Assembly		

## **Suggested Motion**

I MOVE TO approve Ordinance 2014-36 on second and final reading.



City & Borough of Sitka  
**Municipal Clerk's Office**  
100 Lincoln Street, Sitka AK 99835  
Telephone: 907-747-1811 Fax: 907-747-4004



## Memorandum

To: Mayor and Assembly

Cc: Municipal Administrator Mark Gorman

From: Municipal Clerk Colleen Ingman

Date: 11-14-14

Subject: **Ordinances resulting from Legal Analysis**

---

In September of 2014, CBS contracted with Code Publishing to complete a legal analysis of our code. Their attorney recommended items that they felt needed immediate action to bring the code into legal compliance and, where possible, has recommended amending language for this purpose.

Chapter 2.52 Parks and Playgrounds became outdated when it was superseded by Title 23 Parks and Recreation. Title 23 encompasses the parks and playgrounds referred to in Chapter 2.52, making Chapter 2.52 absolute. This ordinance has been reviewed by legal, Parks and Recreation Manager Lynne Brandon, and Maintenance and Operations Superintendent Gary Baugher.

Attachment: Ordinance 2014-36

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-36

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA  
REPEALING SITKA GENERAL CODE CHAPTER 2.52  
PARKS AND PLAYGROUNDS

- 1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.
- 2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstances shall not be affected.
- 3. **PURPOSE.** Chapter 2.52 Parks and Playgrounds became an outdated section of the Sitka General Code when it was superseded by Ordinance 2004-39 which established Title 23 Parks and Recreation. Title 23 sets out extensive operational rules for all of the municipality’s parks and recreational facilities, lands, and trails. Title 23 encompasses the parks and playgrounds referred to in Chapter 2.52, making Chapter 2.52 obsolete.
- 4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that Chapter 2.52 Parks and Playgrounds be repealed in its entirety.

~~Chapter 2.52  
PARKS AND PLAYGROUNDS~~

Sections:

- ~~2.52.010 Policy.~~
- ~~2.52.020 Management.~~
- ~~2.52.030 Classes of parks.~~
- ~~2.52.040 Designation of parks.~~

**2.52.010 Policy.**

~~It is the declared policy of the city and borough that the provisions in this chapter shall apply to all city and borough parks and playgrounds of the class in question. All city and borough parks and playgrounds shall be maintained and governed under regulations which shall give the greatest possible public use by all citizens as may be allowed by the finances available. No one group or organization shall have any special claim or privilege. (S.C.C. § 3-10-2.)~~

**2.52.020 Management.**

~~All parks and playgrounds shall be managed by the assembly as specified in Chapter 2.04. The assembly shall have the authority to make rules and regulations in keeping with the spirit of this chapter for the day to day management of the parks and playgrounds. The assembly may, after obtaining approval of a general policy or plan of development, expend such funds as may be allocated by the assembly, but all bills before payment shall be passed upon by the assembly in accordance with standard assembly procedures. (S.C.C. § 3-10-3.)~~

**2.52.030 Classes of parks.**

- ~~A. Class I Parks. Class I parks are strictly recreational and shall be those parks at which:~~
  - ~~1. No commercial enterprises shall be allowed in or out of the buildings except:~~
    - ~~a. For special events or classes of events nonprofit organizations may be allowed to sell~~

1 refreshments from push carts or vehicles or on foot,  
2 b. ~~For special events or classes of events nonprofit organizations may build strictly temporary~~  
3 ~~stalls or other strictly temporary structures from which to sell such merchandise or services as may~~  
4 ~~be consistent with the spirit of the occasion. Example: Stalls for a carnival put on by a student~~  
5 ~~organization;~~  
6 2. ~~All development shall be in line with one consistent policy;~~  
7 3. ~~There shall be a specific policy of care and maintenance and methods of implementation of~~  
8 ~~that policy including recognition of the city and borough's responsibility to keep such parks free~~  
9 ~~and clear of rubbish;~~  
10 4. ~~All structures located in the parks shall be of no more than one story and no more than sixteen~~  
11 ~~feet in height. Exception: Lighting, electrical or other small mass structures typical of recreational~~  
12 ~~parks;~~  
13 5. ~~There shall be no alcoholic beverages sold or dispensed.~~  
14 B. ~~Class II Parks. All other activities, structures and standards consistent with the rules and~~  
15 ~~regulations of the assembly may be allowed at class II parks. Example: A commercial midway is~~  
16 ~~operated for a week, under appropriate regulation.~~  
17 ~~(S.C.C. § 3-10-4.)~~

18 **2.52.040 Designation of parks.**

19 The classification of parks shall be as follows:

20 A. ~~Class I Parks.~~

- 21 1. ~~Crescent Harbor Park;~~
- 22 2. ~~Front Street Playground.~~

23 B. ~~Class II Parks.~~

- 24 1. ~~Moller Memorial Park;~~
- 25 2. ~~Spruce Glen Park. (S.C.C. § 3-10-5.)~~

26  
27 5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of its  
28 passage.

29  
30 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka,  
31 Alaska this 8th day of December, 2014.

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35 **ATTEST:**

\_\_\_\_\_  
Mim McConnell, Mayor

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40 \_\_\_\_\_  
41 Colleen Ingman, MMC  
42 Municipal Clerk



## Legislation Details

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File #: RES 14-20    Version: 1    Name:  
Type: Resolution    Status: AGENDA READY  
File created: 12/2/2014    In control: City and Borough Assembly  
On agenda: 12/9/2014    Final action:  
Title: Adopting an alternative allocation method for the FY15 Shared Fisheries Business Tax Program and certifying that this allocation method fairly represents the distribution of significant effects of fisheries business activity in FMA 18: Central Southeast.

Sponsors:

Indexes:

Code sections:

Attachments: [Shared Fisheries Resolution and Motion.pdf](#)

Date	Ver.	Action By	Action	Result
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## **POSSIBLE MOTION**

I MOVE TO approve Resolution  
2014-20 on first and final reading.

Sponsor: Administrator

**CITY AND BOROUGH OF SITKA, ALASKA**

**RESOLUTION NO. 2014-20**

**A RESOLUTION ADOPTING AN ALTERNATIVE ALLOCATION METHOD FOR THE  
FY15 SHARED FISHERIES BUSINESS TAX PROGRAM AND CERTIFYING THAT  
THIS ALLOCATION METHOD FAIRLY REPRESENTS THE DISTRIBUTION OF  
SIGNIFICANT EFFECTS OF FISHERIES BUSINESS ACTIVITY IN FMA 18:  
CENTRAL SOUTHEAST**

**WHEREAS**, AS29.60.450 requires that for a municipality to participate in the FY15 Shared Fisheries Business Tax Program, the municipality must demonstrate to the Department of Commerce, Community, and Economic Development that the municipality suffered significant effects during calendar year 2014 from fisheries business activities; and,

**WHEREAS**, 3 AAC 134.060 provides for the allocation of available program funding to eligible municipalities located within fisheries management areas specified by the Department of Commerce, Community, and Economic Development; and,

**WHEREAS**, 3 AAC 134.070 provides for the use, at the discretion of the Department of Commerce, Community, and Economic Development, of alternative allocation methods which may be used within fisheries management areas if all eligible municipalities within the area agree to use the method, and the method incorporates some measure of the relative significant effect of fisheries business activity on the respective municipalities in the area; and,

**WHEREAS**, The City and Borough of Sitka proposes to use an alternative allocation method for allocation of FY15 funding available within the FMA 18: CENTRAL SOUTHEAST in agreement with all other municipalities in this area participating in the FY15 Shared Fisheries Business Tax Program;

**NOW THEREFORE BE IT RESOLVED THAT:** The City and Borough of Sitka by this resolution certify that the following alternative allocation method fairly represents the distribution of significant effects during 2014 of fisheries business activity in FMA 18: CENTRAL SOUTHEAST:

**All municipalities share equally 50% of allocation; all municipalities share remaining 50% on a per capita basis.**

**PASSED, APPROVED AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska on the 9th day of December, 2014.

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Mim McConnell, Mayor

ATTEST:

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Colleen Ingman, MMC  
Municipal Clerk



## Legislation Details

File #: ORD 14-34    Version: 1    Name:

Type: Ordinance    Status: FIRST READING

File created: 11/14/2014    In control: City and Borough Assembly

On agenda: 12/9/2014    Final action:

Title: Amending SGC at 2.40 elections, adding Section 2.40.095 Candidate biographical information, amending sections 2.40.110 Withdrawal or amendment of nomination, 2.40.115 Write-in candidates, renaming Chapter Section VI to add Advanced voting, amending Sections 2.40.190 Eligibility, 2.40.200 Assisted voting, adding Section 2.40.205 Voting by electronic transmission, amending Sections 2.40.220 Issuance of absentee or advanced ballots, 2.40.230 Casting absentee or advanced ballots, 2.40.250 Election officials (E) Oath, 2.40.310 Ballot box, 2.40.315 (D)(2) Marking of ballot, 2.40.315 (G) Improperly marked ballots, adding Sections 2.40.315 (H) closing of polls, and 2.40.316 Poll watchers, amending Sections B2.40.320 reports of unused and damaged ballots, 2.40.330 (B), (C), (D) Counting ballots - hand-counted, 2.40.390 (H) Counting ballots, 2.40.420 Canvass board, 2.40.430 Election results, renaming Section 2.40.440 Assembly approval, amending Sections 2.40.460 Certificate of election, 2.40.470 Notice of election contest, 2.40.500 Costs, and 2.40.520 Prohibited practices

Sponsors:

Indexes:

Code sections:

Attachments: [ORD 14-34 2.40 Elections.pdf](#)

Date	Ver.	Action By	Action	Result
11/25/2014	1	City and Borough Assembly		

## **POSSIBLE MOTION**


**I MOVE TO** approve Ordinance 2014-34 on  
first reading.



City & Borough of Sitka  
**Municipal Clerk's Office**  
100 Lincoln Street, Sitka AK 99835  
Telephone: 907-747-1811 Fax: 907-747-4004



## Memorandum

To: Mayor and Assembly  
Cc: Municipal Administrator Mark Gorman  
From: Municipal Clerk Colleen Ingman   
Date: 11-14-14  
Subject: **Ordinances resulting from Legal Analysis**

---

In September of 2014, CBS contracted with Code Publishing to complete a legal analysis of our code. Their attorney recommended items that they felt needed immediate action to bring the code into legal compliance and, where possible, has recommended amending language for this purpose.

We considered doing a single "clean-up" ordinance but quickly learned that one clean up ordinance that addressed all the recommendations would be extremely bulky and difficult to follow. It is still our intent to bring forward as few ordinances as possible, but at the same time keep the amendments concise enough that they can be easily understood. We will combine amendments whenever possible.

The section of the code requiring the most amendments was in Title 2, in part, because I took this opportunity to review and edit our election procedures to bring them up to date.

We will continue over the next several months to bring forward amendments from these recommendations. The majority will be fairly straight forward.

Attachment: Ordinance 2014-34

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-34

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA AMENDING SITKA GENERAL CODE AT 2.40 ELECTIONS, ADDING SECTION 2.40.095 CANDIDATE BIOGRAPHICAL INFORMATION, AMENDING SECTIONS 2.40.110 WITHDRAWAL OR AMENDMENT OF NOMINATION, 2.40.115 WRITE-IN CANDIDATES, RENAMING CHAPTER SECTION VI TO ADD ADVANCED VOTING, AMENDING SECTIONS 2.40.190 ELIGIBILITY, 2.40.200 ASSISTED VOTING, ADDING 2.40.205 VOTING BY ELECTRONIC TRANSMISSION, AMENDING SECTIONS 2.40.220 ISSUANCE OF ABSENTEE OR ADVANCED BALLOTS, 2.40.230 CASTING ABSENTEE OR ADVANCED BALLOTS, 2.40.250 ELECTION OFFICIALS (E) OATH, 2.40.310 BALLOT BOX, 2.40.315 (D)(2) MARKING OF BALLOT, 2.40.315 (G) IMPROPERLY MARKED BALLOTS, ADDING SECTIONS 2.40.315 (H) CLOSING OF POLLS, AND 2.40.316 POLL WATCHERS, AMENDING SECTIONS 2.40.320 REPORTS OF UNUSED AND DAMAGED BALLOTS, 2.40.330 (B), (C), (D) COUNTING BALLOTS – HAND-COUNTED, 2.40.390 (H) COUNTING BALLOTS, 2.40.420 CANVASS BOARD, 2.40.430 ELECTION RESULTS, RENAMING 2.40.440 ASSEMBLY APPROVAL, AMENDING SECTIONS 2.40.460 CERTIFICATE OF ELECTION, 2.40.470 NOTICE OF ELECTION CONTEST, 2.40.500 COSTS, AND 2.40.520 PROHIBITED PRACTICES

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstances shall not be affected.

3. **PURPOSE.** The City and Borough of Sitka wishes to remain current in their municipal election procedures as they evolve with new technology, state procedures, and acceptable verbiage. The following are proposed. Instructions to aid the public in learning about candidates are codified. Procedures are outlined for withdrawal of nominee. A write-in candidate's instructions for application with the municipal clerk are detailed. Section VI allows advanced voting and not just with a requirement of absence. Assisted voting details how voters with special needs may be assisted to vote. Voters are allowed under certain rules to vote by electronic transmission. Advanced or absentee ballots are processed according to specific rules. Election officials' oath is updated to current verbiage. The ballot box is witnessed to be empty before balloting begins. New guidelines are described for use of equipment by hearing or sight impaired voters. Rules are clarified for how improperly marked ballots are counted. Procedures for poll watchers are codified. The disposition of unused ballots is detailed. Hand-counting procedure for ballots is clarified. To write-in a candidate's name on the ballot, specific rules are followed for that vote to count. The duties of the canvass board in counting absentee and questioned ballots are explained. In the event of a tie, the assembly may either toss a coin or draw lots. Assembly



48 approval of canvass board's certification is detailed. Responsible parties for election contest  
49 costs are explained. Current law proscribes ramifications of prohibited election practices.

50

51 4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City  
52 and Borough of Sitka that the following sections of Title 2 are amended as follows:

53

54

**Title 2  
ADMINISTRATION**

55

56 Chapter

57 2.40 Elections.

58

\* \* \*

59

IV. Nomination of Candidates

60

61

62 2.40.095 Candidate biographical information

63

64 **2.40.095 Candidate biographical information.**

65 **A candidate for elected office shall provide the municipal clerk with biographical**  
66 **information of not more than 150 words, a recent photo of the candidate, and a**  
67 **candidate's advocacy statement of not more than 250 words for publication on the**  
68 **municipal website. All information is to be turned in at the time of filing and must**  
69 **be received by the municipal clerk no later than ten working days after submittal of**  
70 **a completed candidate packet. A candidate may not make a change to the**  
71 **candidate's biographical information or advocacy statement after the deadline. A**  
72 **candidate's biographical information and advocacy statement must be submitted**  
73 **typewritten or, preferably, transmitted electronically. An article (i.e. a, and, the) will**  
74 **be counted as one word. Any words included in the candidate's biographical**  
75 **information or advocacy statement beyond the allowed word counts will not be**  
76 **published. The municipal clerk can provide the candidate with acceptable topics for**  
77 **the biographical information and advocacy statement. The municipal clerk may**  
78 **reject any portion of a candidate's biographical information or advocacy statement**  
79 **containing obscene, libelous, profane, slanderous or defamatory material.**

80

\* \* \*

81

82 2.40.110 Withdrawal or amendment of nomination

83

84 Any candidate nominated may withdraw their nomination **not later than 5:00 p.m. on**  
85 **the 46<sup>th</sup> day before the election** at any time by appropriate written notice to the  
86 municipal clerk. **The municipal clerk will notify the media and public of the**  
87 **withdrawal. However, the ballots will not be modified to reflect the change unless**  
88 **the ballots have not yet been programmed and/or ordered.**

89

90

\* \* \*

91 2.40.115 Write-in candidates

92

93 **2.40.115 Write-in candidates.**

94 **If a qualified elector wishes to be a candidate in an election, but failed to properly**  
95 **file before the deadline, that person may file as a write-in candidate by following**  
96 **rules established by the municipal clerk. The write-in candidate must register with**  
97 **the municipal clerk and complete a form of intent not later than five days before the**  
98 **election. Votes for a write-in candidate will not be counted unless that candidate has**  
99 **properly filed with the municipal clerk and the ballot is marked in accordance with**  
100 **this chapter.**

101 \* \* \*

102 VI. Absentee or Advanced Balloting

103  
104  
105 2.40.190 Eligibility

106 Any qualified voter who expects to be absent from their election precinct or who will be  
107 unable to go to the polling place of that precinct for reasons of physical disability on the  
108 day of election may cast an absentee ballot on or after the day the ballots are available  
109 **from the municipal clerk up to and including election day in a location and at times**  
110 **determined by the municipal clerk. An absentee ballot may also be referred to as an**  
111 **advanced ballot.** The provisions of this chapter effectuating absentee or advanced  
112 voting rights shall be liberally construed.

113  
114  
115 *Remark: Current Section 2.40.200 first paragraph A will be moved above the heading for*  
116 *Assisted Voting and into Section 2.40.190, as it refers to all absentee or advanced voting,*  
117 *not just assisted voting. That second paragraph will be amended to read as follows:*

118  
119 Any qualified voter shall ... apply to the municipal clerk for an absentee or advanced  
120 ballot. The application must be signed by the applicant and must make clear the  
121 applicant's reason for requesting an absentee ballot and specify the election for which a  
122 ballot is requested. A separate request must be made for each subsequent election.

123 \* \* \*

124  
125  
126 2.40.200 Assisted Voting ~~Application by physically disabled voters~~

127  
128 A. Application for Assisted Voting ~~B. Application by physically disabled voters.~~

- 129 1. A qualified voter who is unable to go to the polls ~~physically disabled~~ due to age,  
130 serious illness or disability may apply ....  
131 2. The municipal clerk ... shall provide the ballot ... to the disabled voter's personal  
132 representative ....  
133 5. A personal representative may not be a candidate for office at that election,  
134 may not be your employer, an agent of your employer, or an officer or agent of  
135 your union. ~~A candidate for office at that election may not act as a personal~~  
136 ~~representative.~~

137  
138 2.40.205 Voting by electronic transmission

139  
140 2.40.205 Voting by electronic transmission.



141 Although this should be considered a last alternative, voters may cast a ballot by  
 142 electronic transmission with the municipal clerk (if other choices are unavailable to  
 143 the voter). The voter submits an application form to the municipal clerk which also  
 144 certifies that they are a qualified voter and that they recognize they are voluntarily  
 145 waiving a portion of their right to a secret ballot when voting using electronic  
 146 transmission. Voted ballots by electronic transmission must be submitted according  
 147 to municipal clerk's instructions and received no later than 8:00 pm on Election  
 148 Day.

149 \* \* \*

150  
151 2.40.220 Issuance

152  
153 ~~A. An envelope which shall have ... certificate of voter eligibility ... and shall have on~~  
 154 ~~the front ... in the City and Borough of Sitka, Alaska, I am an elector qualified to vote,~~  
 155 ~~and that I have herein enclosed my ballot for such election, duly marked in the presence~~  
 156 ~~of no other person.~~

157 Signed: \_\_\_\_\_ Witness: \_\_\_\_\_

158 A. An envelope with notations for a certification of voter eligibility and  
 159 qualification, date of municipal election, that the ballot is enclosed, that it was  
 160 properly marked with no undue influence, signature line, date of voting, and witness  
 161 signature line, and a note on the front of the envelope that a ballot is enclosed.

162  
163 2.40.230 Casting absentee or advanced ballot

164  
165 A qualified voter may vote early, as soon as the ballots are available from the  
 166 election official up to and including election day, in a location and at places and  
 167 times determined by the municipal clerk. ~~Except for ballots issued under an application~~  
 168 ~~by physically disabled voter, ballots must either be personally delivered to the municipal~~  
 169 ~~clerk before the opening of the polls on election day or postmarked not later than election~~  
 170 ~~day. Ballots issued under an application by a physically disabled voter must be delivered~~  
 171 ~~to the municipal clerk or the appropriate election official not later than the hour set forth~~  
 172 ~~closing the polls on election day.~~

173  
174 VII. Conduct of Elections

175 2.40.250 Election officials.

176  
177 E. Oath. The election officials shall take or subscribe to the following oath:

178 "I ~~do~~ solemnly swear (or affirm) that I "State your name" will honestly, faithfully, and  
 179 promptly perform the duties of election board member according to law; and **I will make**  
 180 **every effort to prevent the violation of any provision of law in conducting the**  
 181 **election.** that I will strive to prevent fraud, deceit, or abuse in conducting the election to  
 182 the best of my ability, so help me God."

183 \* \* \*

184  
185 2.40.310 Ballot box.

186  
187 Before issuing any ballots, the election official officials must, in the presence of at least

188 one other election official ~~any persons assembled at the polling place,~~ open and exhibit  
189 the ballot box ....

190  
191 2.40.315 (D)(2), (G), (H) Voting procedure at polls.

192  
193 D. Marking of Ballot. Each voter shall retire alone to a booth or private area ....

194 2. Voters with special needs that do not require assistance will be routed to a  
195 special "ADA" apparatus and special booth that will allow voters to hear the  
196 contents of the ballot and make selections on their own. Once the voter has made all  
197 selections, the voter's ballot will be printed out on a printer. This will enable the  
198 voter to vote and cast his or her ballot unassisted.

199  
200 \* \* \*

201 Section 2.40.315, Item G Closing of Polls is re-lettered to Item H. Insert new Item G, to  
202 read as follows:

203 G. Improperly marked ballots.

204 If the voter marks more names than there are persons to be elected to an office, that  
205 race shall not be counted. If a voter marks more than one choice on a ballot issue,  
206 that issue shall not be counted. A failure to properly mark a ballot in a candidate  
207 race or issue shall not invalidate the entire ballot. If the voter mismarks a ballot in  
208 this fashion, the voter will be advised that they can receive a replacement ballot,  
209 spoiling the mis-marked one.

210 H. Closing of Polls.

211 \* \* \*

212  
213 2.40.316 Poll watchers.

214  
215 2.40.316 Poll watchers.

216 A registered poll watcher may observe election set-up, general conduct throughout  
217 election day, and after polls close. A poll watcher has no duties in conducting an  
218 election and may not interfere with the orderly conduct of elections. One poll  
219 watcher may be registered for any candidate for elective office or advocate for or  
220 against a ballot proposition per precinct. The poll watcher must register with the  
221 municipal clerk prior to election day and agree to rules established by the municipal  
222 clerk. Poll watchers may not closely observe signatures on precinct registers, but  
223 may sit close enough to hear an election official say the voter's name. Poll watchers  
224 may check polling booths after each voter leaves to ensure that no campaign  
225 material has been left behind. The poll watcher may utilize the municipal clerk's  
226 complaint form to report problems.

227 \* \* \*

228  
229 2.40.320 Reports of unused and damaged ballots.

230  
231 The numbers of ballots not issued shall be recorded, and ~~all such ballots shall be~~  
232 ~~destroyed by tearing off and discarding the lower portion of the unvoted ballots~~ all  
233 unused, unmarked ballots will be destroyed according to the election law. After  
234 recording the ballot stub numbers of the unvoted ballots, election workers will



235 return the stubs of used ballots to the municipal clerk with other election materials.  
236 The numbers of ballots damaged by voters ....

237  
238 2.40.330 (B), (C), (D) Counting ballots—Hand-counted.

239  
240 B. For purposes of counting .... During transportation, the ballot boxes containing the  
241 ballots shall be locked and registration books secured. ~~and registration books shall be~~  
242 ~~locked.~~ When the polls ....

243  
244 C. Though the public may not be excluded...the public may be kept behind a guardrail or  
245 other natural barrier ~~in the same room~~ to prevent interference with the election  
246 officials....

247  
248 D. The ballots, after having been counted...read aloud the name of each person voted for  
249 and/or Yes or No on issues, provided that no more ballots ....

250  
251 \* \* \*

252  
253 2.40.390 Counting ballots.

254  
255 H. In order to vote for a write-in candidate, the voter must write in the candidate's name  
256 as it appears on the write-in declaration of candidacy and mark the oval next to the  
257 right of the written-in name. Write-in votes will be counted when the oval is marked  
258 and the name as it appears on the write-in declaration of candidacy are written in  
259 these manners: first and last name or any reasonable spelling of the first and last  
260 name are used; first and last names with or without the suffix (e.g. Jr., Sr., III); last  
261 names with correct initial for the first name is used; commonly known nicknames  
262 with correct last name are used; or when the candidate's name is already printed on  
263 the ballot. Write-in votes will be rejected in these circumstances: fictional names are  
264 used (e.g. Mickey Mouse, None of the Above); only initials are used; only first name  
265 is used; correct last name is used, but an incorrect first name or incorrect initial is  
266 used; or the oval next to the candidate's name is not marked.

267  
268 \* \* \*

269  
270 2.40.420 Canvass Board. [Renamed]

271  
272 2.40.420 Canvass Board ~~Counting absentee and questioned ballots.~~  
273 There will be a canvass board consisting of an election board of at least up to two  
274 qualified voters and the municipal clerk. The canvass board is responsible for  
275 meeting in a public session to declare which absentee, advanced, questioned, special  
276 needs, and write-in ballots are valid. The canvass board will review, tally, and  
277 officially report the results of the ballots. No later than its next regular assembly  
278 meeting after the municipal clerk submits the Certification of Election, the assembly  
279 shall receive and adopt the Certification. This meeting may be rescheduled by a  
280 majority vote of the assembly. If the assembly determines that the election was  
281 validly held, the assembly shall approve the Certification of Election.

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\* \* \*

2.40.430 Election results.

Following canvass board review, the candidates receiving the greatest number of votes shall be certified elected to office by the **municipal clerk and approved by the** assembly. In case of a tie, the election shall be determined by **coin toss or** by lot from among the candidates tying at a meeting of the assembly ....

\* \* \*

VIII. Certification of Election

2.40.440 Assembly **Approval Certification.**

At the first regular meeting of the assembly after the election, the assembly shall meet and **approve the municipal clerk and canvass board's certification of returns.** certify the returns. The **approval of** certification may be postponed for cause as determined by the assembly from day to day, but not exceeding three postponements. The **approval of** certification shall be by motion duly made, seconded and passed and the results shall be set forth in the minutes of the meeting. In the case of a recount, the **approval of** certification of the recount may be postponed until the next regular assembly meeting following the recount. Upon **approval of** certification, the **municipal** clerk may issue a written certificate of election to the winning candidates.

**The initial election returns shall be announced in public on election night.** The certification of all election returns shall be made ~~in public~~ by examining the judges' certificates of returns and compiling these along with the count of valid **advanced or** absentee and challenged ballots **by the municipal clerk and canvass board.** ~~At or,~~ at the discretion of the assembly, an actual recount may be undertaken after due notice to candidates.

\* \* \*

2.40.460 Certificate of election.

Immediately after the **assembly's approval of** ~~assembly's~~ **municipal clerk's** certification is completed, the municipal clerk ....

IX. Contested Elections

2.40.470 Notice of election contest.

SUBSCRIBED AND SWORN to before me this \_\_\_ day of \_\_\_, **20**. ~~19~~.

The municipal clerk shall apprise the assembly of receipt of the notice before **approval of** certification of the returns has commenced.

\* \* \*

328  
329  
330 2.40.500 Costs.

331 \* \* \*

- 332 B. If, upon investigation or recount, the contentions of the person filing the notice are  
333 proven to be correct, the entire deposit shall be refunded. ~~If the contentions of the~~  
334 ~~person filing the notice are proven to be incorrect, the municipal clerk shall refund~~  
335 ~~any money remaining after the costs have been paid.~~
- 336 C. The contestant shall pay all costs and expenses incurred in a recount of an election  
337 demanded by the contestant if the recount fails to reverse any result of the election or  
338 if the difference between the winning and a-losing vote on the position or  
339 proposition result contested is more than two percent after recount. If the entire  
340 deposit is not refunded, the municipal clerk shall refund any money remaining  
341 after the cost of the recount has been paid from the deposit.

342 \* \* \*

343  
344 X. Prohibited Practices

345  
346 2.40.520 Prohibited practices.

347 \* \* \*

348 B. Under Influence by Force. Any person who ~~directly or indirectly~~ uses or threatens  
349 to use force, coercion ... is guilty of a Class C felony misdemeanor. —

350  
351 C. Undue Influence by Offer. ~~4.~~ Any person who promises to give or offers money or  
352 a valuable thing to any persons ... is guilty of a Class C felony misdemeanor.

353 ~~2. The providing of refreshments of any nature on election day by any candidate,~~  
354 ~~political party, or those acting for them or identified with them shall be within the~~  
355 ~~above stated prohibition.~~

356 ~~3. The providing of refreshments of any nature by any person seeking to induce~~  
357 ~~others to sign or not to sign any petition for initiative or referendum shall be within~~  
358 ~~the above stated prohibition.~~

359  
360 D. Improper Subscription to Petition. Any person who signs any name other than  
361 their own ... shall be guilty of a Class B misdemeanor.

362  
363 E. Under Influence of Election Official. Any person who by force, threat,  
364 intimidation ... shall be guilty of a Class C felony misdemeanor.

365 (A.S. 15.56.060(a)(1))  
366

367  
368 **5. EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of  
369 its passage.

370  
371 **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of  
372 Sitka, Alaska this 23rd day of December, 2014.

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**ATTEST:**

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Sara Peterson, CMC  
Acting Municipal Clerk

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Mim McConnell, Mayor



## Legislation Details

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File #: ORD 14-40    Version: 1    Name:

Type: Ordinance    Status: AGENDA READY

File created: 12/2/2014    In control: City and Borough Assembly

On agenda: 12/9/2014    Final action:

Title: An ordinance amending SGC Chapter 15.01 Entitled "Electric Utility Policies" by adding a new Section 15.01.090 entitled "Rebate Program for Electric Heat Pump Heating Systems"

Sponsors:

Indexes:

Code sections:

Attachments: [Motion ORD 14-40.pdf](#)  
[2014-40 Heat Pump Rebate Program.pdf](#)

Date	Ver.	Action By	Action	Result
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## **POSSIBLE MOTION**

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**I MOVE TO** approve Ordinance 2014-40 on first reading.

**CITY AND BOROUGH OF SITKA**

**ORDINANCE NO. 2014-40**

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA AMENDING SITKA  
GENERAL CODE CHAPTER 15.01. ENTITLED “ELECTRIC UTILITY POLICIES”  
BY ADDING A NEW SECTION 15.01.090 ENTITLED “REBATE PROGRAM FOR  
ELECTRIC HEAT PUMP HEATING SYSTEMS”**

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code (“SGC”).

2. **SEVERABILITY.** If any provision of this ordinance or any application to any person or circumstance is held invalid, the remainder of this ordinance and application to any person or circumstance shall not be affected.

3. **PURPOSE** Sitka encourages wise use of hydro consumption and supplemental diesel generation is both expensive and produces harmful emissions. Re-enacting a rebate program to encourage residential consumers to replace heating systems such as oil, electric, baseboard heaters, electric plug-in heaters, and electric boilers with electric heat pump heating systems. This has and will yield significant benefits in reducing system load, lessen the need for supplemental diesel generation, and lower the ratepayer’s electric energy costs. Further, re-establishment of a rebate program demonstrates the City and Borough of Sitka’s commitment to improve energy efficiency and promote energy conservation.

Various types of rebate programs have been offered by the State of Alaska and in other communities throughout the United States to reduce electrical costs and facilitate energy savings. Sitka successfully offered a program back in 2012. Currently, there are some funds available for this program.

4. **ENACTMENT. NOW, THEREFORE, BE IT ENACTED** by the Assembly of the City and Borough of Sitka that the SGC 15.01 is amended by adding a new Section 15.01.090 to read as follows (new language underlined; deleted language stricken):

**Chapter 15.01  
ELECTRIC UTILITY POLICIES**

Sections:

- 15.01.005 Definitions.
- 15.01.010 Statement of purpose.
- 15.01.015 Construction guidelines.
- 15.01.020 Electrical rates.
- 15.01.025 Customer and city rights and responsibilities.
- 15.01.030 Billing—Credit—Deposits—Fees.

- 46 15.01.035 General requirements.
- 47 15.01.040 Service connections.
- 48 15.01.045 Line extension.
- 49 15.01.050 Subdivisions.
- 50 15.01.055 Mobile home parks, RV parks, private marinas and boat docks.
- 51 15.01.060 Rental structures.
- 52 15.01.065 Motors and controllers.
- 53 15.01.070 Undesirable characteristics.
- 54 15.01.075 Special equipment.
- 55 15.01.080 Customer generation.
- 56 15.01.085 Carrier current.
- 57 15.01.090 Rebate program for electric heat pump heating systems.

58  
59 \* \* \*

60  
61 **15.01.090 Rebate program for electric heat pump heating systems.**

- 62
- 63 A. General Requirements. All residential customers are eligible to participate
- 64 in the rebate program, subject to the rules and procedures developed by
- 65 the Electric Department, and funding of the program.
- 66
- 67 B. Eligible Equipment. Only the following products are eligible for the
- 68 rebate program:
- 69
- 70 1. Electric heat pump heating system that replaces an existing oil or
- 71 electric resistance heating systems, such as electric baseboard
- 72 heaters, electric plug-in heaters, and electric boilers, if it is the
- 73 primary heating source for the residence.
- 74
- 75 C. Rebates. Residential customers requesting a rebate shall submit a signed
- 76 rebate request using Electric Department forms within 60 days of the
- 77 purchase of the rebate eligible product. Rebates will be issued within 60
- 78 days of receipt of the form to any eligible customers that meet the terms
- 79 and conditions of the program.
- 80
- 81 D. Funding. The rebate program is subject to available funding.
- 82

83

84 5. **EFFECTIVE DATE.** This ordinance shall become effective the day after the

85 day of its passage.

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**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska this 23rd day of December, 2014.

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Mim McConnell, Mayor

ATTEST:

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Sara Peterson, CMC  
Acting Municipal Clerk



## Legislation Details

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File #: ORD 14-37    Version: 1    Name:  
Type: Ordinance    Status: FIRST READING  
File created: 11/14/2014    In control: City and Borough Assembly  
On agenda: 11/25/2014    Final action:  
Title: Adjusting the FY15 Budget  
Sponsors:  
Indexes:  
Code sections:  
Attachments: [ORD 14-37A FY15 Budget.pdf](#)

Date	Ver.	Action By	Action	Result
11/25/2014	1	City and Borough Assembly		
11/25/2014	1	City and Borough Assembly		



## **POSSIBLE MOTION**

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**I MOVE TO** approve amended Ordinance 2014-37A on  
first reading.

# Memo

**Thru:** Mark Gorman, Municipal Administrator

**To:** City and Borough of Sitka Assembly

**From:** Jay Sweeney, CFAO

**Date:** November 6, 2014

**Re:** Bed Tax and the Sitka Convention and Visitors Bureau

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The CBS collects a bed tax on all hotel, motel, and bed and breakfast rooms rented. This is used to provide funding to the Sitka Convention and Visitors Bureau (SCVB).

Bed taxes, as is the case with all taxes, are budgeted based on an estimate of actual amounts for the upcoming fiscal year; a percentage (92%) is budgeted to be provided to the SCVB as support. Thus, it is almost certain that actual tax revenues collected will differ from the estimate in the budget. Since support to the SCVB is at a fixed percentage of actual taxes collected, there will likewise be some required adjustment to "true up" SCVB support once final bed taxes collected for the year are known. This is normally done in the fall of the year.

In Fiscal year 2014, the budgeted bed tax revenue was \$337,000 with support to the SCVB budgeted at \$310,040 (92%). The actual bed tax received in Fiscal Year 2014 was \$377,547. Given that the actual amount of collected taxes was in excess of budgeted amounts by \$40,547, the "true up" amount of additional support to the SCVB, in order for support to equal 92% of actual taxes collected is \$37,303.

This "true up" is included in the budget ordinance presented for Assembly Consideration at the November 25 Assembly meeting.

## CITY AND BOROUGH OF SITKA

## ORDINANCE NO. 2014-37A

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA  
ADJUSTING THE FY15 BUDGET

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. **CLASSIFICATION.** This ordinance is not of a permanent nature and is not intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. **PURPOSE.** The purpose of this ordinance is to adjust the FY15 budgets for known changes.

4. **ENACTMENT.** The Assembly of the City and Borough of Sitka hereby adjusts the FY15 budget for known changes. In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period beginning July 1, 2014 and ending June 30, 2015 is hereby adjusted as follows:

<u>Account Number</u>	<u>Account</u>	<u>Increase</u>	<u>Decrease</u>
<b>FISCAL YEAR 2015 EXPENDITURE BUDGETS</b>			
<b>CAPITAL PROJECTS</b>			
<b>Fund 710 - Feeder Improvement Project #80003: The Utility Director has requested to close Jeff Davis Line Upgrade to 3 Phase Project #90563 and transfer the remaining funds in the amount of \$49,685 to the Feeder Improvement Project #80003. This is for informational purpose only.</b>			
<b>Fund 710 – Jarvis Street Diesel Capacity Incr. Project #90646:</b>			
712-600-680-7200.000	Interfund Transfers	\$549,344	
710-300-390-3950.712	Transfer in Revenue Bond	\$549,344	
710-600-630-5212.000	Contracted/Purchased Services	\$549,344	
<b>To approve using interest earned from the Blue Lake Revenue Bonds for the Jarvis Street Diesel Capacity Inc. Project #90646.</b>			
<b>Fund 740 – Solid Waste Management Plan Project #90764:</b>			
230-600-680-7200.000	Interfund Transfers	\$214,875	
740-300-390-3950.230	Transfer in Solid Waste	\$214,875	
740-600-630-5212.000	Contracted/Purchased Billing	\$214,875	
<b>At the June 25, 2013 meeting, the Assembly approved advertising for a Request for Qualifications (RFQ) and select a consultant to assist Public Works in developing a Solid Waste Management Plan. This will transfer funds from the Solid Waste Fund to cover those expenses.</b>			

<u>Account Number</u>	<u>Account</u>	<u>Increase</u>	<u>Decrease</u>
<b>CAPITAL PROJECTS (cont.)</b>			
<b>Fund 700 – Kettleson Memorial Library Expansion Project #90739</b>			
165-300-380-3809.000	Donations	\$530,244	
This transaction recognizes donations for the Kettleson Memorial Library Study/Expansion Projects in the amount of \$530,244. This amount will be left in an interest bearing account until at which time the donations and interest earned will be transferred to Fund 700 and used on project #90739.			
<b>Fund 707 – Pacific High Renovation Project #90699</b>			
707-300-360-3610.000	Interest Income	\$58,000	
707-600-630-5212.000	Contracted/Purchased Services	\$58,000	
This will increase the budget for the earned interest to be used on the Pacific High Renovation Project #90699.			

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**EXPLANATION**

Necessary revisions in the FY 2015 budget were identified. These changes involve the increase of expenditure accounts and causes decreased cash flows to the fund balance of various funds. A short explanation of each budget revision is included.

**5. EFFECTIVE DATE.** This ordinance shall become effective on the day after the date of its passage.

**PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough of Sitka, Alaska this 23rd Day of December, 2014.

**ATTEST:**

\_\_\_\_\_  
Mim McConnell, Mayor

\_\_\_\_\_  
Sara Peterson, CMC  
Acting Municipal Clerk

First Reading: 11/25  
Amended: 11/25  
First Reading as Amended: 12/9  
Second Reading scheduled: 12/23



## Legislation Details

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File #: ORD 14-38    Version: 1    Name:

Type: Ordinance    Status: FIRST READING

File created: 11/14/2014    In control: City and Borough Assembly

On agenda: 12/9/2014    Final action:

Title: Amending SGC Title 22 Zoning regarding commercial home horticulture

Sponsors:

Indexes:

Code sections:

Attachments: [Memo Ord 2014-38.pdf](#)  
[ORD 14-38A Horticulture and Motion.pdf](#)  
[Appeals Period Memo.pdf](#)  
[Misc Docs relating to Ord 2014-38.pdf](#)

Date	Ver.	Action By	Action	Result
11/25/2014	1	City and Borough Assembly		



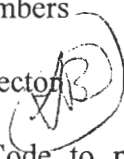
# City and Borough of Sitka

100 Lincoln Street Sitka, Alaska 99835

*Coast Guard City, USA*

## Memorandum

To: Mark Gorman, Municipal Administrator  
Mayor McConnell and Assembly Members

From: Scott Brylinsky, Interim Planning Director 

Subject: Ordinance Amending the Zoning Code to provide an expedited process for permitting Commercial Home Horticulture, including the construction and operation of Garden Stands

Date: November 14, 2014

The attached ordinance amends the Sitka Zoning Code to provide an expedited permitting process for commercial home horticulture, including the construction and operation of garden stands, in the R-1, R-1MH, R-2, R-2MHP, GI, and LI zones.

The motivation for this ordinance change is the growing community interest in using and selling locally grown produce. The topic came up before the Planning Commission specifically as a Zoning Text Amendment application submitted by Lisa Sadler-Hart and Tom Hart to make commercial home horticulture and related structures a permitted use in residential zones.

The Administration, and the Planning Commission, felt that an expedited process for issuing Conditional Use permits for commercial home horticulture, including garden stands, was in the community interest. The ordinance framework was developed by the Planning Commission over a series of four meetings. The framework ultimately developed modifies the definition of commercial home horticulture to include the use of garden stands, and defines an expedited conditional use permitting process. At the October 21, 2012 meeting the Planning Commission unanimously approved the conceptual framework for the attached ordinance.

In summary, the proposed ordinance simplifies the conditional use process for commercial home horticulture, including garden stands, by eliminating the requirement for Assembly approval. Review and approval is by the Planning Commission, and will take a minimum of two meetings.

## **POSSIBLE MOTION**

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**I MOVE TO** approve amended Ordinance 2014-38A on  
first reading.



CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014 – 38A

**AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA AMENDING SITKA GENERAL CODE TITLE 22 ZONING REGARDING COMMERCIAL HOME HORTICULTURE**

BE IT ENACTED by the Assembly of the City and Borough of Sitka, Alaska as follows:

1. CLASSIFICATION. This ordinance is of a permanent nature and is intended to be a part of the Sitka General Code of the City and Borough of Sitka, Alaska.

2. SEVERABILITY. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person and circumstances shall not be affected thereby.

3. PURPOSE. The purposes of this ordinance are to provide an expedited process to allow for commercial home horticulture, including the construction and operation of garden stands, by amending the municipal zoning regulations to provide the Planning Commission with authority to grant conditional use permits for commercial home horticulture in selected zoning districts.

4. ENACTMENT. NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough to:

5. Amend SGC 22.08.195 Definition - Commercial Home Horticulture as follows:

“Commercial home horticulture” means the on-site production, principally for use or consumption by the property owner or tenant, of plants or their products, including but not limited to gardening and fruit production. Commercial home horticulture does not include the sale of such products produced off-site, but does include the sale of such products produced and sold on-site to others. ~~Commercial home horticulture does not include construction of accessory buildings other than those specifically allowed in the zoning districts.~~ It also does not include such products as livestock, poultry, other animals, or the production of animal related products. **Accessory buildings, such as garden stands, other than those specifically allowed in zoning districts, may be permitted through the Planning Commission home horticulture permit process in SGC 22.24.025.**

6. Amend SGC Table 22.16.015-6 to make Commercial Home Horticulture in the R-1, R-1MH, R-2, R-2MHP, GI, and LI zones a conditional use subject to new Footnote (9) of that table. New footnote (9) reads as follows:

**Commercial home horticulture conditional use permits governed by SGC 22.24.025.**

7. Add a new section to SGC Chapter 22.24 Special Use Permits, as follows:  
Section 22.24.025 **Commercial Home Horticulture Permits**

**A. Application Requirements: Same as conditional use application outlined in Table 22.24.010-1.**

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**B. Standards, Dimensions, and Setbacks:**

- a. Garden stands: Maximum shall be size six(6) feet by eight(8) feet with awning.
- b. The annual period of use shall be May 1 through October 30. Stands must be portable and removed in off season.
- c. Setbacks from lot lines shall be minimum five(5) feet.
- d. Driveways on adjacent lots shall not be blocked.
- e. Sales are permitted a maximum four hours a day twice a week.

**C. Review Criteria: In evaluating applications under this section the Planning Commission shall consider the overall plan of operation, potential adverse impacts on adjacent properties including but not limited to odors generated, and adequacy of parking along the right-of-way.**

**D. Review Procedure and Authority to Approve: Upon receipt of a completed application for a garden stand under this section, there shall be a four-week notice period to include not less than two Planning Commission meetings. Notice shall be provided to properties within 300 feet of the applicant's property. The Planning Commission is authorized to approve or deny Garden Stand conditional use permit applications submitted under this section. Approvals and denials may be appealed to the Assembly.**

**E. In order to obtain a permit, the applicant must present an Alaska Business License and proof of sales tax account registration (business registration) with the City and Borough of Sitka. The applicant acknowledges the requirement to remit sales tax in accordance with the City and Borough of Sitka Sales Tax Code 4.09. The applicant also acknowledges that Sales Tax Exemption 4.09.100(A) will not be permissible in this ordinance.**

**F. Sunset and Revocation: Permits issued under this section shall sunset two years after approval. Permit renewal shall follow the same process as initial application. Permits may be revoked by the Planning Commission following a public hearing.**

**G. This section supersedes other code sections that may be in conflict, including setbacks for garden stands.**

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7. EFFECTIVE DATE. This ordinance shall become effective on the day after the date of its passage.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 23rd day of December, 2014.

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Mim McConnell, Mayor

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100 ATTEST:

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Sara Peterson, CMC  
Acting Municipal Clerk

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106 First Reading: 11-25

107 Amended proposed: 12-9

108 Second Reading as amended: 12-23

**Memorandum**

To: Mark Gorman, Municipal Administrator  
Mayor McConnell and Assembly Members

From: Scott Brylinsky, Interim Planning Director 

Subject: **What is the Appeals Period?** - Ordinance Amending the Zoning Code to provide an expedited process for permitting Commercial Home Horticulture, including the construction and operation of Garden Stands

Date: December 1, 2014

During discussion of the referenced ordinance amendment, at the November 25 Assembly meeting, an Assembly member noted that Planning Commission approvals or denials of conditional use permits under the ordinance are appealable to the Assembly, and asked the question, "What is the appeals period?"

Appeals are addressed in the zoning code, SGC 22.30.230 Appeals to the Assembly

- A. Filing. Every appeal to the assembly shall be filed with the municipal clerk within ten days after the date of the recommendation or decision of the matter being appealed.

This provision resides in Section 22.30 Zoning Code Administration, and applies broadly to Planning Commission actions, including the granting of conditional use permits under the proposed ordinance.

**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
October 21, 2014**

**Present:** Chris Spivey (Vice-Chair), Debra Pohlman (Member), Darrell Windsor (Member), Wells Williams (Planning Director), Erin Clay (Temporary Planner I)

**Absent:** Richard Parmelee (Chair)

**Members of the Public:** Lisa Sadleir-Hart, Tom Hart, Stewart Pook

Acting Chair Spivey called the meeting to order at 7:00 p.m.

**Roll Call:**

**PRESENT:** 3 –Spivey, Pohlman, Windsor

**Consideration of the Minutes from the October 7, 2014 meeting:**

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the meeting minutes for October 7, 2014.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**The evening business:**

**ZONING TEXT CHANGE  
COMMERCIAL HOME HORTICULTURE  
TOM AND LISA SADLEIR-HART**

*Planning Commission deliberation on a proposal to make zoning ordinance text changes for commercial home horticulture and garden stands. The proposal would create a Planning Commission review process for commercial home horticulture in residential and island zoning districts. A variety of zoning code sections would be revised to facilitate the proposal including SGC Chapter 22.24 Special Use Permits, SGC Table 22.16.015-6 Retail and Business Uses, and SGC 22.08.195 Commercial Home Horticulture (definition). The current proposal is in lieu of making the use a permitted use in these districts. The proposal represents a consensus developed between the Planning Commission, Lisa Sadleir-Hart and Thomas Hart.*

**STAFF REPORT:** Williams described the evolution of the zoning ordinance text change application.

**COMMISSIONER DELIBERATION:** No questions.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the following findings:

1. The proposed revisions fill a community need and there has been substantial written testimony in support of changing the current process;

2. The proposed Planning Commission review process allows for permits to be considered on a case by case abbreviated review process;
3. The proposals are consistent with the Comprehensive Plan.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the zoning ordinance text change for commercial home horticulture and garden stands. The applicant is Lisa Sadlier-Hart and Thomas Hart.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**VARIANCE**  
**104 KELLY STREET**  
**STEWART POOK**

*Public hearing and consideration of a variance requested by Stewart Pook at 104 Kelly Street. The request is to increase the allowable fence height from 8ft to 10ft. The purpose of the increase in fence height is to mitigate impacts from the adjacent property. The property is also known as Lot 3 Block 1 Mission Subdivision.*

**STAFF REPORT:** Williams described the request.

**APPLICANT:** Stewart Pook came forward to interact and answer questions.

**COMMISSIONER DELIBERATION:** Chair Spivey asked Pook if he has anything to add to the staff report. Pook described how his current fence is not tall enough to mitigate impacts from the adjacent yard. Pook said that if the yard/home were to be maintained or re-built in the future he would be happy to cut his fence to a shorter size.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the following findings:  
1. The municipality finds that the necessary threshold for granting this variance should be lower than thresholds for variances involving major structures or major expansions;  
2. The granting of the variance is not injurious to nearby properties or improvements;  
3. The granting of the variance furthers an appropriate use of the property.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**MOTION: M/S WINDSOR/POHLMAN** moved to approve the variance request at 104 Kelly Street filed by Stewart Pook. The property is also known as Lot 3 Block 1 Mission Subdivision. The applicant is requesting an increase in the allowable fence height from 8ft to 10ft. The owner of record is Stewart Pook.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**PLANNING DIRECTOR'S REPORT:** No Planning Commission meeting November 4<sup>th</sup>. The zoning ordinance text change will go to the November 10<sup>th</sup> Assembly meeting. Williams thanked the Commissioners for their work on the Commission.

**PUBLIC COMMENT:** No public comment.

**ADJOURNMENT:**

**MOTION:** M/S WINDSOR/POHLMAN moved to adjourn at 7:24 pm.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

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**Richard Parmelee, Chair**

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**Erin Clay, Temporary Secretary**



**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
October 7, 2014**

**Present:** Richard Parmelee (Chair), Chris Spivey (Vice-Chair), Debra Pohlman (Member), Darrell Windsor (Member), Wells Williams (Planning Director), Erin Clay (Temporary Planner I)

**Absent:** None

**Members of the Public:** Tom and Lisa Sadleir-Hart

Chair Parmelee called the meeting to order at 7:00 p.m.

**Roll Call:**

**PRESENT:** 4 –Parmelee, Spivey, Pohlman, Windsor

**Consideration of the Minutes from the September 2, 2014 meeting:**

**MOTION: M/S SPIVEY/WINDSOR** moved to approve the meeting minutes for September 2, 2014.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**The evening business:**

**ZONING TEXT CHANGE  
COMMERCIAL HOME HORTICULTURE  
TOM AND LISA SADLEIR-HART**

*Public hearing and consideration of a zoning text change to revise SGC 22.16.015-6 to make commercial home horticulture a permitted use in the R-1, R-1 MH, R-2, R-2 MHP, GI and LI zones and revise SGC 22.08.195 Commercial home horticulture definition to clarify it allowing for the sale of products produced on site and to allow for the construction of accessory buildings. The applicant is Lisa Sadleir-Hart and Tom Hart.*

**STAFF REPORT:** Williams described a spreadsheet summarizing the proposed commercial home horticulture standards and Planning Commission approval process. Williams asked for a break in normal procedure to determine the Commission and Sadleir-Harts comfort with the proposed standards at this time.

**APPLICANT:** Tom Hart and Lisa Sadleir-Hart come forward to interact and answer questions.

**COMMISSIONER DELIBERATION:** Commissioner Pohlman has concerns about specifying a time frame for home horticulture sales (i.e. 11:00– 14:00), though she understands the intent is to prevent additional traffic during normal commuting hours. The Commission agrees on establishing a standard for the maximum time that that home horticulture sales may occur (4

hours, twice per week) but for the specific hours of operation to be approved on a case by case basis.

Sadleir-Hart also prefers the specifying the maximum time standard and for each applicant to negotiate their hours of operation.

Commissioner Spivey has concerns about the proposed notification buffer of neighbors within 150ft of the applicant's property and feels that it is insufficient to account for all neighbors who may be impacted by odors. Sadleir-Hart describes fertilizers typically used in Sitka and states that commercial home culture is unlikely to produce excessive odor necessitating a 300ft notification buffer. Conditional use permits typically require a 300ft notification buffer so the Commission agrees to increase the notification buffer for commercial home horticulture applications to all neighbors within 300ft of the applicant's property.

**STAFF REPORT:** Williams describes the zoning text change and definition change request. The proposed code changes do not address accessory buildings associated with commercial home horticulture, such as greenhouses, so Williams will verify that greenhouses are covered as accessory uses in the existing zoning code prior to the October 21<sup>st</sup> meeting.

**COMMISSIONER DELIBERATION:** Hart asked whether adding more details to the maximum time standards for home horticulture sales would be helpful and Williams responded that that level of detail is difficult to codify.

Hart also asked if all application findings, both approvals and denials, may be appealed through the assembly appeal process. The Commission agreed that both approvals and denials may be appealed.

Sadleir-Hart asked about allowable green house size. Commissioner Parmelee said that greenhouse size would be negotiated on a case by case basis. Williams said that size restrictions would only affect proposed greenhouses through the permitting process, not existing greenhouses.

**PUBLIC COMMENT:** No public comment.

***Request will be back for deliberation and recommendation at October 21<sup>st</sup> Planning Commission meeting.***

**MAJOR SUBDIVISION - CONCEPT PLAT  
PARCEL C SOUTH BENCHLANDS – 300 KRAMER AVENUE  
SOUND DEVELOPMENT**

*Public hearing and consideration of a concept plat for a major subdivision at 300 Kramer Avenue or Parcel C South Benchlands filed by Scound Development, LLC. The proposed subdivision will create 19 lots. The property is also known as Tract A12-III, Whitcomb Heights III Subdivision.*

**STAFF REPORT:** Williams discussed the Commission's review process from concept to preliminary plat, including the Public Works requirements which must be met prior to presentation of a preliminary plat to the Commission. Dan Tadic, a Municipal Engineer, comes forward to discuss Public Works submittal requirements for the subdivision including grading and drainage plans. These submittal requirements are based largely off of those required by

the City of Ketchikan because the City and Borough of Sitka currently does not have codified drainage guidelines.

**APPLICANT:** Todd Flemming, of Sound Development, comes forward to interact and answer questions. Flemming discusses what permitting, surveying, and land clearing steps have been taken thus far. Flemming states that walking the site is challenging at this time due to brush and trees that have been taken down.

**COMMISSIONER DELIBERATION:** Commissioner Windsor asks about the small lot sizes proposed for the subdivision. Flemming describes the Planned Unit Development approach for the subdivision, which allows for smaller lot sizes than in standard residential zones. Flemming states that Sound Development intends to include a plat note specifying the maximum allowable structure size for lots within the subdivision. At this time, Sound Development is thinking that these structure size limits will be 1,500 ft<sup>2</sup> for the main structure and 500ft<sup>2</sup> for garages.

Williams asks if Sound Development will retain ownership of the 20ft drainage easement that runs through the proposed subdivision. Flemming states that Sound Development will retain ownership of this drainage easement.

**PUBLIC COMMENT:** No public comment.

*The preliminary plat will be scheduled for Planning Commission Review after the Public Works Department is comfortable with the geotechnical materials that are forthcoming from the applicant.*

**CONDITIONAL USE  
506 FIRST STREET  
DAWN and PETER MENENDEZ**

*Public hearing and annual review of an approved conditional use permit for a day care at 506 First Street. The property is also known as Lot 1 H & P Estates. Owner of record is Joanna Giglia and Dawn and Peter Menendez.*

**STAFF REPORT:** Williams describes the history of the Menendezs' conditional use permit. The main issue in the past has been whether the next door neighbors' driveway becomes blocked by customers picking up and/or dropping off children. No comments were received by the Planning Office during the current public notification period.

**APPLICANT:** Dawn and Peter Menendez come forward to interact and answer questions.

**COMMISSIONER DELIBERATION:** Chair Parmelee asks D. Menendez to report on the past year. D. Menendez describes the pickup/drop off schedule that she has developed with her customers and states that she has had no issues with customers adhering to that schedule. If customers have to come early or late they either check to make sure there is parking available or park on Monastery Street and walk down First Street. D. Menendez states that they recently purchased gravel and hand graded to fix potholes that had developed on First Street.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S PARMELEE/SPIVEY** moved to approve the completed annual review for 2014 and to look forward to the final annual review in 2015.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

**PLANNING DIRECTOR'S REPORT:** Williams discusses agenda items for next Planning Commission Meeting. Williams gives personal thanks to Commissioner Parmelee for his years of service as Planning Commission Chair.

**PUBLIC COMMENT:** No public comment.

**ADJOURNMENT:**

**MOTION: M/S PARMELEE/POHLMAN** moved to adjourn at 8:05 pm.

**ACTION:** Motion **PASSED unanimously 4-0** on a voice vote.

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**Richard Parmelee, Chair**

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**Erin Clay, Temporary Secretary**

**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
September 2, 2014**

**Present:** Richard Parmelee (Chair), Chris Spivey (Vice-Chair), Debra Pohlman (Member), Wells Williams (Planning Director), Maegan Bosak (Planner I)

**Absent:** Darrell Windsor (Member), Terrance Seslar (Member)

**Members of the Public:** Tom and Lisa Sadler-Hart

Chair Parmelee called the meeting to order at 7:03 p.m.

**Roll Call:**

**PRESENT:** 3 –Parmelee, Spivey, Pohlman

**Consideration of the Minutes from the August 19, 2014 meeting:**

**MOTION: M/S SPIVEY/POHLMAN** moved to approve the meeting minutes for August 19, 2014.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**The evening business:**

**REPLAT  
LOTS 11 AND 12 AMENDED JAMESTOWN HEIGHTS SUBDIVISION  
WILLIAM AND AMELIA PENROSE**

*Public hearing and consideration of a replat at 319 and 321 Eliason Loop filed by William and Amelia Penrose. The replat will remove the center lot line and merge two lots into one. The property is also known as Lots 11 and 12, Amended Jamestown Heights Subdivision.*

Planning Director Williams describes the process of combining the lots. The process only requires one meeting at the Planning Commission level.

**APPLICANT:** Bill Penrose is planning to build a single family single level home with a detached garage that will straddle the current center lot line. In order to be compliant with setbacks, they would like to remove the center lot line, combining the two lots into one larger. The access will be directly off of Eliason Loop.

**PUBLIC COMMENT:** No public comment.

**COMMISSIONER DELIBERATION:** No commissioner deliberations.

**MOTION: M/S SPIVEY/POHLMAN** moved to approve a replat at 319 and 321 Eliason Loop filed by William and Amelia Penrose. The replat will remove the center lot line and



merge two lots into one. The property is also known as Lots 11 and 12, Amended Jamestown Heights Subdivision.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

**ZONING TEXT CHANGE  
COMMERCIAL HOME HORTICULTURE  
TOM AND LISA SADLER-HART**

*Public hearing and consideration of a zoning text change to revise SGC 22.16.015-6 to make commercial home horticulture a permitted use in the R-1, R-1 MH, R-2, R-2 MHP, GI and LI zones and revise SGC 22.08.195 Commercial home horticulture definition to clarify it allowing for the sale of products produced on site and to allow for the construction of accessory buildings. The applicant is Lisa Sadler-Hart and Tom Hart.*

Williams describes the zoning text change and definition change request as well as spreadsheet summarizing concerns presented at last meeting.

**APPLICANT:** Tom Hart and Lisa Sadler-Hart come forward to interact and answer questions.

**COMMISSIONER DELIBERATION:** Commissioner Spivey talks about public concern he has heard over commercial uses in the R-1 zone. He foresees major issues in the downtown residential area.

Commissioner Pohlman has concern with smokehouses being added to the list of small structures being considered as she feels they are not related to horticulture and could add new nuisances such as bears, etc. Sadler-Hart agrees. Smokehouses will no longer be grouped in. Concerns over greenhouses and small structures being removed from setback requirements. The Commission envisions a permitting process with approval after two Planning Commission meetings. Commissioner Parmelee says he would like more of a flexible plan based on neighborhoods rather than a standardized.

Discussion over the size of the "garden stand" structure. Sadler-Hart doesn't think any larger than a 6 foot table would be necessary. Spivey wants to make sure they are temporary in nature and aesthetically pleasing.

**PUBLIC COMMENT:** No public comment.

Request will be back for discussion at September 16<sup>th</sup> Planning Commission meeting.

**PLANNING DIRECTOR'S REPORT:** No report.

**PUBLIC COMMENT:** No public comment.

**ADJOURNMENT:**

**MOTION: M/S POHLMAN/SPIVEY** moved to adjourn at 8:25 pm.

**ACTION:** Motion **PASSED unanimously 3-0** on a voice vote.

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**Richard Parmelee, Chair**

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**Maegan Bosak, Secretary**

**CITY AND BOROUGH OF SITKA  
Planning Commission  
Minutes of Meeting  
August 19, 2014**

**Present:** Richard Parmelee (Chair), Chris Spivey (Vice-Chair), Debra Pohlman (Member) Darrell Windsor (Member), Terrance Seslar (Member), Wells Williams (Planning Director), Maegan Bosak (Planner I)

**Members of the Public:** Scott Brylinsky, Tom and Lisa Sadler-Hart, Kay Turner, Lynne Brandon

Chair Parmelee called the meeting to order at 7:01 p.m.

**Roll Call:**

**PRESENT:** 5 –Parmelee, Spivey, Pohlman, Windsor, Seslar

**Consideration of the Minutes from the August 5, 2014 meeting:**

**MOTION: M/S SPIVEY/POHLMAN** moved to approve the meeting minutes for August 5, 2014.

**ACTION:** Motion **PASSED unanimously 5-0** on a voice vote.

**The evening business:**

**CONDITIONAL USE PERMIT- 2 BEDROOM BED AND BREAKFAST  
LOT 1-S GIBSON/KITKA/SNOWDEN SUBDIVISION  
BRIAN JARDINE**

*Planning Commission deliberation of a two bedroom bed and breakfast conditional use permit filed by Brian Jardine at 105 Shelikof Way. The property is also known as Lot 1-S Gibson/Kitka/Snowden Subdivision. The owner of record is Shannon J. Jardine and Brian R. Jardine.*

Planning Director Williams describes the process up to this point. Jardine's request is for conditional use permit for a 2 bedroom bed and breakfast. The public comment period is over and this meeting is specifically for Commissioner deliberation, findings and motions.

**COMMISSIONER DELIBERATION:** Commissioner Seslar researched Jardine's website and found that changes were being made by the applicant, even though he stated previously that he was not able to do so. Commissioner Spivey says that the Administrator asked the applicant to stop housing clients and he failed to do so. Furthermore, Spivey says the Municipal Attorney brings up many valid points and he is not willing to approve something that could create legal problems for the City. Commissioner Windsor says that this property is acting as a lodge which is not permitted. Commissioner Pohlman says she can't ignore that a neighbor is claiming he is adversely affected.

**FINDINGS: 22.30.160 Planning commission review and recommendation.**



C. Required Findings for Conditional Use Permits. The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The City may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:

a. be detrimental to the public health, safety, and general welfare;

**MOTION: M/S SPIVEY/WINDSOR** moved to approve that these findings can be met.

**ACTION: Motion FAILED unanimously 0-5** on a voice vote.

b. adversely affect the established character of the surrounding vicinity;

**MOTION: M/S WINDSOR/PARMELEE** moved to approve that these findings can be met.

**ACTION: Motion FAILED unanimously 0-5** on a voice vote.

c. be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

**MOTION: M/S SPIVEY/WINDSOR** moved to approve that these findings can be met.

**ACTION: Motion FAILED unanimously 0-5** on a voice vote.

2. That the granting of the proposed Conditional Use Permit is consistent and compatible with the intent of the goals, objectives and policies of the Comprehensive Plan and any implementing regulation.

**MOTION: M/S SPIVEY/WINDSOR** moved to approve consistent with Comprehensive Plan 2.5.2 *To encourage commercial and industrial developments of a quality that does not adversely impact any adjacent recreational and residential areas.*

**ACTION: Motion FAILED unanimously 0-5** on a voice vote.

3. That all conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.

**MOTION: M/S POHLMAN/SPIVEY** moved to approve that these findings can be met.

**ACTION: Motion FAILED unanimously 0-5** on a voice vote.

4. That the proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.

**MOTION: M/S SPIVEY/WINDSOR** moved to approve that these findings can be met.

**ACTION: Motion PASSED unanimously 5-0** on a voice vote.

5. That the conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

**MOTION: M/S SPIVEY/POHLMAN** moved to approve that these findings can be met.

**ACTION: Motion PASSED unanimously 5-0** on a voice vote.

6. Burden of Proof. The applicant has the burden of proving that the proposed conditional use meets all of the criteria in Section B.

**MOTION: M/S SPIVEY/SESLAR** moved to approve.

**ACTION: Motion FAILED unanimously 0-5** on a voice vote.

The City may approve, approve with conditions, modify, modify with conditions, or deny the conditional use permit. The city may reduce or modify bulk requirements, off-street parking requirements, and use design standards to lessen impacts, as a condition of the granting of the conditional use permit. In considering the granting of a conditional use, the assembly and planning commission shall satisfy themselves that the general criteria set forth for uses specified in this chapter will be met. The city may consider any or all criteria listed and may base conditions or safeguards upon them. The assembly and planning commission may require the applicant to submit whatever reasonable evidence may be needed to protect the public interest.

**The general approval criteria are as follows:**

1. Site topography, slope and soil stability, geophysical hazards such as flooding, surface and subsurface drainage and water quality, and the possible or probable effects of the proposed conditional use upon these factors;
2. Utilities and service requirements of the proposed use, including sewers, storm drainage, water, fire protection, access and electrical power; the assembly and planning commission may enlist the aid of the relevant public utility officials with specialized knowledge in evaluating the probable effects of the proposed use and may consider the costs of enlarging, upgrading or extending public utilities in establishing conditions under which the conditional use may be permitted;
3. Lot or tract characteristics, including lot size, yard requirements, lot coverage and height of structures;
4. Use characteristics of the proposed conditional use that affect adjacent uses and districts, including hours of operation, number of persons, traffic volumes, off-street parking and loading characteristics, trash and litter removal, exterior lighting, noise, vibration, dust, smoke, heat and humidity, recreation and open space requirements;
5. Community appearance such as landscaping, fencing and screening, dependent upon the specific use and its visual impacts.

#### 22.24.010 Conditional uses.

E. In evaluating the inputs of a proposed conditional use permit, the municipality may consider a commercial conditional use to be inappropriate for residential neighbors while the same conditional use may be acceptable when it is located along an arterial or collector street. The additional vehicular traffic generated by conditional uses, such as professional offices, may not be able to be adequately mitigated in residential areas.

#### **1. Criteria to Be Used in Determining Impacts of Conditional Uses.**

- a. Amount of vehicular traffic to be generated and impacts of the traffic on nearby land uses.
- b. Amount of noise to be generated and its impacts on surrounding land uses.
- c. Odors to be generated by the use and their impacts.
- d. Hours of operation.
- e. Location along a major or collector street.
- f. Potential for users or clients to access the site through residential areas or substandard street creating a cut through traffic scenario.
- g. Effects on vehicular and pedestrian safety.
- h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site.
- i. Logic of the internal traffic layout.
- j. Effects of signage on nearby uses.
- k. Presence of existing or proposed buffers on the site or immediately adjacent the site.
- l. Relationship if the proposed conditional use is in a specific location to the goals, policies, and objectives of the comprehensive plan.
- m. Other criteria that surface through public comments or planning commission assembly review.

**MOTION: M/S SPIVEY/WINDSOR** recommended denial of conditional use permit because the majority of required findings cannot be met and neighborhood concerns cannot be mitigated.

**ACTION: Motion PASSED unanimously 5-0** on a voice vote.

This request and recommendation will be forwarded to the Assembly. Materials can still be submitted and notices will go out to the adjacent neighborhood.

#### **CONDITIONAL USE PERMIT- DAYCARE/KINDERGARTEN IN R-1 ZONE LOT 1 WESTOVER SUBDIVISION EMILY DAVIS**

*Public hearing and consideration of a daycare conditional use permit filed by Emily Davis at 304 Baranof Street. The property is also known as Lot 1 Westover Subdivision. The owner of record is John and Karen Thielke.*

Bosak provides a staff report summarizing the conditional use permit request and concerns that were heard at the last meeting. The request is across from Baranof Elementary. It was most recently the Boys and Girls Club and professional offices. Staff feels the applicant should formalize their request so that Commissioners can proceed with their deliberations. Mary



Wegner, Sitka School Superintendent, submitted a letter with concerns that was included in the packets for review.

**APPLICANT:** Paul and Emily Davis step forward. Ms. Davis states that two classrooms will be sufficient with a living unit above for teacher. The applicant stresses that they want to make sure parking does not add to Baranof Elementary School congestion. Davis states she is happy to revise application if need. She also states that the lot next to the building should be marked as a private lot because it is confusing.

Williams asks about drop off and pick-ups. Davis plans to use the side lot of the building and the historically reserved spaces in the public lot. Commissioner Windsor asks about walking school kids from Baranof to the facility. Davis again stresses that they don't want to conflict with Baranof Elementary school hours. She would walk students from school to the learning center, reducing the cars in the area. Commissioners voice concerns over congestion.

Williams asks if Davis has worked with Baranof Elementary on the congestion schedule and specifically the signing out process. Davis has no association with the district but has sign in/out protocol with parents. Davis says she is happy to work with the district. Her number one goal is the safety of children.

**COMMISSIONER DELIBERATION:** Commissioner Parmelee asks Davis to talk with teachers and staff regarding drop off protocol. Davis asks if there is a conditional use permit with the building already as it was used as the Boys and Girls Club. Williams says that the extension of the permit would have to include plans that were exactly the same as the prior after school program. Mr. Davis exclaims that Ms. Davis is just trying to earn a living and work within the parameters. Williams ask Mr. Davis to lower his voice – everyone is working hard to go through all the details of the permit.

Commissioner Spivey says the application continues to change. Now they want to just do an after school program?

Dan Tadic, Municipal Engineer, says that the public parking lot will be used for construction materials and machinery storage for next summer's road projects. The lot is the only area to store the materials.

Davis says she can withdrawal application however every daycare application will come back before the Commission.

**PUBLIC COMMENT:** No public comment.

This request will be back on the September 2<sup>nd</sup> Planning Commission agenda.

**ZONING TEXT CHANGE  
COMMERCIAL HOME HORTICULTURE  
TOM AND LISA SADLER-HART**

*Public hearing and consideration of a zoning text change to revise SGC 22.16.015-6 to make commercial home horticulture a permitted use in the R-1, R-1 MH, R-2, R-2 MHP, GI and LI zones and revise SGC 22.08.195 Commercial home horticulture definition to clarify it allowing for the sale of products produced on site and to allow for the construction of accessory buildings. The applicant is Lisa Sadler-Hart and Tom Hart.*

Williams describes the zoning text change and definition change request.

**APPLICANT:** Tom Hart and Lisa Sadler-Hart come forward to share idea. They hope to increase economic benefit for food growers while increasing neighborhood access to fruits and vegetables. They are open to all discussions and understand that the process could take a while to flush out all the details. They also have concerns over increased traffic in neighborhoods and individual "garden stands" and what they should look like.

Williams is excited as this could be a new movement in Sitka. Sadler-Hart has done beautiful work throughout the community.

**COMMISSIONER DELIBERATION:** Commissioner Pohlman asks about conditional use permit process. Pohlman brings up fertilizer odor issues. What is the Commission going to do to include checks and balances? She asks about chicken coops.

Discussion over traffic generation and how this would affect R-1 neighborhood issues. Spivey says this could become like never ending garage sales and in the downtown area that could be a problem.

Sadler-Hart asks if traffic is the issue or the producible amount of food on the lots.

Spivey says it is mainly parking. Discussion on prohibitions on streets that are a lane and a half or properties under 50 ft wide. Commissioner Windsor says if it's a small lot they won't be able to grow enough to sell. Commissioner Seslar says perhaps the garden stand could be based on the size of the property.

Discussion over a time limit. Possibly one weekend per month or once a week.

Sadler-Hart states they would mainly take place June through September or during the growing season.

Various items such as orders, lockbox system and hours of operation come up.

Williams asks if we should include limiting greenhouses in the discussion. Specifically sizing and proximity to property lines.

Pohlman comments that this goes back to commercial uses in residential areas. How can we mitigate impacts? Perhaps another permitting process.

**PUBLIC COMMENT:** No public comment.

Request will be back for discussion at September 2<sup>nd</sup> Planning Commission meeting.

## **DISCUSSION**

### **CRESCENT HARBOR PARK PLAYGROUND EXPANSION**

#### **KAY TURNER**

*Discussion on proposed expansion of the Crescent Harbor Park Playground located on Lincoln Street next to Crescent Harbor by Kay Turner.*

Bosak describes details of the request. The idea was supported at the Historic Preservation Commission meeting.

**APPLICANT:** Kay Turner and Lynne Brandon come forward to answer questions. Turner says that a new playground is needed in Sitka and that the cause was recognized as a health summit goal. This playground would be ADA accessible and sustainable. Brandon states that the equipment will include games and encourage imaginative play. Park will be Sitka themed and have a neutral color scheme.

**COMMISSIONER DELIBERATION:** Commissioner Spivey asks about parking. Brandon says that the City has taken over maintenance on the lot across the street on SJ campus. Parking is also available at Crescent Harbor.

**PUBLIC COMMENT:** No public comment.

**MOTION: M/S SPIVEY/WINDSOR** moved to make a motion of recommendation to the Assembly on behalf of the proposed expansion of the Crescent Harbor Park Playground located on Lincoln Street next to Crescent Harbor by Kay Turner.

**ACTION:** Motion **PASSED unanimously 5-0** on a voice vote.

**PLANNING DIRECTOR'S REPORT:** No report.

**PUBLIC COMMENT:** No public comment.

**ADJOURNMENT:**

**MOTION: M/S SPIVEY/SESLAR** moved to adjourn at 9:17 pm.

**ACTION:** Motion **PASSED unanimously 5-0** on a voice vote.

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**Richard Parmelee, Chair**

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**Maegan Bosak, Secretary**

**Request:**

Zoning text change to Table 22.16.015-6 to make Commercial Home Horticulture a permitted use in the R-1, R-1MH, R-2, R-2 MHP, GI and LI zones.

Zoning text change to SGC 22.08.195 Commercial Home Horticulture definition to clarify, allowing for the sale of products produced onsite and to allow for the construction of accessory buildings.

**Zoning District:** R-1, R-1 MH, R-2, R-2 MHP, GI and LI

**Meeting Flow**

- o Report from Staff
- o Applicant comes forward
- o Applicant identifies him/herself – provides comments
- o Commissioners ask applicant questions
- o Staff asks applicant any questions
- o Floor opened up for Public Comment
- o Comment period closed - brought back to the board

**Tonight's Actions**

Discuss approval process and definitions

Walk through findings

Make recommendation to approve text changes

**Lisa Sadler-Hart and Thomas Hart  
Zoning Text Change  
Commercial Home Horticulture  
October 21st, 2014**

Tuesday night will be an opportunity for the Planning Commission to walk through the proposed commercial home horticulture text changes and make a recommendation, for approval, to the Assembly.

Since there has been considerable dialogue, there may not be any additional revisions from the Planning Commission.

Staff will suggest three findings for the board to consider. They are 1) the proposed revisions fill a community need and there has been substantial written testimony in support of changing the current process, 2) the proposed Planning Commission review process allows for permits to be considered on a case by case abbreviated review process, and, 3) the proposals are consistent with the Comprehensive Plan.

Following a motion on findings, a motion recommending approval to the Assembly is in order.

**Lisa Sadler-Hart and Thomas Hart**  
**Zoning Text Change**  
Commercial Home Horticulture  
October 7, 2014

**Lisa Sadler-Hart and Thomas Hart**  
**Zoning Text Change**  
Commercial Home Horticulture  
September 16, 2014

Discussions continued at the last meeting on the zoning text amendment. Again bringing up a range of issues, from concerns of commercial uses in residential zones to number of sales per week.

Commissioners struck smokehouses from the proposal as the general consensus was they are not congruent with horticulture uses. This discussion sparked more concerns over small structures and greenhouses proximity to property lines. It was decided that this is also a separate issue and should not be included in this discussion.

The discussion moved on to the permitting process that included two Planning Commission meetings for approval. This would allow permits to be based on the individual neighborhood and could deal with concerns on a case by case basis as opposed to generalized throughout all areas.

Discussion also led to the size of the garden stand. Sadler-Hart thought that no larger than a six foot table was necessary. Commissioners thought there would be instances where it should be larger. The main points being that the structure should be aesthetically pleasing and temporary (i.e. put away in winter) in nature.

Staff has crafted a code framework for tonight's discussion. The framework covers the points that were considered on September 2<sup>nd</sup>. We have also provided the relevant sections of the code that cover permit reviews. The framework can be discussed at the meeting and the definition of commercial home horticulture can be explored.

**Lisa Sadler-Hart and Thomas Hart**  
**Zoning Text Change**  
Commercial Home Horticulture  
September 2, 2014

Back again this evening, is the request for zoning text change for commercial home horticulture and change to the definition.

Discussion points from last meeting that should be continued:

- Commercial use in residential zone
- Increased traffic
- Parking
- Possibility of odors
- Never-ending garage sale like
- Additional permitting process limiting garden stands on smaller roads or properties under 50 ft. wide



- Time/occurrence limit on garden stands
- Greenhouses- size and proximity to property lines

Staff anticipates these discussions will take multiple meetings but are important in the final outcome. No new public comment has been received.

**Lisa Sadler-Hart and Thomas Hart**  
**Zoning Text Change**  
Commercial Home Horticulture  
August 19, 2014

The Applicants are requesting that Commercial Home Horticulture be a permitted use in the R-1, R-1 MH, R-2, R-2 MHP, GI and LI zones rather than a conditional use permit.

The Hart's have a large vegetable garden and small greenhouse at their personal residence, located at 815 Charles Street (R-1 zone). They are requesting the zoning text change and definition change so they have the option, through permitted use, of having a small stand at their residence to sell produce.

The zoning text change would allow these small stands and sales to be a permitted use in almost all residential zones including islands.

Discussion needs to occur surrounding the size of structure that will be allowed as a place to sell from. Also should this Commercial Home Horticulture request be limited to summer months, etc. The applicant is envisioning a small "lemonade" style stand or single table, however the dimensions should be defined in the zoning text change definition.

There is also merit, since we are dealing with this concept, in coming up with a maximum size for any greenhouses that may be on residential lots. There are a number of ways to size the greenhouses, including a range based on the size of the lots.

The Planning Office is suggesting the Board have a discussion with the applicant on the overall concepts behind the text change, the size of the produce stands, and the size of greenhouses. After a consensus is reached, we can schedule it for the Planning Commission meeting on September 2<sup>nd</sup>. It's important to give the public an opportunity to comment on the proposed size of the structures before a formal recommendation is made to the Assembly.

The Planning Office is fully supportive of this request and considers it to be a natural evolution in how home horticulture is permitted in Sitka. Home horticulture was dealt with cautiously when the current code was enacted. Support and awareness has increased so it makes sense to make it a permitted use instead of a conditional use. Working out all the details at the Planning Commission level may result in a shorter Assembly review period.

The issue will be scheduled for an additional Planning Commission meeting on September 2<sup>nd</sup> for additional public comment unless the Board moves faster than staff anticipates.

## **22.08.195 Commercial home horticulture.**

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"Commercial home horticulture" means the on-site production, principally for use or consumption by the property owner or tenant, of plants or their products, including but not limited to gardening and fruit production. Commercial home horticulture does not include the sale of such products produced off-site, but does include the sale of such products produced and sold on-site to others. It also does not include such products as livestock, poultry, other animals, or the production of animal related products. **Accessory buildings, such as garden standds, other than those specifically allowed in zoning districts, may only be permitted through the Planning Commission Home Horticulture Permit Process in SGC 22.24.025.**

**Table 22.16.015-6  
Retail and Business Uses**

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD (8)	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	SC
<b>RETAIL USES</b>																		
• Building, hardware and garden materials										P	P		P	C	C			P
• Bulk forest products sales									P	P	P	P	P	P				P
• Retail forest products sales										P	P	P	P					C
• Art galleries and sales of art									P	P	P	P						
• Department and variety stores									P	P	P	P(5)		C	C			
• Food stores									P	P	P	P(5)		C	C	C(6)		C
• Agricultural product sales										P	P		P	C	C			P
• Motor vehicle and boat dealers									P(7)	P	P	P(5)		C				P
• Auto supply stores									P	P	P			C	C			P
• Gasoline service stations									C	P	P		P	C	C			C
• Apparel and accessory stores									P	P	P	P(5)		C	C			
• Furniture and home furnishing stores									P	P	P			C				C
• Eating and drinking places									P	P	P	P	C	PU/ CS	C			C
• Drug stores									P	P	P			C	C			
• Liquor stores									P	P	P	P(5)		C	C			
• Used goods, secondhand stores									P	P	P	P(5)		C	C			C
• Sporting goods									P	P	P	P(5)		C	C			
• Book, stationery, video and art supply									P	P	P	P(5)		C	C			
• Jewelry stores									P	P	P	P(5)		C	C			
• Monuments, tombstones and gravestones									P	P	P		P	C	C			P
• Hobby, toy, game stores									P	P	P			C	C			
• Photographic and electronic stores									P	P	P	P(5)		C	C			
• Fabric stores									P	P	P			C	C			
• Fuel dealers										P	P		P	C	C			C
• Florists									P	P	P			C	C			
• Medical supply stores									P	P	P			C	C			
• Pet shops									P	P	P			C	C			
• Sales of goods that are wholly manufactured at Sawmill Cove Industrial Park SCIP																		P
• Sales of gifts, souvenirs and promotional materials that bear the logo or trade name of an SCIP permitted use business																		P
• Stand alone souvenir and gift shops									P	P	P	P						
• Bulk retail										P	P			C	C			

DISTRICT REGULATIONS

ZONES	P(1)	SF	SFLD	R-1	R-1 MH	R-1 LDMH	R-2	R-2 MHP	CBD (8)	C-1	C-2	WD(2)	I(3)	GI(4)	LI(4)	R	OS	SC
• Commercial home horticulture	P	C	C	C	C		C	C	P	P	P	P		PU/CS	C	P	P	
• Horticulture and related structures	P								P	P	P	P						P
BUSINESS SERVICES																		P
• General business services									P	P	P	P(5)	P	C	C			C
• Professional offices							C	C	P	P	P	P(5)		C	C			P
• Communications services									P	P	P	P(5)		C	C			P
• Research and development services									C	P	P	C(5)	P	C	C			P

P: Public Lands District

SF: Single-Family District

SFLD: Single-Family Low Density District

R-1: Single-Family/Duplex District

R-1 MH: Single-Family/Duplex/Manufactured Home District

R-1 LDMH: Single-Family/Duplex and Single-Family/Manufactured Home Low Density Districts

R-2: Multifamily District

R-2 MHP: Multifamily/Mobile Home District

CBD: Central Business District

P—Permitted

C—Conditional Use Permit Required

PU/CS—Permitted on Unsubdivided Islands and Conditional Use on Subdivided Islands

C-1/C-2: General Commercial and General Commercial/Mobile Home Districts

WD: Waterfront District

I: Industrial District

GI: General Island District

LI: Large Island District

R: Recreational District

OS: Open Space District

SC: Sawmill Cove Special District

H. Retail and Business Uses Table 22.16.015-6 Footnotes.

1. Public facilities not otherwise identified may be permitted in the public zone subject to planning commission recommendation and assembly approval subject to findings of fact that show the use is in the public interest, all reasonable safeguards are to be employed to protect the surrounding area, and that there are no reasonable alternative locations for the use.
2. All uses in the waterfront district are intended to be water-related or water-dependent except that upland uses may be non-water-related.
3. No industrial use shall be of a nature which is noxious or injurious to nearby properties by reason of smoke, emission of dust, refuse matter, odor, gases, fumes, noise, vibration or similar conditions.
4. Uses listed as conditional uses in the GI and LI zones may be considered, but not necessarily approved, on a case-by-case basis.

5. When associated with a water-related principal use.
6. Small scale convenience stores subordinate to principal permitted uses.
7. Motor vehicles and boat dealers permitted on a short-term basis.
8. Kiosks, outdoor restaurants, portable structures such as food stands and other temporary structures that are clearly incidental to the primary use on the lot are permitted uses. Mobile food carts on wheels are permitted uses on private property. Kiosks, outdoor restaurants, portable structures such as food stands and other temporary structures that are not clearly incidental to the primary use on the lot are conditional uses.

(Ord. 13-14A § 4 (part), 2013; Ord. 12-31A §§ 4(E), (F), 2012; Ord. 11-34 § 4, 2011; Ord. 11-31 § 4, 2011; Ord. 11-04S § 4(A), 2011; Ord. 10-32 § 4, 2010; Ord. 10-12 § 4 (part), 2010; Ord. 09-78 § 4, 2010; Ord. 09-51 §§ 4(A), (B), (D), 2009; Ord. 08-44 § 4,

**.....For Commercial Home Horticulture Permits Code Placement  
Context.....**

**Title 22 ZONING**

**Chapters:**

- 22.04 Introduction and General Provisions**
- 22.08 Definitions**
- 22.12 Zoning Maps and Boundaries Revised 7/14**
- 22.16 District Regulations Revised 7/14**
- 22.20 Supplemental District Regulations and Development Standards**
- 22.24 Special Use Permits***
- 22.30 Zoning Code Administration**

***Chapter 22.24 SPECIAL USE PERMITS***

**Sections:**

- 22.24.005 General.**
- 22.24.010 Conditional uses.**
- 22.24.020 Variances.**
- ....22.24.025 Commercial Home Horticulture Permits....***
- 22.24.030 Planned unit developments.**
- 22.24.040 Binding site plan approval.**
- 22.24.050 Nonconforming use permit.**

**22.24.010 Conditional Uses E.** In evaluating the inputs of a proposed conditional use permit, the municipality may consider a commercial conditional use to be inappropriate for residential neighbors while the same conditional use may be acceptable when it is located along an arterial or collector street. The additional vehicular traffic generated by conditional uses, such as professional offices, may not be able to be adequately mitigated in residential areas.

1. Criteria to Be Used in Determining Impacts of Conditional Uses.
  - a. Amount of vehicular traffic to be generated and impacts of the traffic on nearby land uses.
  - b. Amount of noise to be generated and its impacts on surrounding land uses.
  - c. Odors to be generated by the use and their impacts.
  - d. Hours of operation.
  - e. Location along a major or collector street.
  - f. Potential for users or clients to access the site through residential areas or substandard street creating a cut through traffic scenario.
  - g. Effects on vehicular and pedestrian safety.



A. **Staff Report.** The administrator shall prepare a staff report on the proposed development or action summarizing any comments, analysis, and recommendations of city departments, affected agencies and special districts, evaluating the development's consistency with the comprehensive plan, code, and other adopted plans and regulations. The staff report may include findings, conclusions or proposed recommendations for disposition of the development application.

B. **Hearing.** The planning commission shall conduct a public hearing on development proposals for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the city's comprehensive plan, code, and other adopted plans and regulations. Notice of the planning commission hearing shall be in accordance with Article IV of this chapter.

C. **Required Findings for Conditional Use Permits.** The planning commission shall not recommend approval of a proposed development unless it first makes the following findings and conclusions:

1. The city may use design standards and other elements in this code to modify the proposal. A conditional use permit may be approved only if all of the following findings can be made regarding the proposal and are supported by the record that the granting of the proposed conditional use permit will not:

- a. Be detrimental to the public health, safety, and general welfare;
- b. Adversely affect the established character of the surrounding vicinity; nor
- c. Be injurious to the uses, property, or improvements adjacent to, and in the vicinity of, the site upon which the proposed use is to be located.

2. The granting of the proposed conditional use permit is consistent and compatible with the intent of the goals, objectives and policies of the comprehensive plan and any implementing regulation.

3. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced.

4. The proposed use will not introduce hazardous conditions at the site that cannot be mitigated to protect adjacent properties, the vicinity, and the public health, safety and welfare of the community from such hazard.

5. The conditional use will be supported by, and not adversely affect, adequate public facilities and services; or that conditions can be imposed to lessen any adverse impacts on such facilities and services.

6. **Burden of Proof.** The applicant has the burden of proving that the proposed conditional use meets all of the criteria in subsection B of this section.

### **22.30.050 Planning commission.**

The planning commission shall be constituted in accordance with Chapter 2.18 of this code and the Sitka Home Rule Charter and shall have the responsibility of reviewing and acting on the following:

A. Recommendations to the assembly on approvals of subdivisions, planned unit developments, and binding site plans.

- h. Ability of the police, fire, and EMS personnel to respond to emergency calls on the site.
- i. Logic of the internal traffic layout.
- j. Effects of signage on nearby uses.
- k. Presence of existing or proposed buffers on the site or immediately adjacent the site.
- l. Relationship if the proposed conditional use is in a specific location to the goals, policies, and objectives of the comprehensive plan.
- m. Other criteria that surface through public comments or planning commission assembly review.

**22.30.150 Administrative approvals without notice.**

A. The administrator may approve, approve with conditions, or deny the following without notice:

- 1. Boundary (lot) line adjustments.
- 2. Extension of time for approval.
- 3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not (a) affect overall project character, (b) increase the number of lots, dwelling units, or density, or (c) decrease the quality or amount of open space.
- 4. Home occupations and other accessory uses in single-family zones.
- 5. Minor adjustment to yard requirements in residential zones where the administrator may allow development to encroach up to two feet into a required yard setback when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.
- 6. Minor adjustment to yard requirements for residential structures in commercial zones where the administrator may allow development to encroach up to two feet in required setbacks adjacent to municipally owned upland tracts exceeding fifty acres when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.

***7. Required Findings for Nonconforming Use Permits. The city shall grant a nonconforming use permit if documentary evidence is provided by the applicant to support the planning commission's findings that:***

- a. Granting a nonconforming use permit is necessary to adapt the nonconforming use and associated structures to changes in technology, merchandising, or other generally recognized trends which affect the utility of structures or the applicant's ability to compete;
- b. Granting a nonconforming use permit will not introduce any (additional) hazards or interfere with the potential development of nearby properties in accordance with present zoning regulations;
- c. The nonconforming use and associated structures will comply with the requirements of Section 22.24.050(B);
- d. The applicant's proposal will result in improvements in functionality or safety, or in exterior appearance, screening, access and other features which will make the use or structure more compatible with allowed uses; and
- e. Granting a nonconforming use permit will not detract from the intent of the comprehensive plan and any implementing regulation.

**22.30.160 Planning commission review and recommendation.**

Planning commission decision and action authority is defined in Section 22.30.050.



### **22.30.030 Administrator.**

The term "administrator" shall mean the city and borough administrator, or an individual operating with his/her express knowledge on his/her behalf. Said individual may include, but is not limited to, the planning director or planning assistant. The administrator is responsible for the administration of this title and shall review and act on the following:

- A. Administrative Interpretation. Upon request or as determined necessary, the administrator shall interpret the meaning or application of the provisions of said titles and issue a written administrative interpretation. All administrative determinations shall be reported to the planning commission within a reasonable period of time following their issuance.
- B. Nonconforming use permits.
- C. Administrative approvals as set forth in Section 22.30.150.

### **22.30.150 Administrative approvals without notice.**

A. The administrator may approve, approve with conditions, or deny the following without notice:

- 1. Boundary (lot) line adjustments.
- 2. Extension of time for approval.
- 3. Minor amendments or modifications to approved developments or permits. Minor amendments are those which may affect the precise dimensions or location of buildings, accessory structures and driveways, but do not (a) affect overall project character, (b) increase the number of lots, dwelling units, or density, or (c) decrease the quality or amount of open space.
- 4. Home occupations and other accessory uses in single-family zones.
- 5. Minor adjustment to yard requirements in residential zones where the administrator may allow development to encroach up to two feet into a required yard setback when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.
- 6. Minor adjustment to yard requirements for residential structures in commercial zones where the administrator may allow development to encroach up to two feet in required setbacks adjacent to municipally owned upland tracts exceeding fifty acres when it is determined that strict application of the setback requirement may cause an undue hardship and there are not impacts on adjacent properties.

- B. Recommendations to the assembly on amendments to the comprehensive plan.
- C. Recommendations to the assembly on amendments to the subdivision code, Title 21 of this code.
- D. Recommendations to the assembly on amendments to the zoning code, this Title 22, or the official map.
- E. Approve variances with appeals possible to the assembly.
- F. Recommendations on conditional use permit applications.
- G. Other actions requested or remanded by the assembly.

B. Administrator's decisions under this section shall be final on the date issued.

August 5th, 2014

To Whom It May Concern;

We have heard that a request to make commercial home horticulture a permitted use in the in the residential and island zones is coming before the Planning Commission and we would like to go on record as supporting such an amendment to the City codes for several reasons.

As you may be well aware, the "Sitka Community Food Assessment Indicators Report" recently revealed that Sitka has a serious food security issue and that there is a definite need to increase our food resiliency. Encouraging home horticulture is one of the many needed steps the City can take to increase our food security and resiliency and this zoning text amendment is one of those steps.

From a more personal experience, we have been gardening and growing on Finn Island for years and have watched the demand for locally grown vegetable "starts" and, later in the season, locally grown produce increase almost exponentially. Noticing this trend - especially requests for locally grown vegetable starts - we expanded our greenhouse and started a business (Finn Island Farm) to meet this demand. Suffice it to say that this season went so well that we are planning on expanding again. Needless to say, as a business that supplies vegetable starts to small scale growers, we whole-heartedly support any action the City takes which encourages home horticulture.

From an economic point of view, encouraging current and future growers to sell extra produce locally means that those funds (which normally "flow" out of Sitka through the purchase of products from outside the community) will stay within and benefit our community and have an economic "multiplier-effect."

Lastly, improving Sitka's food security system also includes improving the nutritional value of what we eat. Given that it can take up to 2 weeks for imported produce to reach our grocery stores; that, once harvested, the vitamins, minerals, and antioxidants in produce decreases substantially during storage, shipping and grocery store display periods, and; that organic naturally grown produce contains higher levels of vitamins and minerals compared to industrialized, conventional agriculture products - promoting locally grown produce means Sitkans can eat healthier foods while supporting not only their neighbors, but the community as a whole.

Once again... as citizens and local business owners we support amending the zoning codes to make commercial home horticulture a permitted use in both residential and island zones.

Sincerely;

Keith Nyitray & Debby LeVeck - owners  
Finn Island Farm  
PO Box 6531  
Sitka, AK 99835



## SITKA LOCAL FOODS NETWORK

408-D Marine St.  
Sitka, Alaska 99835

[sitkalocalfoodsnetwork@gmail.com](mailto:sitkalocalfoodsnetwork@gmail.com)

<http://www.sitkalocalfoodsnetwork.org/>

<https://www.facebook.com/SitkaLocalFoodsNetwork>

**Aug. 8, 2014**

To whom it may concern:

The Sitka Local Foods Network is writing to show its support for the pending rezoning request of Tom Hart and Lisa Sadleir-Hart, dba Anam Cara Family Garden. This rezoning request will make commercial home horticulture (ie, a farm/garden stand) a permitted use in residential and island zones (R-1, R-1 MH, R-2, R-2 MHP, GI and LI).

The passing of this rezoning request will create opportunities for small growing operations, such as Anam Cara Family Garden and other current and future growers, to sell extra produce on-site once the operation has moved through the permitting process. This request also will create an expedited permitting process, so future operations can receive their permits without having to go to the Sitka Assembly for approval.

A special note about this request. Lisa Sadleir-Hart is president of the Sitka Local Foods Network, but she recused herself when our board voted to support this rezoning request. The Sitka Local Foods Network's mission is dedicated to promoting the growing, harvesting and eating of local foods in Sitka, Alaska, and we feel this rezoning request falls within this mission. We feel this is another spoke in the wheel of improving Sitka's food system, and it also will stimulate the economy by promoting small local businesses. We are amenable to the addition of special conditions, such as parking limitations and time limits for the produce stands, if that makes it easier for neighbors to accept the stands.

Among the reasons we support this rezoning request is because the Alaska Department of Health and Social Services reports that only 25 percent of Alaskans eat the recommended five servings of fruits and vegetables per day, and this rezoning request will improve access to fresh, local produce. Also, grocery prices in Sitka have risen 43 percent since 2006, and making it easier to sell excess produce will help encourage more people to garden, which will improve food security in Sitka.

Thank you for your time,

The Sitka Local Foods Network Board of Directors  
President, Lisa Sadleir-Hart; Vice-President, Michelle Putz; Secretary, Beth Kindig; Treasurer, Maybelle Filler; Lauren Fetzer; Milt Fusselman; Charles Bingham; Matthew Jackson; one vacancy.



P.O. Box 6407  
Sitka, AK 99835

Bringing good food and  
community together

August 8<sup>th</sup>, 2014

To The Sitka Planning Commission;

The Sitka Food Co-op supports the request to make commercial home horticulture a permitted use in the residential and island zones of the City & Borough of Sitka.

As the Sitka Food Co-op, we are intrinsically involved in the local food system. Among our "Purposes and Powers" (as incorporated within our ByLaws) we state that the Sitka Food Co-op was formed to:

- Make available wholesome natural and organic foods and products as inexpensively as possible;
- Support and encourage local growing of fresh organic foods;
- Purchase and purvey, whenever feasible, the goods or services of local and regional growers and producers;
- Serve as a center for activities and services which otherwise enrich the life of the community.

Amending the City zoning rules/regulations/codes to support home horticulture is something we strongly encourage you to do as it will both support and allow Sitkans greater access to healthy, locally sourced food as well as providing greater local access to (and sources of) affordable food for the sustainable future.

Most Sincerely;

The Board of Directors  
*Kallie Adams, Robert Baines,  
Pat Hanson, Jen Mac Donald,  
Keith Nyitray*

August 8, 2014

Maegan Bosak  
City of Sitka Planning and Zoning Department  
100 Lincoln Street  
Sitka, AK 99835

RE: Zoning and Permitting of Home Horticulture

To whom it may concern,

As a resident of Sitka and coordinator of Blatchley Community Gardens I support making commercial home horticulture a permitted use in the residential and island zones.

I support amending Sitka General Code to amend the zoning text to add zones R-1, R-1 MH, R-2, R-2 MHP, GI and LI to those permitted under home horticulture.

As a gardener my partner and I grow more food then we can eat. We are always giving it away to friends or exchanging it for other foods. I would like to see an easy process where gardeners can also sell their extra food or grow enough to have a steady income from their sales.

Thank you for considering this proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Nuetzel". The signature is stylized and cursive.

Dave Nuetzel  
Blatchley Community Garden Coordinator & citizen



Linda Wilson – Seaview Gardens  
3509 Halibut Point Road  
Sitka, Alaska 99835  
907-747-3096 (home)

August 8, 2014

Sitka Planning and Zoning Commission  
City & Borough of Sitka  
100 Lincoln Street  
Sitka, Alaska 99835

Dear Sirs:

I have been growing produce on my residential property for about ten years. For the past seven years I have been selling some of that produce at the Sitka Farmers Market. Most of the produce is either used by my family and friends or given to others that need it.

I have expanded my growing capacity every year and now find that I have excess produce available at times when there is no scheduled Farmers Market. Some of this I take to the Salvation Army.

However, in order to keep growing all this fresh, tasty nutritious produce, I do need to sell enough to pay the costs to purchase seeds, soil amendments, supplies and tools.

Therefore, I strongly support making commercial home horticulture a permitted use in the residential and island zones. This would allow me to recover some of my costs by selling produce directly at the garden.

Best regards,



Linda Wilson – Seaview Gardens (AK business license #1006681)  
An Approved **Alaska Grown** Business



July 25, 2014

Dear Planning and Zoning Commission,

We support re-zoning requests for “commercial” home horticulture in residential neighborhoods in Sitka and on island property.

For that last eight years local residents have gathered to answer and simple and important question, “what wellness initiative deserves Sitka’s attention in the next 365 days?” Many of the ideas participants have submitted revolve around improving our local food system. In 2008 creating a Farmers Market was selected as a top goal along with creating a community greenhouse.

Good health and good nutrition go hand in hand so it is no surprise that growing local food in Sitka is a common theme. The particular ideas vary from starting the Fish to Schools Program to completing a food assessment to launching a community kitchen. One thing that all of the ideas have in common is a emphasis on fresh, local, and nutritious food.

Based on what’s happened at our annual planning we fully endorse the proposal you are considering, in part because it has community support and in part because of the health benefits.

Produce that is grown in Sitka has many advantages. One is that the food comes fresh and without a shipping costs. Secondly the produce that could be grown here (lettuce, kale, rhubbarb, chard, peas, onions, leeks, etc.) is very healthy. Encouraging fruit and vegetable consumption is an important part of the promoting public health.

The Sitka Health Summit coalition is led by the Sitka Community Hospital, the SouthEast Alaska Regional Health Consortium and the State of Alaska Division of Public Health Nursing in partnership with dozens of local non –profit agencies, businesses and individual supporters. The Summit’s vision is *“to serve our great state as a model for community wellness by creating a healthy community where all Sitkans strive for and enjoy a high quality of life.”* Growing and eating nutritious local food is part of how that vision will be realized.

Thank you for your consideration,

Sitka Health Summit Coalition members,

Doug Osborne, Patrick Williams, Melissa Marconi-Wentzel

August 3, 2014

To whom it may concern,

I am writing to ask for your support in making commercial home horticulture a permitted use in residential and island zones. This ~~rezoning~~ zoning change will help simplify the permitting process for developing small, home-based horticulture businesses ~~move more easily through the permitting process, which~~ and will help to stimulate the local economy and provide more local food to our community.

Thank you,  
Lori Adams  
Down To Earth U-pick Garden



Alaska Food Policy Council  
E-mail: akfoodpolicycouncil@gmail.com  
Blog: akfoodpolicycouncil.wordpress.com  
Facebook: akfoodpolicy

## Governing Board

### Co-Chairs

Victoria Briggs, *Ugashik*  
Elizabeth Hodges Snyder,  
*Anchorage*

### Members

Abigail Enghirst,  
*Anchorage*  
Daniel Consenstein,  
*Anchorage*  
Mike Emers, *Ester*  
Gary Ferguson, *Anchorage*  
Hans Geier, *Fairbanks*  
Kelly Harrell, *Anchorage*  
Carolyn Kinneen,  
*Anchorage*  
Lorinda Lhotka, *Fairbanks*  
Nick Moe, *Anchorage*  
Lisa Sadleir-Hart, *Sitka*  
Darren Snyder, *Juneau*  
Louisa Yanes, *Palmer*

### Ex-Officio Members

Diane Peck, *Anchorage*  
Amy Pettit, *Palmer*

July 22, 2014

## City and Borough of Sitka

The Alaska Food Policy Council Governing Board would like to extend its support for the Sitka re-zoning request in making commercial home horticulture a permitted use in the residential and island zones. This zoning text amendment will add zones R-1, R-1 MH, R-2 MHP, GI and LI to those permitted under home horticulture. Allowing farm and garden stands in residential neighborhoods to sell extra produce on-site will help improve Sitka's food system, thereby improving Sitka's health, self-reliance and prosperity.

The Alaska Food Policy Council works to improve the food system for the benefit of all Alaskans. Our three-year strategic plan includes objectives and strategies that encourage the expansion of local food production capacity. Policies, such as allowing permitted farms and garden stands to sell produce on-site, encourage the expansion of personal capacities in agriculture and local food production, build economic opportunity for local small businesses, improve access to healthy, affordable food for local residents, and reduce reliance on expensive, imported foods. We believe this re-zoning request will have a positive impact on the food system, residents and community of Sitka.

Sincerely,

Victoria Briggs  
Alaska Food Policy Council, Co-Chair

Elizabeth Hodges Snyder  
Alaska Food Policy Council, Co-Chair

## Letter of Support for Sitka Zoning Change.

To whom it may concern,

This letter is to affirm my strong support for making commercial home horticulture a permitted use in the residential and island zones of Sitka. My conviction for this proposed change is based on several aspects;

- That a diversity of income options is becoming an essential aspect to home economy in Sitka.
- That “home horticulture” is a valuable skill that was once commonplace and needs to be more broadly relearned and adapted to the S.E. environment.
- That stronger nutritional food systems and more divers economic options create stronger citizenry in relation to physical and mental health which returns dividends to the community in both intrinsic measurements and extrinsic values.
- That production systems such as “home horticulture” are inherently primary economic functions and inevitably the secondary, or value added, economies will develop.
- That self sufficiency is not the true goal but every step closer makes a community more resilient in the face of unforeseen changes.
- That increased personal connections created through developing small scale business opportunities also fosters community cohesion and resiliency.
- That we are at a moment in time where our community can distinguish itself as a leading role model in re-visioning of the Alaska food system, and support at the public policy level will greatly serve to demonstrate this both to outside interested parties and to households eager to engage in new opportunities.
- That the groundwork of support has already been laid down by events such as the Sitka Health Summit, and groups like The Sitka Local Foods Network and Sitka Conservation Society to name just a few.

And lastly;

- That the benefits to such a proposed change far outweigh the possible issues that may arise, and that if we are not equipped as a community to surmount such issues we are likely ill prepared to competently face bigger ones as they arise.

The bullet points mentioned here focus heavily on economic and community resiliency values which are the subject of greatest interest to myself, but there are a great deal of points left to be made on general mental and physical health, as well as subjects such as childhood education and community leadership development, green infrastructure development as a positive benefit to public infrastructure, and the myriad of other extrinsic values that have been measured in association with garden projects such as reduced crime rates, less sick days, increased public participation, and so on.

Clearly I could go on but I offer instead my email, [judkirkness@yahoo.com](mailto:judkirkness@yahoo.com), and my cell phone number, 907-738-3254.

Sincerely  
Jud Kirkness

## Maegan Bosak

---

**From:** Tom, Lisa & Muriel Sadleir Hart [3akharts@acsalaska.net]  
**Sent:** Tuesday, July 22, 2014 7:55 PM  
**To:** Maegan Bosak  
**Subject:** Fwd: In Support of Commercial Home Horticulture

Here's a letter in support of the zoning change from our neighbor across the street from us.

Lisa  
Tom, Lisa & Muriel Sadleir Hart  
[3akharts@acsalaska.net](mailto:3akharts@acsalaska.net)

Begin forwarded message:

**From:** Isaac Grody-Patinkin <[isaac.grody@gmail.com](mailto:isaac.grody@gmail.com)>  
**Subject:** In Support of Commercial Home Horticulture  
**Date:** July 22, 2014 3:41:54 PM AKDT  
**To:** Lisa & Muriel Sadleir Hart Tom <[3akharts@acsalaska.net](mailto:3akharts@acsalaska.net)>  
**Cc:** Kristen Widmer <[kristenwidmer@gmail.com](mailto:kristenwidmer@gmail.com)>

*Dear City Planning Department of Sitka,*

*We are writing in strong support of making commercial home horticulture a permitted use in the residential and island zones, by amending the zoning text to add zones R-1, R-1 MH, R-2, R-2 MHP, GI and LI to those permitted under home horticulture.*

*The Local foods movement of Sitka is a tremendous inspiration for our family to lay roots here and being able to buy local produce from our neighbors would be a fantastic step in the direction of Sitka's long term food security.*

*We sincerely hope you will make this zoning change and that we'll be able to buy local produce on ever block in Sitka in years to come.*

*In gratitude,*

*Isaac Grody-Patinkin & Kristen Widmer*

--  
Isaac Grody-Patinkin  
505-231-8407 cell  
[Isaac.Grody@gmail.com](mailto:Isaac.Grody@gmail.com)  
[www.communitymassage.org](http://www.communitymassage.org)  
102 Bahrt Circle  
Sitka, AK 99835







ORIGINAL  
SUBMITTAL

CITY AND BOROUGH OF SITKA  
PLANNING DEPARTMENT  
ZONE CHANGE APPLICATION

ZONE MAP AMENDMENT FEE	\$100.00
ZONE TEXT AMENDMENT FEE	\$100.00
Plus current city sales tax	

Applicant's Name: LISA SAOLGER-HART AND THOMAS HART  
 Phone Number: 747-5985  
 Mailing Address: 815 CHARLES ST  
 Applicant's Signature: [Signature] Date Submitted 7/9/14

Provide information or data, as necessary, to fully outline the reasons and justifications for the request. Attach additional sheets as necessary.

- For official map amendments, the application shall contain:
1. A legal description of **each** subject property along with the owner's name, address, and contact person for **each** subject property;
  2. An analysis showing the public benefit of the proposed amendment;
  3. An analysis showing the proposal's consistency with the Comprehensive Plan;
  4. A map of the area to be rezoned.

LIST SPECIFIC REQUEST: PERMIT HORTICULTURE AND RELATED STRUCTURES IN RESIDENTIAL ZONES SPECIFICALLY AT 815 CHARLES ST. AND MOVE TO A PERMIT PROCESS RATHER THAN

EXPLANATION OF REQUEST: WE CURRENTLY HAVE A LARGE RESIDENTIAL VEGETABLE GARDEN AND SMALL GREENHOUSE ON OUR 815 CHARLES STREET PROPERTY. WE WOULD LIKE TO SELL OUR EXCESS PRODUCE PLUS STARTS DIRECTLY TO CONSUMERS ON SITE. THIS PROPOSED CHANGE WOULD ALSO ALLOW OTHER RESIDENTIAL BASED GROWERS TO HAVE AN OUTLET FOR THEIR PRODUCE AND WOULD WORK TO "GROW" SMALL, HOME-BASED BUSINESS IN SITKA PLUS WORK TO IMPROVE SITKA'S FOOD SECURITY.

CONDITIONAL  
USE  
PERMIT

After the application and supporting materials has been determined to be complete by the Planning Office, the request will be placed on the next available Planning Commission agenda.

th August 2013

Home Grown.

the best part of late summer is all the farm fresh produce that is for sale along the backroads. Most of the stands are self serve, but at some the owner will come out when a car drives up. Pricing and quality are much better than at the big stores.

Enjoy the earth's bounty while you can, because summer will be gone soon. Tom



[http://4.bp.blogspot.com/-YqbNttoNjrc/Uq1Igot9eI/AAAAAAAAAhk/YufzRvixU-A/s1600/IMG\\_7743.JPG](http://4.bp.blogspot.com/-YqbNttoNjrc/Uq1Igot9eI/AAAAAAAAAhk/YufzRvixU-A/s1600/IMG_7743.JPG)

A big farmer in our area has a bunch of these red trailer stands.

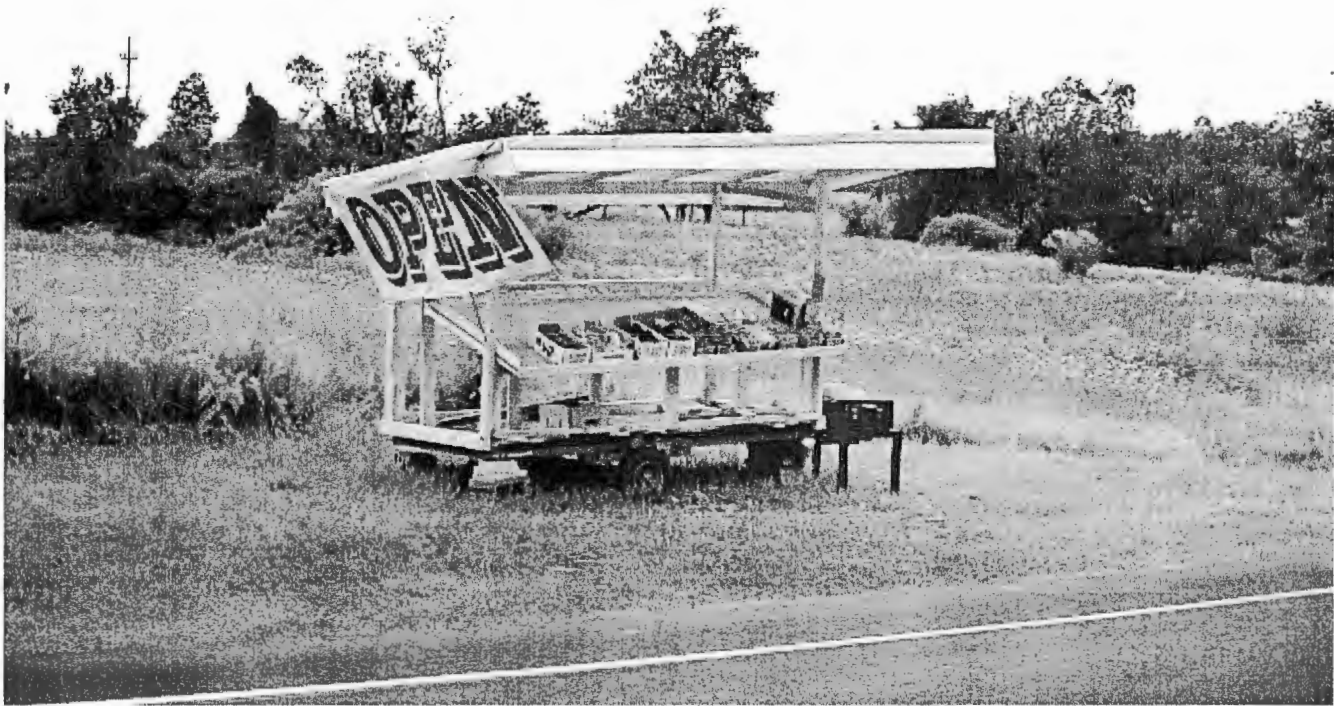
Example A





[http://1.bp.blogspot.com/\_K5t5M1C4DQ/UG1HqCprzo/AAAAAAAAAig0/FT8OhS7KjNE/s1600/DSC\_3604.JPG]

These folks sell vegetables and canned goods.



[http://1.bp.blogspot.com/\_jAHjddJYmDs/UG1HqCprzo/AAAAAAAAAig0/FT8OhS7KjNE/s1600/DSC\_3604.JPG]

A big banner tells folks they're open.





[[http://4.bp.blogspot.com/-zR0M1swztbc/Ug1l-bq45JI/AAAAAAAAIhc/-udjk7iaX-Y/s1600/DSC\\_3862.JPG](http://4.bp.blogspot.com/-zR0M1swztbc/Ug1l-bq45JI/AAAAAAAAIhc/-udjk7iaX-Y/s1600/DSC_3862.JPG)]  
In late afternoon lots of folks stop at this stand to pick up fresh corn for their dinner.



**Example D**

[http://2.bp.blogspot.com/\_500Apn1z147/0y1ue0FLI/AAAAAAAAAhs/WBYpdEaDCJU/s1600/IMG\_7732.JPG]

It's hard to see what they have.



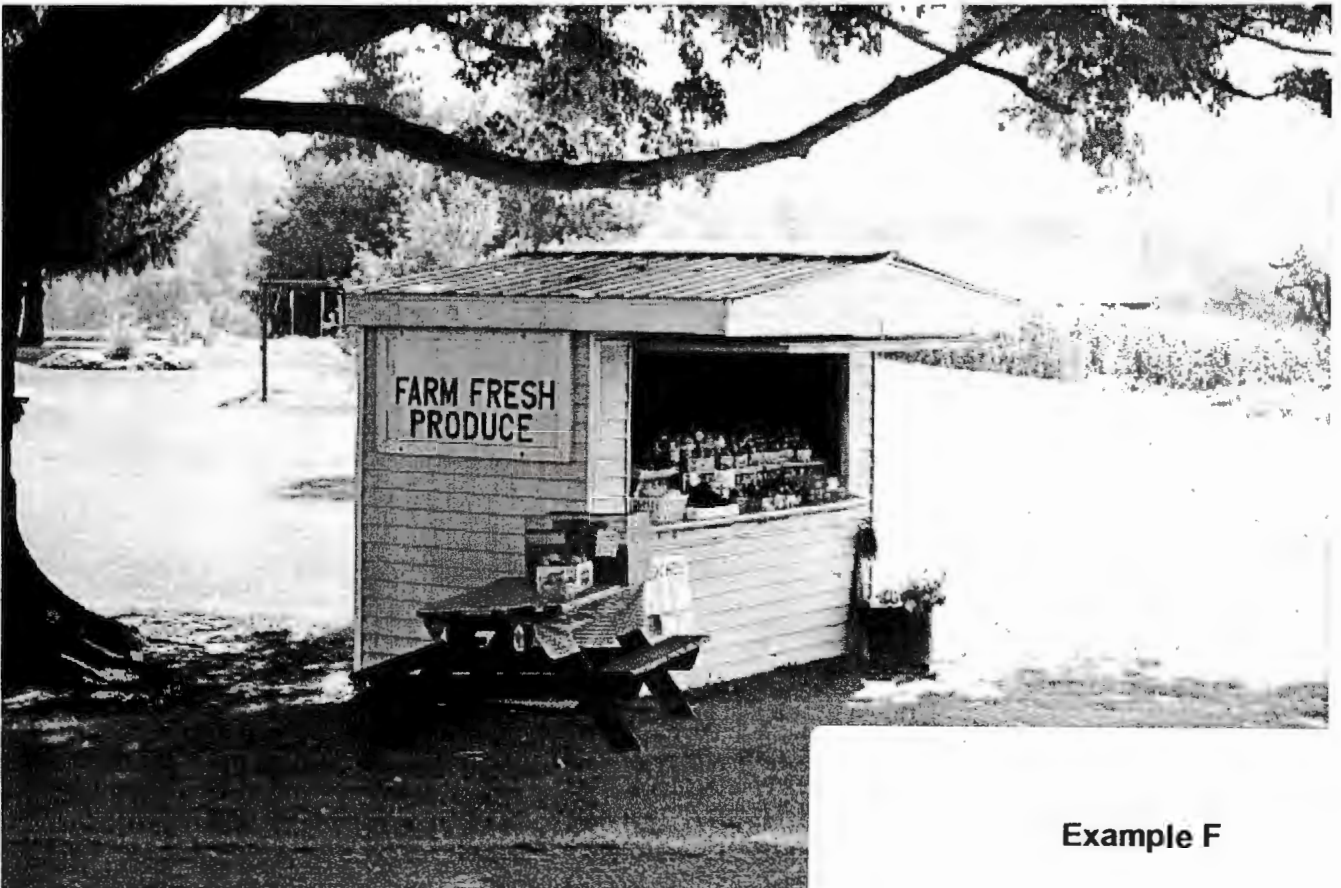
[http://1.bp.blogspot.com/\_luoRSXDipSg/Ug1JPnii-tI/AAAAAAAAAhs/WBYpdEaDCJU/s1600/IMG\_8128.JPG]

They bring corn by the truckload to this stand.





[[http://3.bp.blogspot.com/-q8WwWsh0BYA/Ug1JW8JnoTI/AAAAAAAAIh0/YcxczHL6uls/s1600/IMG\\_8810.JPG](http://3.bp.blogspot.com/-q8WwWsh0BYA/Ug1JW8JnoTI/AAAAAAAAIh0/YcxczHL6uls/s1600/IMG_8810.JPG)]  
It seems that every small town has a farmers market these days.



Example F



I stop here often.



Come and get your veggies.



[[http://1.bp.blogspot.com/-K8qae-a-LLY/Ug\\_pS0tVR9I/AAAAAAAAAloI/Vmh4fuiLeZA/s1600/IMG\\_8890.JPG](http://1.bp.blogspot.com/-K8qae-a-LLY/Ug_pS0tVR9I/AAAAAAAAAloI/Vmh4fuiLeZA/s1600/IMG_8890.JPG)]  
The Clyde market is busy on Saturday mornings.



**Example H**

I think I came by too early last Saturday. They weren't stocked up yet.



[[http://4.bp.blogspot.com/-MAgyBnKDM8/UhAH2VOjn-I/AAAAAAAAAqA/aqaQLNz29FQ/s1600/IMG\\_4830.JPG](http://4.bp.blogspot.com/-MAgyBnKDM8/UhAH2VOjn-I/AAAAAAAAAqA/aqaQLNz29FQ/s1600/IMG_4830.JPG)]

WOW 45 varieties of tomatoes! But. they aren't open anymore.



[[http://2.bp.blogspot.com/-YbdoFHSCcRE/UhKi5m9qhul/AAAAAAAAI2g/RalcpPVh4cg/s1600/IMG\\_6476.JPG](http://2.bp.blogspot.com/-YbdoFHSCcRE/UhKi5m9qhul/AAAAAAAAI2g/RalcpPVh4cg/s1600/IMG_6476.JPG)]

A small self service stand near our home.



## Legislation Details

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File #: ORD 14-39    Version: 1    Name:  
Type: Ordinance    Status: FIRST READING  
File created: 11/14/2014    In control: City and Borough Assembly  
On agenda: 12/9/2014    Final action:  
Title: Amending SGC Section 2.08.015 Selection of acting administrator to include a procedure for unforeseen appointments

Sponsors:

Indexes:

Code sections:

Attachments: [ORD 14-39A Acting Administrator and Motion.pdf](#)

Date	Ver.	Action By	Action	Result
11/25/2014	1	City and Borough Assembly		
11/25/2014	1	City and Borough Assembly		

## **POSSIBLE MOTION**

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**I MOVE TO** approve amended Ordinance 2014-39A on  
first reading.





City & Borough of Sitka  
**Municipal Clerk's Office**  
100 Lincoln Street, Sitka AK 99835  
Telephone: 907-747-1811 Fax: 907-747-4004



## Memorandum

To: Mayor and Assembly

Thru: Municipal Administrator Mark Gorman

From: Municipal Clerk Colleen Ingman

Date: November 14, 2014

**Subject: Acting Administrator Assignment(s) Amendment**

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Historically, even though there are three people assigned to fill in as acting administrator there are times when none of the three are available - the most recent being the week of November 17<sup>th</sup> when Mark travels to AML. During that absence he has assigned Dave Miller to serve, Chief Miller has served in this capacity in the past.

His action and the upcoming annual acting administrator assignments prompted me to review and rewrite the existing code. A copy of that rewrite is attached as Ordinance 2014-39. Please see the purpose section for further explanation.

Attachment

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2014-39A

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA, ALASKA AMENDING SITKA GENERAL CODE SECTION 2.08.015 SELECTION OF ACTING ADMINISTRATOR TO INCLUDE A PROCEDURE FOR UNFORESEEN APPOINTMENTS

1. **CLASSIFICATION.** This ordinance is of a permanent nature and is intended to become a part of the Sitka General Code.

2. **SEVERABILITY.** If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and application thereof to any person or circumstances shall not be affected thereby.

3. **PURPOSE.** There have been circumstances when none of the three persons listed to serve as acting administrator are available to serve. This ordinance amends the selection of acting administrator to address those times.

4. **ENACTMENT.** NOW, THEREFORE, BE IT ENACTED by the Assembly of the City and Borough of Sitka that Section 2.08.015 of Sitka General Code is amended to read as follows (underlined/bold new with old verbiage stricken):

**2.08.015 Selection of acting administrator.**

No later than January 15th of each calendar year, the administrator shall provide in writing to the assembly a list of at least three department heads from which the administrator can select a person to serve as acting administrator for a given period of time during the next twelve months. The administrator will select from that list, unless unforeseen circumstances require the administrator to select another person not on the list. If another person is selected, the assembly will be informed as soon as possible. The assembly by majority vote may direct the administrator to change the list or the selection.

~~No later than January 15th of each calendar year, the administrator shall provide in writing to the assembly a list of three individuals whom the administrator shall select from to serve as acting administrator during the next twelve months if an acting administrator is needed in the circumstances described in this section. The individuals shall be listed in rank order of selection to serve in that the first person shall be selected before the second person listed and the second person shall be selected before the third person listed. Unless the assembly by majority vote~~

41 ~~directs the administrator to change the list, the administrator shall select from that list provided to~~  
42 ~~the assembly an acting administrator to serve during a period when the administrator expects to~~  
43 ~~be absent from the city and borough, ill, or otherwise not performing the duties of the~~  
44 ~~administrator for a period of less than thirty days. The individuals listed shall be city and~~  
45 ~~borough department heads.~~

46  
47           5. **EFFECTIVE DATE.** This ordinance shall become effective on the day after  
48 the date of its passage.

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50           **PASSED, APPROVED, AND ADOPTED** by the Assembly of the City and Borough  
51 of Sitka, Alaska this 23trd day of December, 2014.

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\_\_\_\_\_  
Mim McConnell, Mayor

**ATTEST:**

\_\_\_\_\_  
Sara Peterson, CMC  
Acting Municipal Clerk

First Reading – 11/25  
Amended: 11-25  
First Reading as Amended – 12/9  
Second Reading – 12/23



## Legislation Details

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File #: 14-232      Version: 1      Name:

Type: Item      Status: AGENDA READY

File created: 12/3/2014      In control: City and Borough Assembly

On agenda: 12/9/2014      Final action:

Title: Approve a Tidelands Lease between Alaska Bulk Water Inc. and the City and Borough of Sitka at Sawmill Cove fronting the Gary Paxton Industrial Park

Sponsors:

Indexes:

Code sections:

Attachments: [Motion.pdf](#)  
[Tidelands bulk water lease MEMO \(5\).doc.pdf](#)  
[TAB Tidelands Lease.pdf](#)  
[bulk water corp drawings.pdf](#)  
[TABBWOriginalContract2006.pdf](#)  
[TAB Amendment No1signed.pdf](#)  
[TAB Amendment No 2-1 2010signed.pdf](#)  
[TAB Amendment 3 signed.pdf](#)  
[TAB Amendment 4 signed.pdf](#)

Date	Ver.	Action By	Action	Result
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## **POSSIBLE MOTION**

**I move to approve** the Tidelands Lease Agreement of approximately 18 acres of tidelands in Sawmill Cove between Alaska Bulk Water Inc. and the City and Borough of Sitka to construct a mooring buoy loading station to facilitate the export of bulk water as recommended by Gary Paxton Industrial Park Board. The tideland lease amount is \$5,292.54 annually per Sitka General Code.

Monday, December 1, 2014

MEMORANDUM

To: Mark Gorman – CBS Administrator  
From: Garry White, Director  
Subject: Alaska Bulk Water Inc. Tidelands Lease

**Introduction**

Alaska Bulk Water Inc. (ABWI) is requesting a tidelands lease seaward of the CBS's bulk water pipeline to construct a mooring buoy loading station to facilitate the export of bulk water.

The Gary Paxton Industrial Park (GPIP) Board of Directors recommended approval of ABWI's request at their 9/24/2014 meeting, passing the following motion:

**MOTION:** **M/S Jones/Eisenbeisz** moved to recommend that the Assembly approve a tidelands lease to Alaska Bulk Water, Inc. for a temporary mooring station for the export of bulk water as described in the memo dated Monday, September 22, 2014 or to approve any other appropriate legal structure that provides Alaska Bulk Water, Inc. use of the tidelands for this purpose.

**Background**

ABWI (formerly True Alaska Bottling) entered into a water purchase agreement with the CBS in 2006 to export raw water. The term of the agreement is for 20 years and contains performance benchmarks ABWI must meet or the CBS can terminate the agreement. There have been 4 amendments to the agreement to allow ABWI additional time to meet performance benchmark goals of exporting bulk water. The most recent amendment allocates 27,773 acre-feet of raw water annually to ABWI and requires it to move 50 million gallons of water by 12/7/2015. Please see attached agreement and amendments.

ABWI is responsible for providing infrastructure to export water. Section 10.1 of the agreement states the following:

“The parties agree that ABWI shall be solely responsible for the cost of acquisition, construction and installation of any structure, facility or vessel which it determines to be required or convenient for the loading and transportation of bulk water delivered to it by Sitka, and for initiating and completing such acquisition, construction and installation. All structures and facilities and construction of all structures and facilities, must comply with all Federal, State, and local law, including zoning requirements, and must be reviewed by GPIP board for its recommendation to Assembly, subject to Assembly approval before construction.”



ABWI has been working towards the development of a marine infrastructure and loading station to allow water to be exported from Sitka via large tanker vessels. The tideland lease is needed to complete this process.

### **Proposal**

ABWI is proposing to lease approximately 18 acres of tidelands in Sawmill Cove directly in front of the GPIIP. Please see attached drawing.

Terms of the tideland lease will run concurrent with the water purchase agreement between CBS and ABWI, including performance benchmarks.

Pricing for the tidelands lease is as follows:

- 18 acres valued at  $\$0.15/\text{SF}^* = 117,612 @ 4.5\% = \$5,292.54$  annually.
- $\$0.15/\text{SF}$  is a value determined by a 2014 tideland appraisal by Alaska Appraisal Associates, Inc.
- Per SGC 18.16.210 (Tidelands leases), the CBS requires annual tidelands lease payment to the CBS to be 4.5% of the value of the tidelands.

### **Additional Information**

Attached is the proposed tidelands lease.

### **Action**

- Approval of attached tidelands lease between the CBS and ABWI.

**ALASKA BULK WATER INC.  
TIDELANDS LEASE AGREEMENT**

The City and Borough of Sitka ("CBS" or "Lessor") and Alaska Bulk Water Inc. ("ABWI" or "Lessee"), collectively referred to as the "Parties," enter into this Alaska Bulk Water Inc. Tidelands Lease Agreement ("Lease"), based on the terms and conditions set out in this "Lease," and as approved by the City and Borough of Sitka Assembly in Ordinance XXXXX, effective \_\_\_\_\_.

**WHEREAS**, the Lessor is the owner of certain tidelands seaward of CBS bulk water pipeline at the Gary Paxton Industrial Park in Sitka, Alaska, comprising approximately 18 acres in Alaska Tideland Survey No. 6, and graphically represented on the copy of the attached Exhibit A, hereafter referred to as the "Subject Property;" and the Lessee is the owner of a Bulk Water Agreement dated November 9, 2006 and all amendments and assignments thereto ("Original Contract") with the Lessor. This lease is not intended to modify or supercede the Original Contract; rather this lease is intended to be consistent with the obligations of the parties to perform the Original Contract.

**NOW THEREFORE**, based on the consideration set out below, the Lessor and Lessee agree to the following terms and conditions:

1. Lessor leases to the Lessee, for a term concurrent with the Purchase Agreement for Raw Water in Bulk Export and amendments 1-4 agreed upon by both parties, including the benchmarks in Section 3, the Subject Property described as:

Approximately 18 acres within the boundaries of Alaska Tidelands Survey No. 6 as shown on Exhibit A (*Section of Plat 2008-27, Sawmill Cove Industrial Park Subdivision No. 1; U.S. Survey 3551, 2797 and ATS No. 6*)

2. Lessee, in consideration of this Lease, agrees as follows:
  - a. Lease payments shall be made annually to Lessor. The annual lease payments shall be \$5,292.54 per year, which is the equivalent of 4.5% of the value of the Subject Property, which is valued at \$117,612.
  - b. Lessee shall pay sales tax to the City and Borough of Sitka, based on the amount of each annual lease payment.
  - c. The first year's payment is due within 10 business days of the Lease being executed by all of the parties to the Lease. All subsequent payments shall be made on or before January \_\_\_\_ each year.
  - d. The Lease may not be assigned or sublet by the Lessee without the consent of the Lessor, provided that nothing herein prevents Lessee from contracting with any third party (even through a lease) for the use of the improvements on the leased land.
  - e. If the full lease payment is not timely paid, and Lessee fails to remedy default within thirty (30) days after receipt of written notice of any such lease payment arrears, the Lessor may

immediately, or at any time thereafter while such default continues, terminate the lease, repossess the Subject Property, enter on Subject Property, expel Lessee and those claiming right to possession or to be on the Subject Property based on the rights of the Lessee, and remove Lessee's effects (forcefully if necessary) without being guilty of any trespass. These rights are in addition to any other rights and remedies, without prejudice, which might otherwise be used for arrears or lease payments, proceedings on breach of agreement, or collection on arrears.

- f. The Lessee agrees to pay any Local Improvement District assessments that may be levied against the Subject Property to the same extent and in the same amount as if the Lessee were the owner of the Subject Property which would be included in the Local Improvement District to be formed or contemplated. The Lessee shall share the Lessor's right as owner in all proceedings under the Local Improvement District (except for payment of assessments) in proportion that the remaining years of the lease bear to twenty (20). (For example: If the lease has five (5) years to run, the Lessee shall have the right to exercise 5/20ths of the Lessor's vote and the Lessor, 15/20ths.)

3. The Parties mutually agree as follows:

- a. The terms and conditions herein contained shall apply to and bind the heirs, successors, and agents of the respective Parties.
- b. Waiver by Lessor of any term or condition setout in this Lease shall not be considered a waiver of any subsequent breach of said term or condition.
- c. Other than due to negligence by CBS, lessee agrees to hold harmless, insure and indemnify the Lessor from any liability for property damage or personal injury to any person or persons on or about the Subject Property and to carry and provide proof of liability insurance in the amount of \$5 million dollars, with the Lessor as an additional named insured. ABWI is responsible for any damage to the CBS (and Northern Southeast Regional Aquaculture Association, aka, NSRAA) outfalls which are located close to the proposed location for anchors and any damages incurred will be rectified by ABWI to the specifications agreed upon by CBS and NSRAA. Lessee is not responsible for negligence on the part of the Lessor.
- d. At any termination of the Lease, Lessee will be responsible for removal of any improvements including but not limited to, mooring buoys and anchors. If the improvements are not removed in a timely manner, Lessee shall repay the Lessor for all expenses incurred by such removal.
- e. Lessee must assure that both permanent and non-permanent anchoring systems are at least 100 feet away from current and proposed shore-based CBS infrastructure.
- f. CBS, as owner of this property of Tidelands, reserves the right to allow ingress and egress across this property by CBS and other parties, when it will not interfere with actual loading operations of any ABWI vessels or tie up to ABWI buoys. Both parties agree in good faith

to give as much advance notice as possible for such activity so there is no disruption of business. *This incorporates by reference Section 12 Water Loading Plan Requirement of the original lease, dated November 9, 2006.*

- g. Each Party to the Lease represents that its representative or agent who signs and executes the Lease has been delegated and is authorized to legally bind each Party regarding this Lease.
- h. Lessee shall throughout any term of this Lease Agreement, at Lessee's sole expense, promptly comply with all the laws and ordinances and the orders, rules, regulations, and requirements of all federal, state, and municipal governments and appropriate departments, commissions, boards, and officers (whether or not the same require structural repairs or alterations) and all other legal requirements that may be applicable to the use of the Subject Property. Nothing in the foregoing sentence shall be deemed to relieve Lessor of its general obligations in its municipal capacity.
- i. Lessee shall be responsible for obtaining all necessary permits and approvals for its activities unless otherwise specifically allowed by Lessor.

4. Nothing in this agreement supersedes, voids or modifies any previous agreements between the parties. This document is intended to facilitate the obligations of both parties under the Original Contract and Amendments 1-4.

**ALASKA BULK WATER, INC**

**CITY AND BOROUGH OF SITKA**

\_\_\_\_\_  
Terrence Trapp, CEO

\_\_\_\_\_  
Mark Gorman, Municipal Administrator

**STATE OF ALASKA**                    )  
  ) **ss.**  
**FIRST JUDICIAL DISTRICT**        )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, Terrence Trapp, whose identity is personally known to me or proved to me on the basis of satisfactory evidence, signs this Lease Agreement on behalf of Alaska Bulk Water, Inc. and affirms by signing this document to be authorized to sign on behalf of the Alaska Bulk Water Inc. and does so freely and voluntarily.

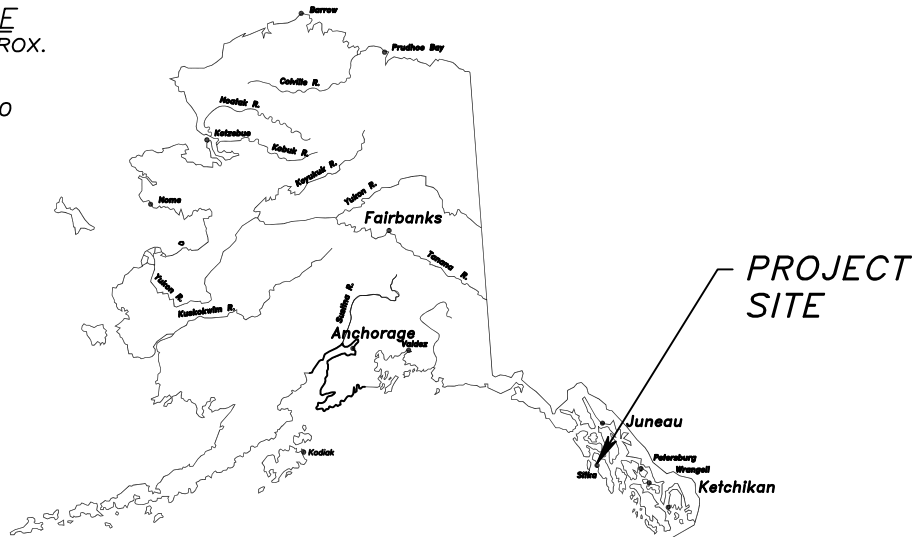
\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

**STATE OF ALASKA**                    )  
  ) **ss.**  
**FIRST JUDICIAL DISTRICT**        )

On this \_\_\_\_ day of \_\_\_\_\_, 2014, Mark Gorman, Municipal Administrator of the City and Borough of Sitka, Alaska, a municipal corporation organized under the laws of the State of Alaska, signs this Lease Agreement on its behalf, and affirms by signing this document to be authorized to sign on its behalf, and does so freely and voluntarily.

\_\_\_\_\_  
Notary Public for Alaska  
My Commission Expires: \_\_\_\_\_

GRAPHIC SCALE  
SCALE IN MILES, APPROX.



**PROJECT SITE**



GRAPHIC SCALE  
SCALE IN MILES



ALASKA BULK WATER  
SITKA, ALASKA

LOCATED IN: T.75S., R.90E., SECTION 24  
LOCATED AT: 57° 2'38.97"N, 135°13'35.12"W

**SAWMILL COVE BULK WATER FACILITY**

**VICINITY MAP**

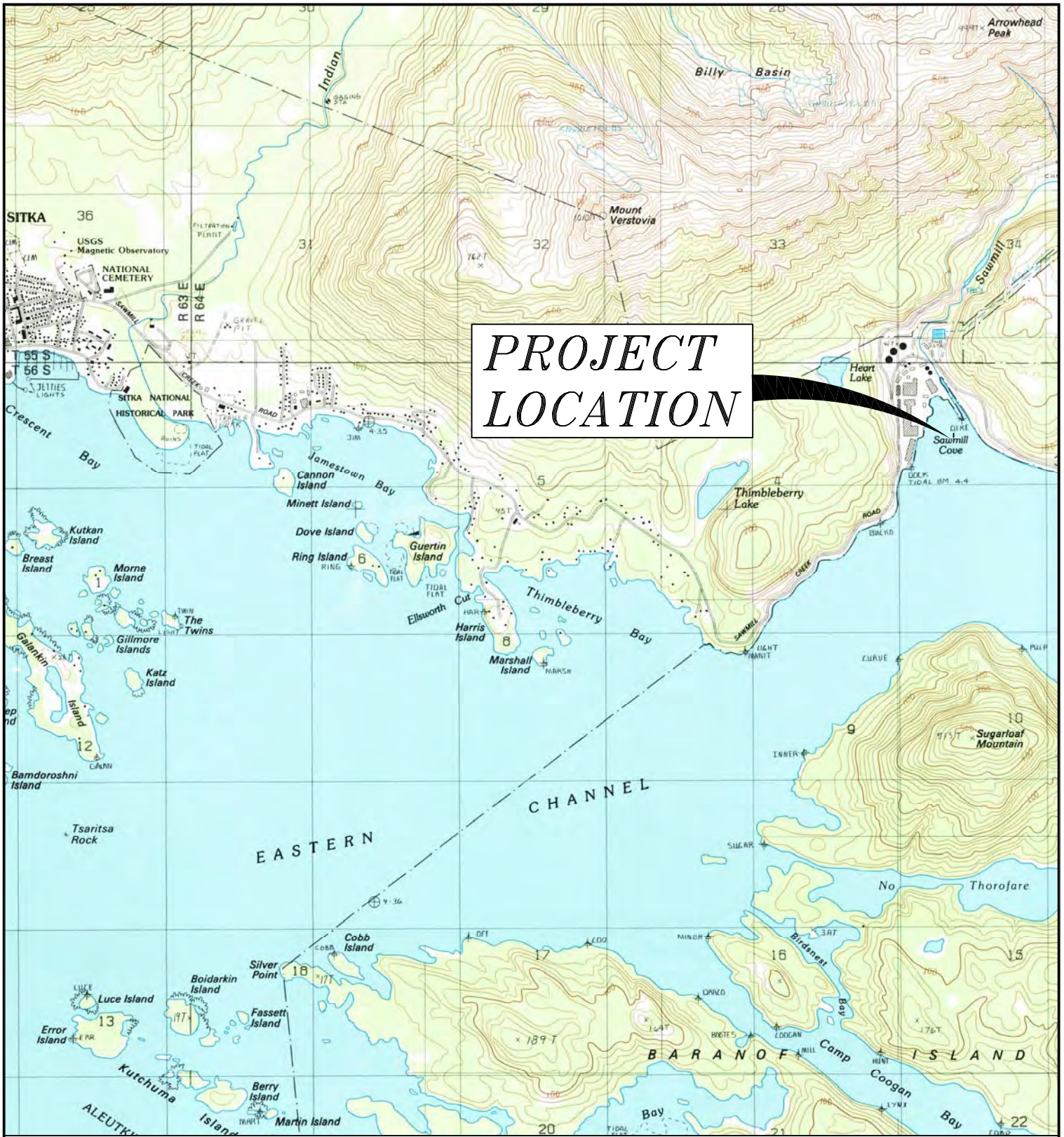
**Applicant**  
ALASKA BULK WATER, INC.  
726 SIGINAKA WAY  
SITKA, AK 99835

**AGENT:**  
R&M Engineering-Ketchikan  
355 Carlanna Lake Rd.  
Ketchikan, AK 99901  
Telephone: 907.255.7917

**Date:** 11/14/14  
**Sheet** 1 of 5

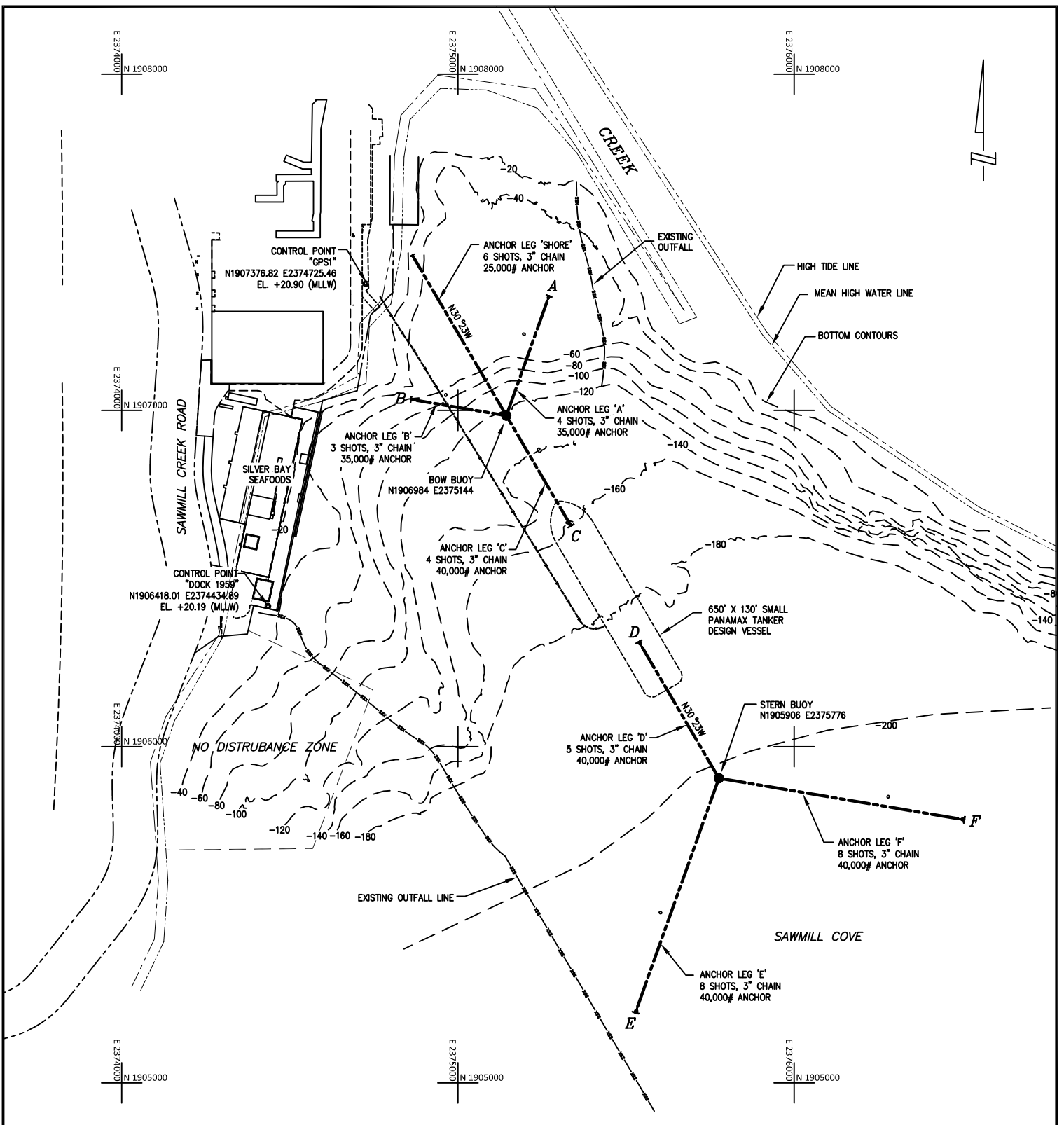
**Location:** SITKA, AK  
**Water Body:** SAW MILL COVE



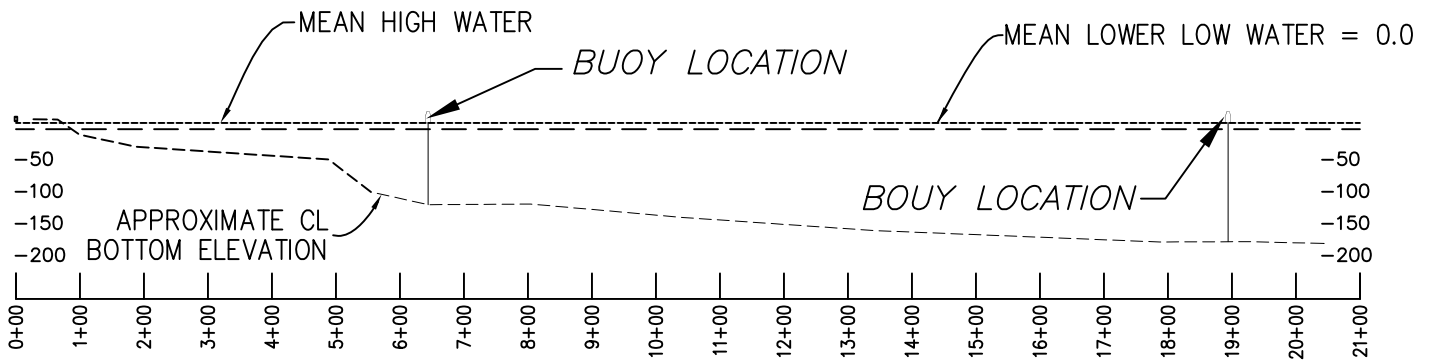


**PROJECT  
LOCATION**

<b>SAWMILL COVE BULK WATER FACILITY</b>	
<b>AREA MAP</b>	
<b>Applicant</b> <b>ALASKA BULK WATER, INC.</b> <b>726 SIGINAKA WAY</b> <b>SITKA, AK 99835</b>	<b>AGENT:</b> <b>R&amp;M Engineering-Ketchikan</b> <b>355 Carlanna Lake Rd.</b> <b>Ketchikan, AK 99901</b> <b>Telephone: 907.255.7917</b>
<b>Date: 11/14/14</b> <b>Sheet 4 of 5</b>	<b>Location: SITKA, AK</b> <b>Water Body: SAW MILL COVE</b>



<b>SAWMILL COVE BULK WATER FACILITY</b>	
<b>ANCHORING PLAN</b>	
<b>Applicant</b> ALASKA BULK WATER, INC. 726 SIGINAKA WAY SITKA, AK 99835	<b>AGENT:</b> R&M Engineering-Ketchikan 355 Carlanna Lake Rd. Ketchikan, AK 99901 Telephone: 907.255.7917
<b>Date: 11/14/14</b> <b>Sheet 3 of 5</b>	<b>Location: SITKA, AK</b> <b>Water Body: SAW MILL COVE</b>



**SAWMILL COVE BULK WATER FACILITY**

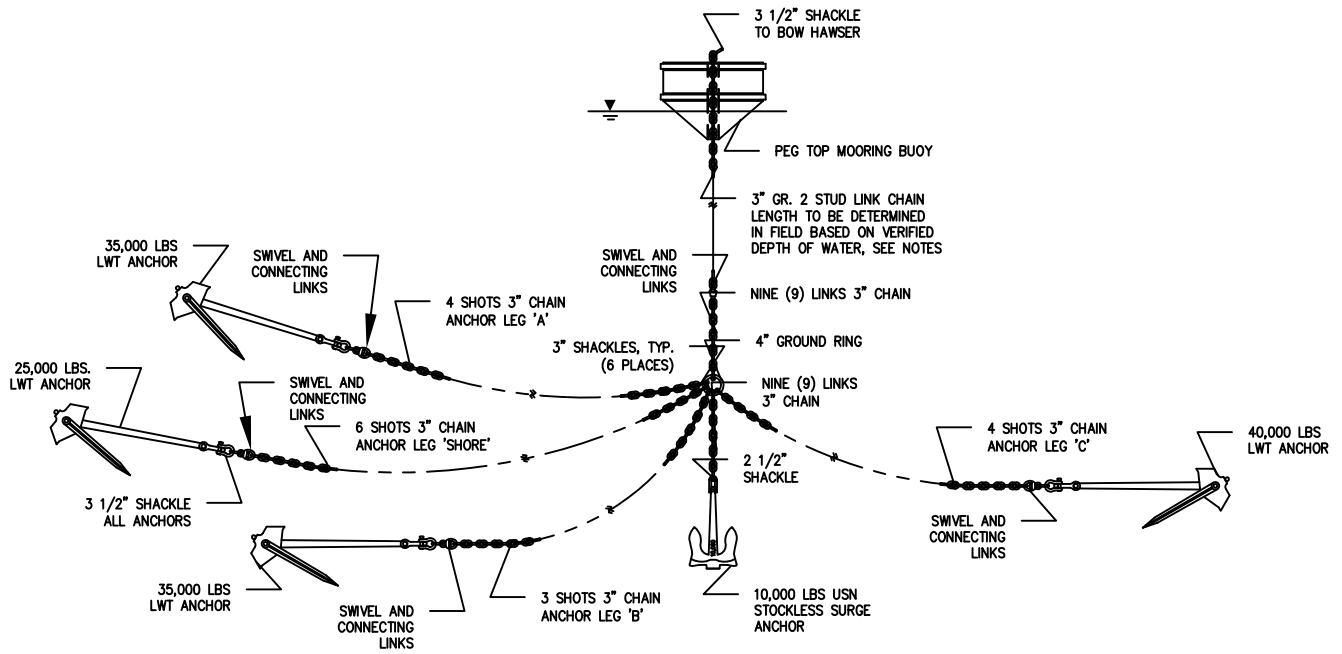
**BOTTOM PROFILE**

**Applicant**  
**ALASKA BULK WATER, INC.**  
**726 SIGINAKA WAY**  
**SITKA, AK 99835**

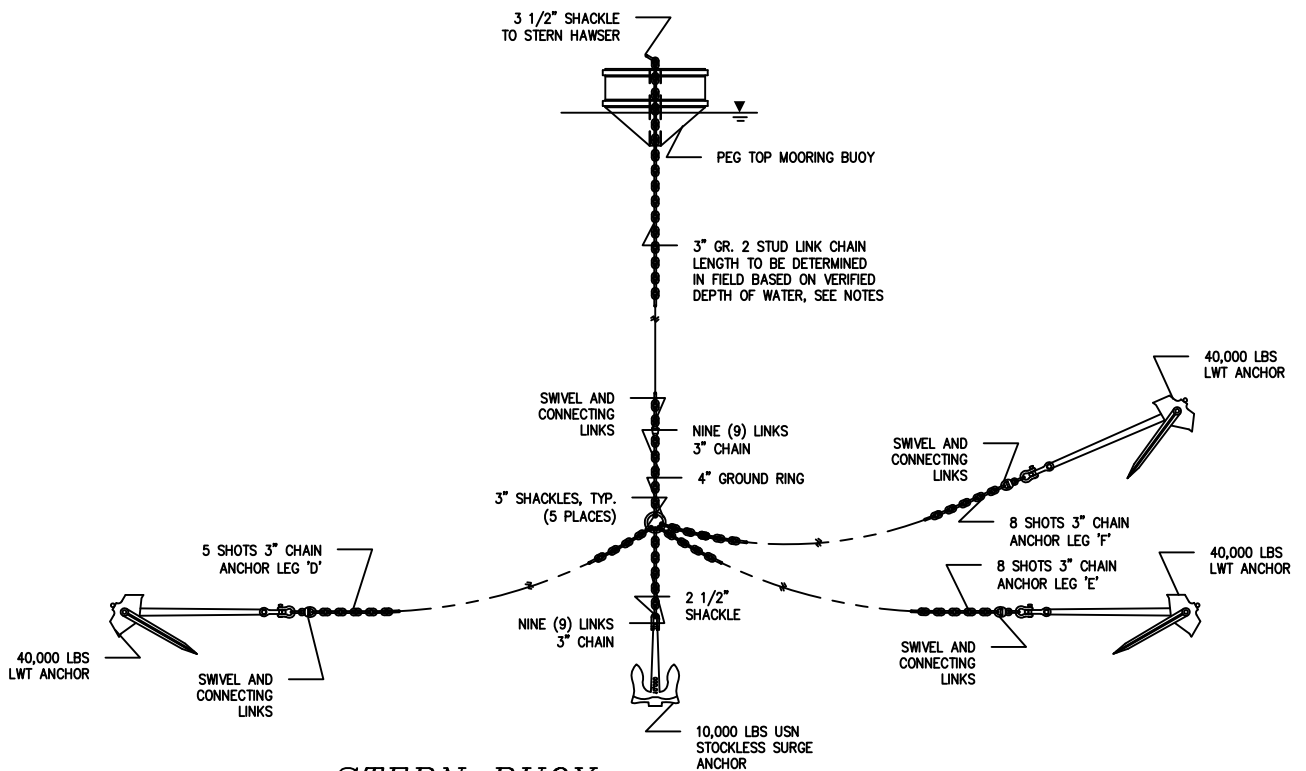
**AGENT:**  
**R&M Engineering-Ketchikan**  
**355 Carlanna Lake Rd.**  
**Ketchikan, AK 99901**  
**Telephone: 907.255.7917**

**Date: 11/14/14**  
**Sheet 4 of 5**

**Location: SITKA, AK**  
**Water Body: SAW MILL COVE**



**BOW BUOY  
SCHEMATIC ELEVATION**



**STERN BUOY  
SCHEMATIC ELEVATION**

**SAWMILL COVE BULK WATER FACILITY**

**BUOY ANCHORING DETAILS**

**Applicant**  
ALASKA BULK WATER, INC.  
726 SIGINAKA WAY  
SITKA, AK 99835

**AGENT:**  
R&M Engineering-Ketchikan  
355 Carlanna Lake Rd.  
Ketchikan, AK 99901  
Telephone: 907.255.7917

**Date:** 11/14/14  
Sheet 5 of 5

**Location:** SITKA, AK  
Water Body: SAW MILL COVE

**TRUE ALASKA BOTTLING COMPANY  
PURCHASE AGREEMENT  
FOR RAW WATER  
IN BULK FOR EXPORT**

**BETWEEN:**

City and Borough of Sitka  
100 Lincoln Street  
Sitka, Alaska 99835

**AND**

True Alaska Bottling Company  
4500 Sawmill Creek Road  
Sitka, Alaska 99835

**1. Term and Documents Comprising this Agreement.**

1.1 The initial term of this Agreement shall begin on the effective date and shall end at 11:59 p.m. Alaska Standard Time on December 31, 2026 The City and Borough of Sitka (hereinafter referred to as "Sitka" in this Agreement) hereby grants to True Alaska Bottling Company (hereinafter referred to as "TAB" in this Agreement), on the terms and conditions set forth herein, the right to purchase raw water in bulk for export, to be delivered to it by Sitka from the Blue Lake reservoir, a water source within Sitka.

1.2 At the conclusion of the initial term of this Agreement, each of three additional terms of five (5) years each for extension of this Agreement may be exercised upon the consent of both parties. TAB must notify Sitka in writing no later than four (4) months before the end of the initial Agreement period of its desire to add an additional five year term, and shall thereafter notify Sitka no later than four (4) months prior to the expiration of each exercised additional term of its desire to exercise the next five year time period. If TAB does not timely notify Sitka in writing, the Agreement will terminate at the expiration of the then-current contract term. Sitka's bulk raw water price is subject to re-negotiation before the commencement of each additional term. If said price is not agreed to, the Agreement will terminate at the expiration of the then-current contract term. Either party may decide to not implement any additional term for any reason, in its sole discretion.

1.3 The Agreement shall consist of the 21 sections in this Agreement plus Exhibit A (a map) and Exhibit B (the "Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property" dated April 28, 1999, including all attachments, which specifically includes "Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka[:] Management Plan for Sawmill Cove Property (Former APC Property).")

**2. Definitions.**

In this Agreement, the following terms shall have the definitions stated:



- a) "acre-foot" or "af" means 325,851 U.S. gallons.
- b) "annually" means 12 consecutive months.
- c) "beneficial use" means the application of water, purchased by TAB for export or for use at the point of delivery, to a useful purpose, including domestic, commercial, agricultural, wildlife, and recreational uses.
- d) "BG" or "bg" means billions of gallons.
- e) "bulk water" means raw water or potable water sold by Sitka to TAB under this Agreement, and delivered by Sitka to TAB in the measured quantities specified in this Agreement.
- f) "deliver" or "to deliver" or "delivered" means the act by Sitka of making a specific quantity of water available to TAB at the point of delivery.
- g) "export" means the transportation by TAB of bulk water to a destination outside the hydrologic unit of the Blue Lake drainage.
- h) "gallon" means one US gallon or 3.785 liters.
- i) "MG" or "mg" means millions of gallons.
- j) "MGD" means millions of gallons per consecutive 24-hour period.
- k) "per day" means calendar day starting at midnight.
- l) "per week" means during a period of seven (7) consecutive days.
- m) "per year" means during a period of 12 consecutive months.
- n) "point of delivery" means that physical location where the legal possession, ownership, and risk associated with the bulk water which is the subject of this Agreement transfers from Sitka to TAB, as specified in this Agreement.
- o) "raw water" means untreated water delivered by Sitka from Blue Lake via the Blue Lake penstock, a conduit which transports water from Blue Lake to the Blue Lake Powerhouse as shown on Exhibit A.
- p) "rule curve" means the relationship between the elevation of the water surface of Blue Lake and the volume of water contained in Blue Lake, as it pertains to the reservation of water for fish, wildlife, and habitat protection.
- q) "Stage" means a time period in this Agreement that starts 12 months after the effective date of this Agreement; a Stage is composed of one or more 12-month periods, with each 12-month period starting on the anniversary of the day the Stage begins.
- r) "Stage Anniversary Date" means the day starting a 12-month period in a Stage.



s) "ton" means one US short ton or 2,000 pounds.

t) "water rights" means those rights to the beneficial use of water which are held by Sitka under certificates of appropriation issued by the State of Alaska pursuant to Alaska law.

**3. Water Volumes Contracted by TAB from Sitka.**

3.1 Sitka will make available to TAB a total of 8,960 acre-feet of raw water for a period of 24 months after the effective date of this Agreement. At the conclusion of the 24-month period described in the previous sentence, TAB's access to water will revert to the stages outlined in Subsection 3.2 of this Agreement, providing TAB has met the minimum export volumes set out in Section 3 (this Section) of this Agreement. During the 24-month period immediately after the effective date of this Agreement, TAB must take delivery of and export at least 20 million gallons of water. If TAB does not take delivery of and export at least 20 million gallons of water from Sitka pursuant to this Agreement in the first 24 months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one of more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.2 Twenty four months after the effective date of this Agreement, the Stages described in this subsection start. The quantities of raw water in bulk which is available for export by TAB from Sitka under this Agreement are set forth below, and shall increase in maximum export volumes available and minimum export requirements as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Foot Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	122.8 af (40mg)	61.4 af (20mg)	12-month period
Stage 2	33.6 MG	2,000 af	306.9 af (100mg)	122.8 af (40mg)	12-month period
Stage 3	33.6 MG	4,000 af	920.7 af (300mg)	306.9 af (100mg)	12-month period
Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	( ) <sup>1</sup>	N/A	3,068.9 af (1bg)	12-month period

Stage 1: Stage 1 begins 24 months after the effective date of this Agreement. Sitka will make available to TAB not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, TAB must have taken delivery of and exported from Sitka a minimum of 61.4 af (20 MG) of bulk water within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 1. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 1, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has failed to meet such requirement, unless within said 45-day period, TAB cures such failure as determined by Sitka in its sole discretion.

<sup>1</sup> Annual acre-feet available and the minimum amount of water available for export per 12-month period will be determined solely by Sitka at that time based on availability.

Stage 2: If TAB takes delivery of and exports a total of at least 122.8 acre-feet (40 MG) of bulk water in a 12-month period, then the amount of bulk water Sitka will make available for delivery to TAB will be increased to 2,000 acre-feet of water in a 12-month period, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 2 for a 12-month period starting on the Stage Anniversary Date of Stage 2, TAB must have taken delivery of and exported from Sitka at least 122.8 af (40 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 2. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 2, TAB reverts to Stage 1 and a new Stage Anniversary Date of Stage 1 is created.

Stage 3: If TAB takes delivery of and exports a total of at least 306.9 acre-feet (100 MG) of bulk water per 12-month period, then the amount of water Sitka will make available for delivery to TAB will be increased to 4,000 acre-feet per year, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 3 for a 12-month period starting on the Stage Anniversary Date of Stage 3, TAB must have taken delivery of and exported from Sitka at least 306.9 af (100 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 3. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 3, TAB reverts to Stage 2 and a new Stage Anniversary Date of Stage 2 is created.

Stage 4: If TAB takes delivery of and exports a total of at least 920.7 acre-feet (300 MG) per 12-month period, then the amount of water Sitka will make available for delivery to TAB will be increased to 10,000 acre-feet per 12-month period, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 4 for a 12-month period starting on the Stage Anniversary Date of Stage 4, TAB must have taken delivery of and exported from Sitka at least 920.7 af (300 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 4. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 4, TAB reverts to Stage 3 and a new Stage Anniversary Date of Stage 3 is created.

Stage 5: If TAB takes delivery of and exports a total of 3,068.9 acre feet (1 billion gallons) of water per 12-month period, then TAB may request from Sitka additional bulk water of which the amount will be determined by Sitka at its sole discretion at that time, provided that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 5 for a 12-month period starting on the Stage Anniversary Date of Stage 5, TAB must have taken delivery of and exported from Sitka at least 3,068.9 af (1 BG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 5. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 5, TAB reverts to Stage 4 and a new Stage Anniversary Date of Stage 4 is created.

3.3 If TAB fails to take delivery of and export the required minimum quantities specified in Stages 2 through 5 within the time periods specified in those Stages as set out in Subsection 3.2, the respective obligations of Sitka to make water available and of TAB to take delivery of and accept and export shall be reduced to the next lower Stage for the next 12-month period. If TAB meets the minimum performance requirement of that lower Stage within the time period specified, then the next higher Stage shall again become applicable to Sitka's and TAB's respective obligations during the next 12-month period. The date upon which Sitka moves TAB either up or down from stage to stage will start

the 12-month time period anew and create a new Stage Anniversary Date, provided at that time that Sitka still has adequate water quantities available and uncommitted for export.

3.4 Notwithstanding any other provision of this Agreement, if water delivered by Sitka to TAB and exported by TAB falls below 20 million gallons during any period of 12 consecutive months, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one or more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.5 During the first year after the effective date of this Agreement and during periods of any Stage under this Agreement, TAB may take delivery of raw water at a rate no greater than 33.6 MGD.

#### **4. The Parties' Rights and Obligations Regarding Water Delivered for Export.**

4.1 By this contract, Sitka is entering into an Agreement to sell raw water in bulk under water rights issued to Sitka by the State of Alaska under water export authority contained in Water Appropriation Certificates LAS 19669 and ADL 43826. Sitka's contractual obligation to deliver water to TAB in the quantities specified in this Agreement is subject to these limitations:

a) Sitka shall retain first right and priority to water required for its municipal drinking water supply system and its municipal hydroelectric system, and it may suspend or limit raw water deliveries in bulk to TAB to meet the reasonable requirements of its municipal drinking water and hydroelectric systems.

b) Sitka will abide by the 1992 Blue Lake Watershed Control Plan as approved by the U.S. Environmental Protection Agency and described in City and Borough of Sitka Ordinance No. 92-1091.

c) Sitka may temporarily suspend raw water deliveries in bulk in order to perform routine maintenance on its municipal drinking water, hydroelectric and/or water delivery systems, provided that Sitka shall give not less than 60 days prior notice to TAB of any such planned suspensions.

d) Sitka shall be relieved of its obligation to deliver raw water in bulk to TAB in the event of an interruption in water supply due to Force Majeure, or due to unforeseen circumstances that require repairs to or reconstruction of the municipal drinking water, hydroelectric systems, water delivery system, or other of Sitka's facilities, to the extent that the availability of raw water in bulk for delivery to TAB under this Agreement is adversely affected, and for so long as is required to effect such repairs or reconstruction, for such time as is necessary to address such circumstances.

e) The volumes of Sitka's raw water deliveries in bulk to TAB for export are subject to Sitka's compliance with all conditions contained in Water Appropriation Certificates ADL 43826, LAS 19669, and LAS 20526, including compliance with the rule curve and the support of spawning, incubation, and rearing of certain species of fish in Sawmill Creek and Blue Lake.

Interpretation of applicable requirements and the means used to achieve compliance with such requirements shall be in Sitka's sole discretion.

f) In the event Sitka is relieved of its obligation to make agreed quantities of water available to TAB for reasons noted in this paragraph or due to Force Majeure, then TAB's obligation to take delivery of and to export water shall be reduced to the volumes actually delivered by Sitka during that period of time and the time for TAB's performance shall be extended for the same period of time Sitka has been so relieved of its obligation.

4.2 TAB agrees and warrants that the raw water in bulk delivered by Sitka to it for export shall be put to one or more beneficial uses by it or by its water purchasers.

## **5. Water Distribution.**

5.1 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to not sell water for export to other entities for a price less than the price currently charged to TAB for equivalent Blue Lake water without offering the same price to TAB.

5.2 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to refer all inquiries from third parties for the purchase of bulk water to TAB. If TAB is unable to come to terms for sale of bulk water to said third parties within 90 days of the referral by Sitka to TAB, Sitka may proceed with direct negotiations with said third party without further obligation to TAB.

5.3 Notwithstanding any other provision of this Agreement, this Section does not apply to any purchaser of bulk water who has executed a bulk water purchase agreement with Sitka prior to the date of this Agreement, including any assignee of such agreement.

## **6. No Warranty by Sitka of Water Quality or Fitness for a Particular Purpose.**

6.1 Sitka does not warrant the quality or fitness for a particular purpose of any water contracted by it for delivery, and/or actually delivered, to TAB under this Agreement. TAB acknowledges and agrees that before entering into this Agreement, it has examined Sitka's water source, Sitka's methods of diversion, and Sitka's means of delivery to TAB of the quantities of water which are contracted under this Agreement, and that it has found all such items adequate and satisfactory for TAB's purposes.

6.2 TAB acknowledges and agrees that Sitka's necessary and routine alterations in its hydroelectric operations may produce temporary changes in water quality due to turbidity, and that the occurrence of such events shall not alter or affect TAB's contractual obligations under this Agreement.

6.3 TAB acknowledges and agrees that the quality of water contracted by Sitka to be delivered in bulk to it for export may vary due to natural events over which Sitka has no control, which include, without limitation, rainfall, drought, snowfall, avalanches and landslides, and that the occurrence of such events shall not alter or affect TAB's contractual obligations under this Agreement, except that the quantity of water TAB is obligated to take delivery of and to export shall be reduced to the quantity Sitka can and does make available for delivery to TAB, as a consequence of an occurrence of any of such natural events.

6.4 TAB shall be solely responsible and liable for the quality and usefulness for any particular purpose of all water exported by, transported by, used by, or sold by, or delivered by TAB.

## **7. Purchase Price For Bulk Water.**

7.1 TAB will purchase bulk water for export from Sitka under this Agreement, based upon the following prices: Raw water delivered in bulk to TAB for export shall be priced at U.S. \$0.01 (one cent) per gallon. The purchase price includes Sitka cargo wharfage charges for bulk water delivered to TAB's vessel.

7.2 Raw water delivered by Sitka to TAB for vessel wash-down, washout and any other non-export application shall be priced at US \$0.005 (one-half of a cent) per gallon. Such quantities shall be separately metered, and shall not be included in the total quantities of raw water delivered to TAB for export.

7.3 Beginning July 1, 2016 and every calendar year thereafter, the prices charged by Sitka for water delivered to TAB under this Agreement will be adjusted based on the "All Items" figure for Seattle, Washington as published in the "Consumer Price Index for All Urban Consumers" (CPI) published the most immediately before January 1 of the calendar year for which prices are being calculated. Notwithstanding the previous sentence, in no event will the CPI adjustment described in the previous sentence exceed + 3.0% nor the adjustment be made if the result of such adjustment would be a decrease in any price charged under this Agreement.

7.4 TAB shall pay Sitka for all volumes of water delivered to TAB as actually measured by flow meters owned, operated, and documented by Sitka at or near the point of delivery. TAB shall pay for each quantity of water loaded no later than fifteen (15) days after the presentation of an invoice by Sitka to TAB for such water. Failure by TAB to make timely payment shall be cause for Sitka to suspend water delivery to TAB.

## **8. Conditions for Maintaining TAB's Purchase Right and Obligation; Termination.**

8.1 Notwithstanding any other provision of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one or more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

8.2 Upon termination, all legal rights and obligations as between Sitka and TAB under this Agreement shall cease, except that TAB's obligations to Sitka under Sections 13, 14, 15, 16, and 17 of this Agreement shall survive termination.

## **9. Sitka's Permitting Actions.**

Sitka agrees to take any and all actions which it determines, in the exercise of its sole discretion, to be reasonable, necessary, and economically feasible to maintain in good standing any permit, license, certificate, allocation, appropriation or other authorization which may authorize Sitka to fulfill its obligations under this Agreement.

## **10. Delivery, Loading, and Transportation of Water in Bulk.**

10.1 The parties agree that TAB shall be solely responsible for the costs of acquisition, construction and installation of any structure, facility or vessel which it determines to be required or convenient for the loading and transportation of bulk water delivered to it by Sitka, and for initiating and completing such acquisition, construction and installation.

10.2 TAB shall pay such port vessel dockage fees established by Sitka. Sitka does not warrant the quality or fitness for a particular purpose of any dock or wharf at such waterfront, and TAB must determine the feasibility of any particular use before engaging in such use.

10.3 TAB shall be solely responsible for the transportation of all water delivered to it by Sitka for export.

10.4 No later than 30 days before the first delivery of water takes place under this Agreement, TAB will designate in a writing to Sitka's Administrator a local representative as TAB's continuing personal contact with Sitka and its subordinate departments, agencies and authorities.

10.5 Sitka's point of delivery of bulk water to TAB shall be that physical location where the Sitka-owned physical facilities and equipment, employed in the transportation of Sitka's bulk water for delivery to TAB, terminate, and which is the location where the remaining physical facilities and equipment employed in the transportation of such water are facilities owned by others. Sitka's flow meter which is used to calculate the quantities of water delivered to TAB shall be located near the point of delivery.

10.6 Sitka shall retain the right to pay for, install, own, and operate a raw water delivery pipeline that serves the Sawmill Cove Industrial Park, if Sitka so desires. In such event, Sitka may require TAB to use Sitka's new facilities and may change the point of delivery to the point at which Sitka's new facilities end. Unless and until Sitka shall deliver such new facilities TAB shall be fully responsible, at its own cost and expense, for arranging and accomplishing transport of bulk water from the point of delivery established by Sitka.

## **11. Ballast Water and Wash Water Discharges.**

11.1 TAB shall comply with all provisions of law applicable to its obligations under this Agreement. TAB shall comply with all applicable international, federal, state, and local requirements regarding the discharge of any ballast water (including bilge water) or any wastes at all times and as to all vessels traveling to and from Silver Bay and/or Sawmill Cove for the purpose of receiving any water to be delivered to TAB by Sitka under this Agreement. Such requirements described in this Section include but are not limited to those in Section IV of the Sawmill Cove Management Plan, which is included in Appendix B.

11.2 TAB shall comply with all applicable federal, state and local requirements regarding the use and disposal of any raw or treated water delivered to TAB by Sitka for the purposes of vessel wash-down or washout, or any other non-export application.

## **12. Water Loading Plan Requirements.**



12.1 Before TAB loads any bulk water delivered to it by Sitka, TAB shall submit to Sitka a written Water Loading Plan. This Plan shall be deemed approved by Sitka unless no later than seven days after the submission the Administrator of Sitka in his or her sole discretion rejects—or requires TAB to resubmit—any portion of the Plan in a writing to TAB that states the deficiency. Sitka shall deliver no bulk water to TAB and TAB shall not load any bulk water delivered to it by Sitka as long as any portion of the Plan has been rejected and not deemed approved after re-submittal. TAB shall submit a separate Water Loading Plan at least ten (10) days before each loading of bulk water under this Agreement.

12.2 The Water Loading Plans required by this section shall address environmental and logistical considerations related to the loading of water. The issues and items to be addressed in each Water Loading Plan shall include, without limitation, each of the following:

- a) details concerning any vessel to be used by TAB in the loading or transport of bulk water;
- b) steps to be taken to insure the safety of persons involved in the loading of bulk water;
- c) steps to be taken to insure safety of the public before, during, and after loading of water;
- d) steps to be taken to address the effects of wind and tidal conditions on the loading;
- e) steps to be taken concerning moorage and access to vessels during loading;
- f) steps to assure communication before, during, and after loading between those loading and Sitka representatives;
- g) details about the precise location and proposed use of any structure, facility, pipe, pipeline, or other infrastructure to be used in the loading of water and details of how TAB intends to address the risks associated with a catastrophic event arising from TAB's loading activities or TAB's failure to adhere to the proposed Water Loading Plan;
- h) steps to be taken to avoid conflicts with other vessel traffic and industrial park users;
- i) details on proposed handling of any ballast water in any vessel to be used in the loading of water;
- j) details on proposed handling of any residual and/or wash water, or other materials in the tanks of any vessel to be used in the loading;
- k) the days and the periods of time within each day that water is proposed to be loaded; and
- l) details on consistency between the proposed Water Loading Plan and Appendix B, which includes the "Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property" dated April 28, 1999, including all attachments, which specifically includes "Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka [:] Management Plan for Sawmill Cove Property (Former APC Property)." Such details on such consistency must include any and all specific steps to be taken to avoid anchoring in prohibited areas and

disturbance of the sea bottom in the “No Disturbance” zone described in the last-referenced document.

12.3 TAB shall comply with all provisions of each Water Loading Plan after all of such provisions have been deemed approved either upon submittal or re-submittal under Subsection 12.1 above, as to the water loading operation for which the Water Loading Plan was submitted.

12.4 Approval by Sitka of any Water Loading Plan shall not be deemed to have imposed upon Sitka the status of guarantor of the feasibility, propriety, or safety of any aspect of an approved Water Loading Plan, nor shall such approval be deemed to have created or conferred benefits on any third party.

### **13. Indemnification of Sitka.**

Notwithstanding anything to the contrary in this Agreement, TAB shall defend, indemnify, and hold Sitka harmless from any claim, demand, action, or proceeding of any kind or nature, based upon, arising out of, or related to:

- a. any defect or flaw in the quality of water supplied under this agreement;
- b. any delays on the part of Sitka in the delivery of water under this agreement as the result of the mechanical or physical breakdown of equipment or facilities owned or operated by the Sitka;
- c. claims arising from the transportation or shipment of water after such water has left Sitka’s water delivery system and as such has passed the point of delivery;
- d. injuries to employees of TAB or any of its contractors;
- e. damages resulting from accidents involving mooring, unmooring, navigation of vessels, or cargo loading operations, including but not limited to claims for personal injury, property damage, and pollution.

TAB shall at all times during this Agreement maintain insurance policies providing umbrella coverage against matters including but not limited to those discussed in this agreement in an amount not less than U.S. \$5,000,000, with the City and Borough of Sitka named as an additional insured, and with a waiver of subrogation against Sitka. TAB shall be responsible for ensuring that each of its contractors complies with this term. TAB shall deliver reasonable evidence of TAB’s compliance with this term to Sitka. TAB shall assure that any contractor for TAB who is to perform any task or work within the territorial jurisdiction of Sitka has insurance appropriate to any task to be performed by that contractor, and TAB shall be responsible for delivering reasonable evidence of such insurance to Sitka.

TAB will ensure that its customers take full responsibility for water product quality that they receive subsequent to TAB’s on-site Quality Control laboratory tests. TAB’s Quality control staff shall securely store a reasonable quantity of water sampled from each bulk water shipment for 24 months for re-analysis, if required.

### **14. Assignment.**

This Agreement, which is in the nature of a personal services contract, may not be assigned by either party without the prior written consent of the other party, which shall have full discretion to grant or withhold such approval, in its sole and absolute discretion except as provided below.

TAB may assign this Agreement on a one time basis to Langenberg Research LLC 3590 W. Third St, Eugene, Oregon 97402 if, at the time of assignment, Langenberg Research LLC can demonstrate it is financially capable of performing the requirements of this Agreement to the satisfaction of Sitka.

Langenberg Research shall be bound by all the terms and requirements of this Agreement.

Langenberg Research shall not be authorized to assign this Agreement to any third party without prior written consent of Sitka.

Sitka may form a Port Authority or similar entity, in the future and this agreement shall be completely transferable to said Port Authority. A transfer of the agreement to any such entity shall not create any restrictions upon TAB to purchase water other than those restrictions named in this agreement.

#### **15. Waiver and Integration.**

This Agreement integrates the entire Agreement between the parties regarding the sale and purchase of water in bulk. This Agreement supersedes all previous agreements, discussions, and negotiations, whether written or oral. Each party specifically acknowledges and represents that it has had ample opportunity to consult with legal counsel regarding this Agreement, and that any rule that an agreement should be construed against its drafter shall not apply to this Agreement.

#### **16. Force Majeure.**

Neither party shall be in breach of this Agreement as the result of any failure or delay in performing any of the obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by storm, flood, avalanche, landslide, earthquake, tsunami, act of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, or act of God. Sitka shall not be in breach of this Agreement as the result of any failure or delay in performing any of its obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by any order of any United States court of competent jurisdiction, or by any act, rule, regulation, order or directive of any superior governmental unit or any agency thereof, or by any termination, modification, suspension, or revocation of any permit, license, allocation, appropriation, or certificate held by Sitka. In the event Sitka or TAB is relieved of an obligation under this Agreement due to Force Majeure, time frames under this Agreement shall be adjusted accordingly. The party asserting a Force Majeure event must demonstrate direct and proximate cause by clear and convincing evidence.

#### **17. Applicable Law.**

Any action or lawsuit brought to construe, interpret, or enforce this Agreement shall be brought in the courts of the State of Alaska sitting in Sitka, Alaska. Venue for any such action or lawsuit shall lie exclusively in Sitka, Alaska. The parties specifically disavow any application under the removal

jurisdiction of the federal courts on grounds of diversity of citizenship, in any litigation concerning this Agreement.

**18. Effective Date.**

This Agreement is effective as of the last date signed below, which shall be deemed the “effective date” for the purpose of any time period which incorporates that term in this Agreement.

**19. Authority.**

The parties represent and warrant to each other that they have the full, complete, and absolute authority to enter into this Agreement; that this Agreement has been duly authorized by the governing body of each party; that the person executing this Agreement on its behalf has the full power and authority to do so; and that this Agreement is binding and enforceable against it in accordance with its terms. TAB acknowledges that this Agreement is only effective as against Sitka if the City and Borough of Sitka Assembly votes to authorize the Administrator to execute this Agreement on behalf of Sitka, and the Administrator of Sitka represents and warrants by affixing his signature to this Agreement that the Assembly has so voted.

**20. Amendment and Severability.**

This Agreement may not be amended except by written agreement of both parties. If any provision of this Agreement or any application thereof to any person, entity, or circumstance is held invalid, the remainder of this Agreement and application thereof to any person, entity, or circumstances shall not be affected thereby.

**21. Time of Essence.**

Time is of the essence in this Agreement.

**TRUE ALASKA BOTTLING COMPANY**

DATE \_\_\_\_\_

Richard Kearns, President

STATE OF \_\_\_\_\_ )  
 ) ss. **ACKNOWLEDGMENT**  
 \_\_\_\_\_ JUDICIAL DISTRICT )

THIS CERTIFIES that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, **Richard Kearns**, known to me or who has produced sufficient identification to be the person whose name is subscribed to on the foregoing **TRUE ALASKA BOTTLING COMPANY PURCHASE AGREEMENT FOR RAW WATER IN BULK FOR EXPORT**, signed this document, and by signing affirms that he is the President of **TRUE ALASKA BOTTLING COMPANY**, that he has been authorized to execute the foregoing document on its behalf, and he executed the document freely and voluntarily.

Notary Public by and for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**THE CITY AND BOROUGH OF SITKA**

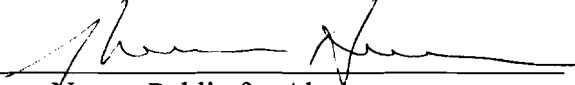


DATE 11/9/2006

John C. Stein, City and Borough Administrator

STATE OF ALASKA )  
 ) ss. **ACKNOWLEDGMENT**  
 FIRST JUDICIAL DISTRICT )

THIS CERTIFIES that on this 9<sup>th</sup> day of Nov, 2006, **John C. Stein**, known to me or who has produced sufficient identification to be the person whose name is subscribed to on the foregoing **TRUE ALASKA BOTTLING COMPANY PURCHASE AGREEMENT FOR RAW WATER IN BULK FOR EXPORT**, signed this document, and by signing affirms that he is the **ADMINISTRATOR** of the City and Borough of Sitka, Alaska, a municipality organized under the laws of the State of Alaska, that he has been authorized to execute the foregoing **PURCHASE AGREEMENT FOR BLUE LAKE RAW BULK WATER**, and he executed the same freely and voluntarily.

  
Notary Public for Alaska  
My Commission Expires: w/this office

**ATTEST:**

\_\_\_\_\_  
Colleen Pellett, CMC  
Municipal Clerk





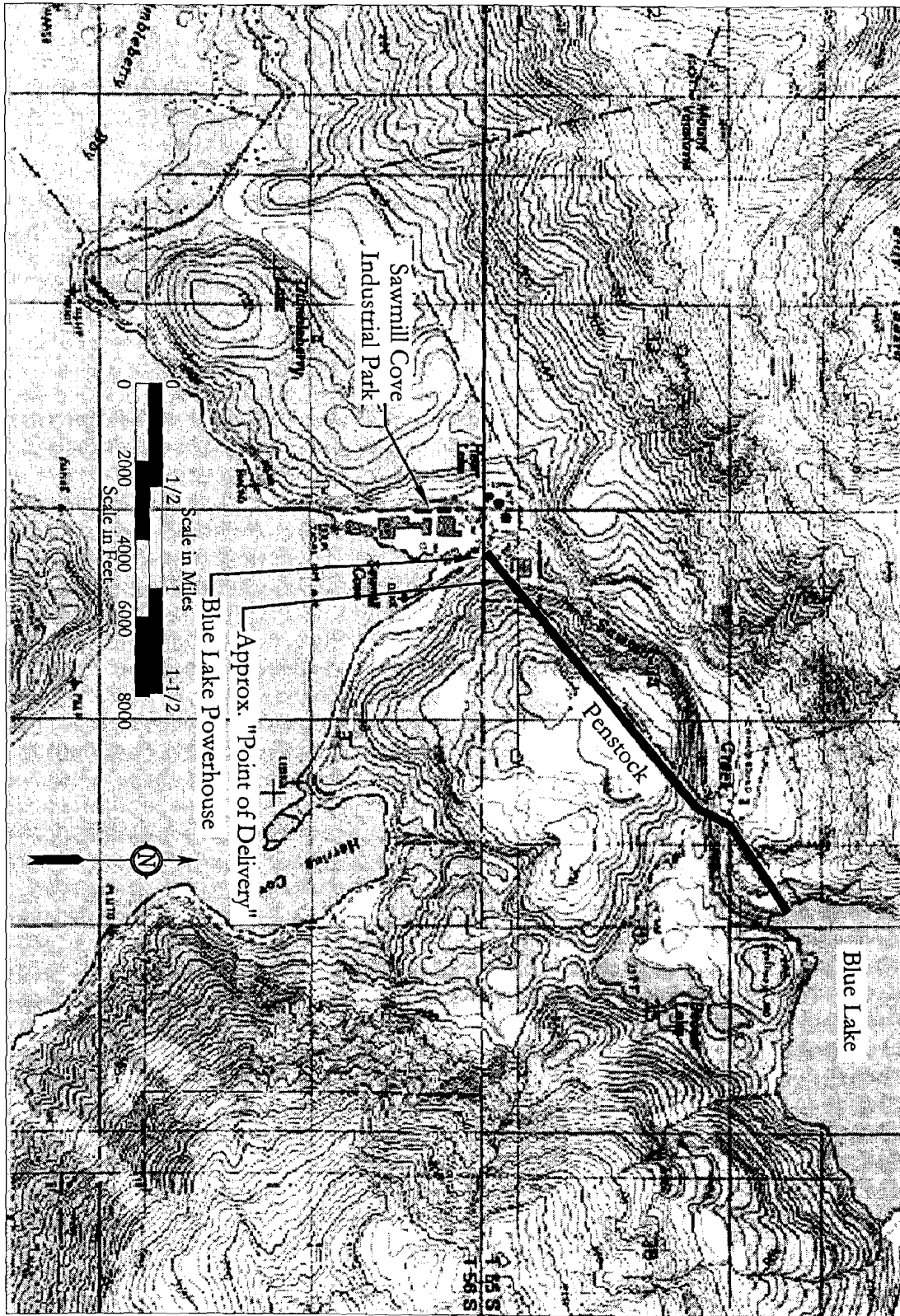



Exhibit A

DRAWN	SCALE
DESIGNED	DATE
CHECKED	
SHEET NO.	


**City and Borough of Sitka**  
 DEPARTMENT OF PUBLIC WORKS  
 100 LINCOLN STREET - SITKA, ALASKA 99833  
 TEL. (907) 747-1804 FAX (907) 747-3158

**Point of Delivery of Bulk Water**

REVISIONS		
NO.	DATE	DESCRIPTION

**AMENDMENT NO. 1 TO  
TRUE ALASKA BOTTLING COMPANY PURCHASE AGREEMENT  
FOR RAW WATER IN BULK FOR EXPORT**

WHEREAS, the City and Borough of Sitka (hereinafter "Sitka") and True Alaska Bottling Company ("TAB") executed the "True Alaska Bottling Company Purchase Agreement for Raw Water in Bulk for Export" (hereinafter "the Agreement") with an effective date of October 10, 2006;

WHEREAS, Sitka and TAB agree to amend the Agreement as set out in this Amendment No. 1 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 1") at Sections 3.1 and 3.2, regarding any reference to the first "24 months" of the Agreement, and changing it to the first "36 months" of the Agreement, which will extend the deadline by one additional year until December 8, 2009 for TAB to "take [the required] delivery of and export at least 20 million gallons of water from Sitka pursuant to this Agreement;"

WHEREAS, this agreement to extend TAB's deadline by one additional year at Sections 3.1 and 3.2 is contingent upon TAB agreeing to the following conditions, which were required and approved by the CBS Assembly at its Regular Meeting on January 27, 2009:

1. Revising Section 5.2 of the Agreement to provide for required start or notification dates and 30 day progress updates by TAB regarding third party inquiries for the purchase of bulk water;
2. That Sitka receives a non-refundable payment of \$118,000 in case from TAB at the time of the execution of this Amendment No. 1, and that \$18,000 of that money will go toward outstanding bills that TAB owes to Sitka, with \$100,000 retained by Sitka unencumbered;
3. That TAB agrees to pay, and not contest, the outstanding balance of its current debts owed to the Sitka, by December 1, 2009;
4. That Dick Kearns of TAB submit an affidavit attesting to the existence of a contract to sell bulk water that he is not allowed to share due to a confidentiality agreement; and
5. That this Amendment will take effect upon receipt of \$118,000 to Sitka that must be submitted within one month of the Assembly's motion, by February 27, 2009.

NOW, THEREFORE, Sitka and TAB, based on TAB agreeing and fulfilling all conditions required by the City and Borough of Sitka Assembly set out above, agree to amend the Agreement as follows, as authorized and pursuant to Section 20 of the Agreement:

A. Section 3.1 of the Agreement is amended to read as follows (new language underline; deleted language stricken):

**3. Water Volumes Contracted by TAB from Sitka.**

3.1 Sitka will make available to TAB a total of 8,960 acre-feet of raw water for a period of 36 months after the effective date of this Agreement. At the conclusion of the 36-month period described in the previous sentence, TAB's access to water will revert to the stages outlined in Subsection 3.2 of this Agreement, providing TAB has met the minimum export volumes set out in Section 3 (this Section) of this Agreement. During the 36-month period immediately after the effective date of this Agreement, TAB must take delivery of and export at least 20 million gallons of water. If TAB does not take delivery of and export at least 20 million gallons of water from Sitka pursuant to this Agreement in the first 36 months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one of more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

B. Section 3.2 of the Agreement is amended to read as follows (new language underline; deleted language stricken):

**3. Water Volumes Contracted by TAB from Sitka.**

3.2 Thirty six months after the effective date of this Agreement, the Stages described in this subsection start. The quantities of raw water in bulk which is available for export by TAB from Sitka under this Agreement are set forth below, and shall increase in maximum export volumes available and minimum export requirements as follows:

\* \* \*

Stage 1: Stage 1 begins 36 months after the effective date of this Agreement. Sitka will make available to TAB not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, TAB must have taken delivery of and exported from Sitka a minimum of 61.4 af (20 MG) of bulk water within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 1. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 1, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has failed to meet such requirement, unless within said 45-day period, TAB cures such failure as determined by Sitka in its sole discretion.

C. Section 5.2 of the Agreement is amended to read as follows (new language underline; deleted language stricken):

5. Water Distribution.

\*\*\*

days *[Handwritten initials]*

5.2 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to refer all inquiries from third parties for the purchase of bulk water to TAB. TAB shall give written notice to Sitka within seven calendar of any such inquiry, and shall monthly from the date of the initial notice give written status reports to Sitka regarding such inquiries. If TAB reaches agreement with any third party regarding bulk water sales, Sitka shall be given a written notice of such an agreement with three calendar days of the agreement. If TAB is unable to come to terms for sale of bulk water to said third parties within 90 days of the referral by Sitka to TAB, Sitka may proceed with direct negotiations with said third party without further obligation to TAB.

Nothing in this Amendment No. 1 supersedes, voids, or modifies the Agreement except as provide in this Amendment No. 1. All other sections of the Lease that are not modified by this Amendment No. 4 shall remain in full force and effect.

TRUE ALASKA BOTTLING COMPANY

*Charles Richard Kearns*

Richard Kearns, President

DATE 3-3-09

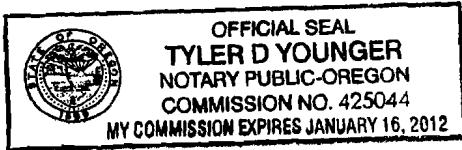
STATE OF Oregon

Linn JUDICIAL DISTRICT

)  
) ss. **ACKNOWLEDGMENT**  
)

THIS CERTIFIES that on this 3 day of March, 2009, **Richard Kearns**, known to me or who has produced sufficient identification to be the person whose name is subscribed to this document, signed this document, and by signing affirms that he is the President of **TRUE ALASKA BOTTLING COMPANY**, that he has been authorized to execute the foregoing document on its behalf, and executes the document freely and voluntarily.

*Tyler D. Younger*  
Notary Public by and for Linn, Oregon  
My Commission Expires: 1/16/12





**AMENDMENT NO. 2 TO  
TRUE ALASKA BOTTLING COMPANY PURCHASE AGREEMENT  
FOR RAW WATER IN BULK FOR EXPORT**

WHEREAS, the City and Borough of Sitka (hereinafter "Sitka") and True Alaska Bottling Company ("TAB") executed the "True Alaska Bottling Company Purchase Agreement for Raw Water in Bulk for Export" (hereinafter "the Agreement"), with an effective date of October 10, 2006;

WHEREAS, Sitka and TAB agreed to amend the Agreement as set out in the Amendment No. 1 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 1"); and

WHEREAS, Sitka and TAB agree to further amend the Agreement as set out in this Amendment No. 2 to True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 2"); and

WHEREAS, this Agreement to extend TAB's deadline by one additional year at Sections 3.1 and 3.2 is contingent upon TAB agreeing to the following conditions, which were required and approved by the CBS Assembly at its Regular Meeting on January 26, 2010:

1. Revising the Agreement, in part, at Sections 2, 3, 4, 5, 6, 10 and 14. See below and attached "Amended True Alaska Bottling Company Purchase Agreement for Raw Water in Bulk For Export (Incorporating Amendment No. 2) for easy reference to amendments;
2. That Sitka receives a non-refundable payment of \$100,000 from TAB at the time of the execution of this Amendment No. 2, to be applied towards export water payments owed in the next year, but if no export occurs, it shall be retained by Sitka unencumbered;
3. That TAB agrees to pay the outstanding balance of its outstanding lease payment owed to Sitka at the time of the execution of this Amendment No. 2; and
4. That the Amendment will take effect upon receipt of \$100,000 and outstanding lease balance to Sitka, that must be submitted within one month of the Assembly's motion approving Amendment No. 2, not later than February 26, 2010.

NOW, THEREFORE, Sitka and TAB, based on TAB agreeing and fulfilling all conditions required by the City and Borough of Sitka Assembly set out above, agree to Amendment No. 2, which includes amending the Agreement as follows, as authorized and pursuant to Section 20 of the Agreement (new language underline; deleted language stricken):



2. Definitions.

\* \* \*

g) "export" means the transportation by TAB of bulk water to a destination outside the City and Borough of Sitka ~~the hydrologic unit of the Blue Lake drainage.~~

\* \* \*

3. Water Volumes Contracted by TAB from Sitka.

3.1 Sitka will make available to TAB a total of 8,960 acre-feet of raw water for a period of ~~4836~~ months after the effective date of this Agreement. At the conclusion of the ~~4836~~-month period described in the previous sentence, TAB's access to water will revert to the stages outlined in Subsection 3.2 of this Agreement, providing TAB has met the minimum export volumes set out in Section 3 (this Section) of this Agreement. During the ~~4836~~-month period immediately after the effective date of this Agreement, TAB must take delivery of and export at least ~~5020~~ million gallons of water. If TAB does not take delivery of and export at least ~~5020~~ million gallons of water from Sitka pursuant to this Agreement in the first ~~4836~~ months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one of more of the conditions or requirements of this Agreement. unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.2 ~~48 36~~ months after the effective date of this Agreement, the Stages described in this subsection start. The quantities of raw water in bulk which is available for export by TAB from Sitka under this Agreement are set forth below, and shall increase in maximum export volumes available and minimum export requirements as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Foot Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	<del>230.2 422.8</del> af (75mg)	<del>153.4 61.4</del> af (50 20mg)	12-month period
Stage 2	33.6 MG	2,000 af	306.9 af (100mg)	<del>230.2 422.8</del> af (75 40 mg)	12-month period
Stage 3	33.6 MG	4,000 af	920.7 af (300mg)	306.9 af (100mg)	12-month period
Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	( ) <sup>1</sup>	N/A	3,068.9 af (1bg)	12-month period

<sup>1</sup> Annual acre-feet available and the minimum amount of water available for export per 12-month period will be determined solely by Sitka at that time based on availability.

Stage 1: Stage 1 begins ~~48~~ 36 months after the effective date of this Agreement. Sitka will make available to TAB not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, TAB must have taken delivery of and exported from Sitka a minimum of ~~153.4~~ 61.4 af (~~50~~ 20 MG) of bulk water within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 1. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 1, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has failed to meet such requirement, unless within the said 45-day period, TAB cures such failure as determined by Sitka in its sole discretion.

Stage 2: If TAB takes delivery of and exports a total of at least ~~230.2~~ 122.8 acre-feet (~~75~~ 40 MG) of bulk water in a 12-month period, then the amount of bulk water Sitka will make available for delivery to TAB will be increased to 2,000 acre-feet of water in a 12-month period, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 2 for a 12-month period starting on the Stage Anniversary Date of Stage 2, TAB must have taken delivery of and exported from Sitka at least ~~230.2~~ 122.8 af (~~75~~ 40 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 2. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 2, TAB reverts to Stage 1 and a new Stage Anniversary Date of Stage 1 is created.

\* \* \*

#### **4. The Parties' Rights and Obligations Regarding Water Delivered for Export.**

a. By this contract, Sitka is entering into an Agreement to sell raw water in bulk under water rights issued to Sitka by the State of Alaska under water export authority contained in Water Appropriation Certificates LAS 19669 and ADL 43826. Sitka's contractual obligation to deliver water to TAB in the quantities specified in this Agreement is subject to these limitations:

a) Sitka shall retain first right and priority to water required for its municipal drinking water supply system and its municipal hydroelectric system, and it may suspend or limit raw water deliveries in bulk to TAB to meet the ~~reasonable~~ requirements of its municipal drinking water and hydroelectric systems, including the planned expansion of its hydroelectric system.

\* \* \*

c) Sitka may temporarily suspend raw water deliveries in bulk in order to perform planned and routine maintenance on its municipal drinking water, hydroelectric and/or water delivery systems, provided that Sitka shall give not less than 60 days prior notice to TAB of any such planned suspensions.

\* \* \*

**5. Water Distribution.**

5.1 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to not sell water for export to other entities for a price less than the price currently charged to TAB for equivalent Blue Lake water without offering the same price to TAB.

~~5.2 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to refer all inquiries from third parties for the purchase of bulk water to TAB. If TAB is unable to come to terms for sale of bulk water to said third parties within 90 days of the referral by Sitka to TAB, Sitka may proceed with direct negotiations with said third party without further obligation to TAB.~~

~~5.3 Notwithstanding any other provision of this Agreement, this Section does not apply to any purchaser of bulk water who has executed a bulk water purchase agreement with Sitka prior to the date of this Agreement, including any assignee of such agreement~~

**6. No Warranty by Sitka of Water Quality or Fitness for a Particular Purpose.**

\* \* \*

6.2 TAB acknowledges and agrees that Sitka's planned expansion necessary and routine alterations in its hydroelectric operations may produce temporary changes in water quality due to turbidity, and that the occurrence of such events shall not alter or affect TAB's contractual obligations under this Agreement.

\* \* \*

**10. Delivery, Loading, and Transportation of Water in Bulk.**

10.1 The parties agree that TAB shall be solely responsible for the costs of acquisition, construction and installation of any structure, facility or vessel which it determines to be required or convenient for the loading and transportation of bulk water delivered to it by Sitka, and for initiating and completing such acquisition, construction and installation. All structures and facilities, ~~for~~ construction of all structures and facilities, must comply with all Federal, State, and local law, including zoning requirements, and must be reviewed by SMCIP Board for its recommendation to Assembly, subject to Assembly approval before construction.

\* \* \*

10.5 Sitka's point of delivery of bulk water to TAB shall be that physical location where the Sitka-owned physical facilities and equipment, employed in the transportation of Sitka's bulk water for delivery to TAB, terminates, ~~and which is the location where the remaining physical facilities and equipment employed in the transportation of such water are facilities owned by others.~~ Sitka's flow meter which is used to calculate the quantities of water delivered to TAB shall be located near the point of delivery.

1-27-10  
1-27-10

10.6 Sitka shall retain the right to ~~pay for, install,~~ own, and operate a raw water delivery pipeline that serves the Sawmill Cove Industrial Park, if Sitka so desires. In such event, Sitka may require TAB to use Sitka's facilities and may change the point of delivery to the point at which Sitka's ~~new~~ facilities end. Unless and until Sitka shall deliver such new facilities TAB shall be fully responsible, at its own cost and expense, for arranging and accomplishing transport of bulk water from the point of delivery established by Sitka.

\* \* \*

#### **14. Assignment.**

This Agreement, which is in the nature of a personal services contract, may not be assigned by either party without the prior written consent of the other party, which shall have full discretion to grant or withhold such approval, in its sole and absolute discretion except as provided below.

~~TAB may assign this Agreement on a one-time basis to Langenberg Research LLC 3590 W. Third St, Eugene, Oregon 97402 if, at the time of assignment, Langenberg Research LLC can demonstrate it is financially capable of performing the requirements of this Agreement to the satisfaction of Sitka.~~

~~Langenberg Research shall be bound by all the terms and requirements of this Agreement.~~

~~Langenberg Research shall not be authorized to assign this Agreement to any third party without prior written consent of Sitka.~~

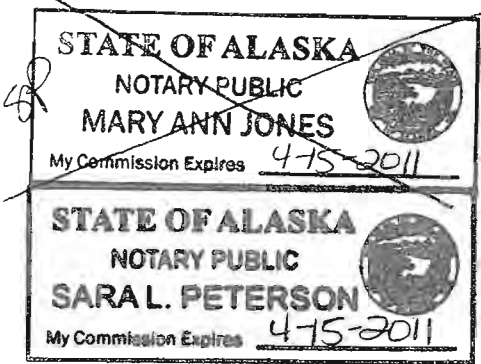
Sitka may form a Port Authority or similar entity, in the future and this agreement shall be completely transferable to said Port Authority. A transfer of the agreement to any such entity shall not create any restrictions upon TAB to purchase water other than those restrictions named in this agreement.

TRUE ALASKA BOTTLING COMPANY

Terrence J Trapp  
CEO (title)

STATE OF Alaska )  
 ) ss.  
COUNTY OF NA )

THIS CERTIFIES that on this 27 day of January, 2010, Terrence J Trapp, known to me or who has produced sufficient identification to be the person whose name is subscribed to this document, signed this document, and by signing affirms that he is the President of TRUE ALASKA BOTTLING COMPANY, that he has been authorized to execute the foregoing document on its behalf, and executes the document freely and voluntarily.



Sara L Peterson  
Notary Public by and for City and Borough of Sitka  
My Commission Expires: 4-15-2011

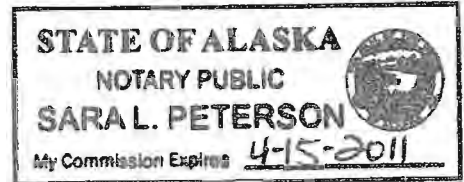
THE CITY AND BOROUGH OF SITKA  
Jim Dinley  
JIM DINLEY, Municipal Administrator

STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

THIS CERTIFIES that on this 27 day of January, 2010, Jim Dinley signed this document, and by signing affirms that he is the MUNICIPAL ADMINISTRATOR of the City and Borough of Sitka, Alaska, a municipality organized under the laws of the State of Alaska, that he has been authorized to execute the foregoing document, and executes the document freely and voluntarily.

Sara L Peterson  
Notary Public for Alaska  
My Commission Expires: 4-15-2011

ATTEST:  
Sara Peterson for  
Colleen Ingman, MMC  
Municipal Clerk



**AMENDED  
TRUE ALASKA BOTTLING COMPANY  
PURCHASE AGREEMENT  
FOR RAW WATER  
IN BULK FOR EXPORT  
(Incorporating Amendment No. 2)**

**BETWEEN:**

City and Borough of Sitka  
100 Lincoln Street  
Sitka, Alaska 99835

**AND**

True Alaska Bottling Company  
4500 Sawmill Creek Road  
Sitka, Alaska 99835

**1. Term and Documents Comprising this Agreement.**

1.1 The initial term of this Agreement shall begin on the effective date and shall end at 11:59 p.m. Alaska Standard Time on December 31, 2026. The City and Borough of Sitka (hereinafter referred to as "Sitka" in this Agreement) hereby grants to True Alaska Bottling Company (hereinafter referred to as "TAB" in this Agreement), on the terms and conditions set forth herein, the right to purchase raw water in bulk for export, to be delivered to it by Sitka from the Blue Lake reservoir, a water source within Sitka.

1.2 At the conclusion of the initial term of this Agreement, each of three additional terms of five (5) years each for extension of this Agreement may be exercised upon the consent of both parties. TAB must notify Sitka in writing no later than four (4) months before the end of the initial Agreement period of its desire to add an additional five year term, and shall thereafter notify Sitka no later than four (4) months prior to the expiration of each exercised additional term of its desire to exercise the next five year time period. If TAB does not timely notify Sitka in writing, the Agreement will terminate at the expiration of the then-current contract term. Sitka's bulk raw water price is subject to re-negotiation before the commencement of each additional term. If said price is not agreed to, the Agreement will terminate at the expiration of the then-current contract term. Either party may decide to not implement any additional term for any reason, in its sole discretion.

1.3 The Agreement shall consist of the 21 sections in this Agreement plus Appendix A (a map) and Appendix B (the "Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property" dated April 28, 1999, including all attachments, which specifically includes "Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka [:] Management Plan for Sawmill Cove Property (Former APC Property).")



## 2. Definitions.

In this Agreement, the following terms shall have the definitions stated:

- a) "acre-foot" or "af" means 325,851 U.S. gallons.
- b) "annually" means 12 consecutive months.
- c) "beneficial use" means the application of water, purchased by TAB for export or for use at the point of delivery, to a useful purpose, including domestic, commercial, agricultural, wildlife, and recreational uses.
- d) "BG" or "bg" means billions of gallons.
- e) "bulk water" means raw water or potable water sold by Sitka to TAB under this Agreement, and delivered by Sitka to TAB in the measured quantities specified in this Agreement.
- f) "deliver" or "to deliver" or "delivered" means the act by Sitka of making a specific quantity of water available to TAB at the point of delivery.
- g) "export" means the transportation by TAB of bulk water to a destination outside the City and Borough of Sitka ~~the hydrologic unit of the Blue Lake drainage.~~
- h) "gallon" means one US gallon or 3.785 liters.
- i) "MG" or "mg" means millions of gallons.
- j) "MGD" means millions of gallons per consecutive 24-hour period.
- k) "per day" means calendar day starting at midnight.
- l) "per week" means during a period of seven (7) consecutive days.
- m) "per year" means during a period of 12 consecutive months.
- n) "point of delivery" means that physical location where the legal possession, ownership, and risk associated with the bulk water which is the subject of this Agreement transfers from Sitka to TAB, as specified in this Agreement.
- o) "raw water" means untreated water delivered by Sitka from Blue Lake via the Blue Lake penstock, a conduit which transports water from Blue Lake to the Blue Lake Powerhouse as shown on Exhibit A.
- p) "rule curve" means the relationship between the elevation of the water surface of Blue

Lake and the volume of water contained in Blue Lake, as it pertains to the reservation of water for fish, wildlife, and habitat protection.

q) "Stage" means a time period in this Agreement that starts 12 months after the effective date of this Agreement; a Stage is composed of one or more 12-month periods, with each 12-month period starting on the anniversary of the day the Stage begins.

r) "Stage Anniversary Date" means the day starting a 12-month period in a Stage.

s) "ton" means one US short ton or 2,000 pounds.

t) "water rights" means those rights to the beneficial use of water which are held by Sitka under certificates of appropriation issued by the State of Alaska pursuant to Alaska law.

**3. Water Volumes Contracted by TAB from Sitka.**

3.1 Sitka will make available to TAB a total of 8,960 acre-feet of raw water for a period of ~~36~~ 48 months after the effective date of this Agreement. At the conclusion of the ~~48~~ ~~36~~-month period described in the previous sentence, TAB's access to water will revert to the stages outlined in Subsection 3.2 of this Agreement, providing TAB has met the minimum export volumes set out in Section 3 (this Section) of this Agreement. During the ~~48~~ ~~36~~-month period immediately after the effective date of this Agreement, TAB must take delivery of and export at least ~~50~~ 20 million gallons of water. If TAB does not take delivery of and export at least ~~50~~ 20 million gallons of water from Sitka pursuant to this Agreement in the first ~~48~~ ~~36~~ months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one of more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.2 ~~48~~ ~~36~~ months after the effective date of this Agreement, the Stages described in this subsection start. The quantities of raw water in bulk which is available for export by TAB from Sitka under this Agreement are set forth below, and shall increase in maximum export volumes available and minimum export requirements as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Feet Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	<del>230.2</del> <del>122.8</del> af (75mg)	<del>153.4</del> <del>61.4</del> af (50 <del>20</del> mg)	12-month period
Stage 2	33.6 MG	2,000 af	306.9 af (100mg)	<del>230.2</del> <del>122.8</del> af (75 <del>40</del> mg)	12-month period
Stage 3	33.6 MG	4,000 af	920.7 af (300mg)	306.9 af (100mg)	12-month period
Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	( ) <sup>1</sup>	N/A	3,068.9 af (1bg)	12-month period

<sup>1</sup> Annual acre-feet available and the minimum amount of water available for export per 12-month period will be

Stage 1: Stage 1 begins ~~48~~ 36 months after the effective date of this Agreement. Sitka will make available to TAB not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, TAB must have taken delivery of and exported from Sitka a minimum of ~~153.4~~ 61.4 af (~~50~~ 20 MG) of bulk water within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 1. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 1, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has failed to meet such requirement, unless within the said 45-day period, TAB cures such failure as determined by Sitka in its sole discretion.

Stage 2: If TAB takes delivery of and exports a total of at least ~~230.2~~ ~~122.8~~ acre-feet (~~75~~ 40 MG) of bulk water in a 12-month period, then the amount of bulk water Sitka will make available for delivery to TAB will be increased to 2,000 acre-feet of water in a 12-month period, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 2 for a 12-month period starting on the Stage Anniversary Date of Stage 2, TAB must have taken delivery of and exported from Sitka at least ~~230.2~~ ~~122.8~~ af (~~75~~ 40 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 2. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 2, TAB reverts to Stage 1 and a new Stage Anniversary Date of Stage 1 is created.

Stage 3: If TAB takes delivery of and exports a total of at least 306.9 acre-feet (100 MG) of bulk water per 12-month period, then the amount of water Sitka will make available for delivery to TAB will be increased to 4,000 acre-feet per year, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 3 for a 12-month period starting on the Stage Anniversary Date of Stage 3, TAB must have taken delivery of and exported from Sitka at least 306.9 af (100 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 3. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 3, TAB reverts to Stage 2 and a new Stage Anniversary Date of Stage 2 is created.

Stage 4: If TAB takes delivery of and exports a total of at least 920.7 acre-feet (300 MG) per 12-month period, then the amount of water Sitka will make available for delivery to TAB will be increased to 10,000 acre-feet per 12-month period, provided at that time that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 4 for a 12-month period starting on the Stage Anniversary Date of Stage 4, TAB must have taken delivery of and exported from Sitka at least 920.7 af (300 MG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 4. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 4, TAB reverts to Stage 3 and a new Stage Anniversary Date of Stage 3 is created.

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determined solely by Sitka at that time based on availability.

Stage 5: If TAB takes delivery of and exports a total of 3,068.9 acre feet (1 billion gallons) of water per 12-month period, then TAB may request from Sitka additional bulk water of which the amount will be determined by Sitka at its sole discretion at that time, provided that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 5 for a 12-month period starting on the Stage Anniversary Date of Stage 5, TAB must have taken delivery of and exported from Sitka at least 3,068.9 af (1 BG) within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 5. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 5, TAB reverts to Stage 4 and a new Stage Anniversary Date of Stage 4 is created.

3.3 If TAB fails to take delivery of and export the required minimum quantities specified in Stages 2 through 5 within the time periods specified in those Stages as set out in Subsection 3.2, the respective obligations of Sitka to make water available and of TAB to take delivery of and accept and export shall be reduced to the next lower Stage for the next 12-month period. If TAB meets the minimum performance requirement of that lower Stage within the time period specified, then the next higher Stage shall again become applicable to Sitka's and TAB's respective obligations during the next 12-month period. The date upon which Sitka moves TAB either up or down from stage to stage will start the 12-month time period anew and create a new Stage Anniversary Date, provided at that time that Sitka still has adequate water quantities available and uncommitted for export.

3.4 Notwithstanding any other provision of this Agreement, if water delivered by Sitka to TAB and exported by TAB falls below 20 million gallons during any period of 12 consecutive months, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one or more of the conditions or requirements of this Agreement, unless within the 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.5 During the first year after the effective date of this Agreement and during periods of any Stage under this Agreement, TAB may take delivery of raw water at a rate no greater than 33.6 MGD.

#### **4. The Parties' Rights and Obligations Regarding Water Delivered for Export.**

a. By this contract, Sitka is entering into an Agreement to sell raw water in bulk under water rights issued to Sitka by the State of Alaska under water export authority contained in Water Appropriation Certificates LAS 19669 and ADL 43826. Sitka's contractual obligation to deliver water to TAB in the quantities specified in this Agreement is subject to these limitations:

a) Sitka shall retain first right and priority to water required for its municipal drinking water supply system and its municipal hydroelectric system, and it may suspend or limit raw water deliveries in bulk to TAB to meet the ~~reasonable~~ requirements of its municipal drinking water and hydroelectric systems, including the planned expansion of its hydroelectric system.

b) Sitka will abide by the 1992 Blue Lake Watershed Control Plan as approved by the U.S. Environmental Protection Agency and described in City and Borough of Sitka Ordinance No. 92-1091.

c) Sitka may temporarily suspend raw water deliveries in bulk in order to perform planned and routine maintenance on its municipal drinking water, hydroelectric and/or water delivery systems, provided that Sitka shall give not less than 60 days prior notice to TAB of any such planned suspensions.

d) Sitka shall be relieved of its obligation to deliver raw water in bulk to TAB in the event of an interruption in water supply due to Force Majeure, or due to unforeseen circumstances that require repairs to or reconstruction of the municipal drinking water, hydroelectric systems, water delivery system, or other of Sitka's facilities, to the extent that the availability of raw water in bulk for delivery to TAB under this Agreement is adversely affected, and for so long as is required to effect such repairs or reconstruction, for such time as is necessary to address such circumstances.

e) The volumes of Sitka's raw water deliveries in bulk to TAB for export are subject to Sitka's compliance with all conditions contained in Water Appropriation Certificates ADL 43826, LAS 19669, and LAS 20526, including compliance with the rule curve and the support of spawning, incubation, and rearing of certain species of fish in Sawmill Creek and Blue Lake. Interpretation of applicable requirements and the means used to achieve compliance with such requirements shall be in Sitka's sole discretion.

f) In the event Sitka is relieved of its obligation to make agreed quantities of water available to TAB for reasons noted in this paragraph or due to Force Majeure, then TAB's obligation to take delivery of and to export water shall be reduced to the volumes actually delivered by Sitka during that period of time and the time for TAB's performance shall be extended for the same period of time Sitka has been so relieved of its obligation.

4.2 TAB agrees and warrants that the raw water in bulk delivered by Sitka to it for export shall be put to one or more beneficial uses by it or by its water purchasers.

## **5. Water Distribution.**

5.1 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to not sell water for export to other entities for a price less than the price currently charged to TAB for equivalent Blue Lake water without offering the same price to TAB.

~~5.2 Provided that TAB is in compliance with all terms of this agreement Sitka agrees to refer all inquiries from third parties for the purchase of bulk water to TAB. If TAB is unable to come to terms for sale of bulk water to said third parties within 90 days of the referral by Sitka to TAB, Sitka may proceed with direct negotiations with said third party without further obligation to TAB.~~

~~5.3 Notwithstanding any other provision of this Agreement, this Section does not apply to any purchaser of bulk water who has executed a bulk water purchase agreement with Sitka prior to the date of this Agreement, including any assignee of such agreement.~~

## **6. No Warranty by Sitka of Water Quality or Fitness for a Particular Purpose.**

6.1 Sitka does not warrant the quality or fitness for a particular purpose of any water contracted by it for delivery, and/or actually delivered, to TAB under this Agreement. TAB acknowledges and agrees that before entering into this Agreement, it has examined Sitka's water source, Sitka's methods of diversion, and Sitka's means of delivery to TAB of the quantities of water which are contracted under this Agreement, and that it has found all such items adequate and satisfactory for TAB's purposes.

6.2 TAB acknowledges and agrees that Sitka's planned expansion necessary and routine alterations in its hydroelectric operations may produce temporary changes in water quality due to turbidity, and that the occurrence of such events shall not alter or affect TAB's contractual obligations under this Agreement.

6.3 TAB acknowledges and agrees that the quality of water contracted by Sitka to be delivered in bulk to it for export may vary due to natural events over which Sitka has no control, which include, without limitation, rainfall, drought, snowfall, avalanches and landslides, and that the occurrence of such events shall not alter or affect TAB's contractual obligations under this Agreement, except that the quantity of water TAB is obligated to take delivery of and to export shall be reduced to the quantity Sitka can and does make available for delivery to TAB, as a consequence of an occurrence of any of such natural events.

6.4 TAB shall be solely responsible and liable for the quality and usefulness for any particular purpose of all water exported by, transported by, used by, or sold by, or delivered by TAB.

## **7. Purchase Price For Bulk Water.**

7.1 TAB will purchase bulk water for export from Sitka under this Agreement, based upon the following prices: Raw water delivered in bulk to TAB for export shall be priced at U.S. \$0.01 (one cent) per gallon. The purchase price includes Sitka cargo wharfage charges for bulk water delivered to TAB's vessel.

7.2 Raw water delivered by Sitka to TAB for vessel wash-down, washout and any other non-export application shall be priced at US \$0.005 (one-half of a cent) per gallon. Such quantities shall be separately metered, and shall not be included in the total quantities of raw water delivered to TAB for export.

7.3 Beginning July 1, 2016 and every calendar year thereafter, the prices charged by Sitka for water delivered to TAB under this Agreement will be adjusted based on the "All Items" figure for Seattle, Washington as published in the "Consumer Price Index for All Urban Consumers"



(CPI) published the most immediately before January 1 of the calendar year for which prices are being calculated. Notwithstanding the previous sentence, in no event will the CPI adjustment described in the previous sentence exceed + 3.0% nor the adjustment be made if the result of such adjustment would be a decrease in any price charged under this Agreement.

7.4 TAB shall pay Sitka for all volumes of water delivered to TAB as actually measured by flow meters owned, operated, and documented by Sitka at or near the point of delivery. TAB shall pay for each quantity of water loaded no later than fifteen (15) days after the presentation of an invoice by Sitka to TAB for such water. Failure by TAB to make timely payment shall be cause for Sitka to suspend water delivery to TAB.

**8. Conditions for Maintaining TAB's Purchase Right and Obligation; Termination.**

8.1 Notwithstanding any other provision of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one or more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

8.2 Upon termination, all legal rights and obligations as between Sitka and TAB under this Agreement shall cease, except that TAB's obligations to Sitka under Sections 13, 14, 15, 16, and 17 of this Agreement shall survive termination.

**9. Sitka's Permitting Actions.**

Sitka agrees to take any and all actions which it determines, in the exercise of its sole discretion, to be reasonable, necessary, and economically feasible to maintain in good standing any permit, license, certificate, allocation, appropriation or other authorization which may authorize Sitka to fulfill its obligations under this Agreement.

**10. Delivery, Loading, and Transportation of Water in Bulk.**

10.1 The parties agree that TAB shall be solely responsible for the costs of acquisition, construction and installation of any structure, facility or vessel which it determines to be required or convenient for the loading and transportation of bulk water delivered to it by Sitka, and for initiating and completing such acquisition, construction and installation. All structures and facilities, for construction of all structures and facilities, must comply with all Federal, State, and local law, including zoning requirements, and must be reviewed by SMCIP Board for its recommendation to Assembly, subject to Assembly approval before construction.

10.2 TAB shall pay such port vessel dockage fees established by Sitka. Sitka does not warrant the quality or fitness for a particular purpose of any dock or wharf at such waterfront, and TAB must determine the feasibility of any particular use before engaging in such use.

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10.3 TAB shall be solely responsible for the transportation of all water delivered to it by Sitka for export.

10.4 No later than 30 days before the first delivery of water takes place under this Agreement, TAB will designate in a writing to Sitka's Municipal Administrator a local representative as TAB's continuing personal contact with Sitka and its subordinate departments, agencies and authorities.

10.5 Sitka's point of delivery of bulk water to TAB shall be that physical location where the Sitka-owned physical facilities and equipment, employed in the transportation of Sitka's bulk water for delivery to TAB, terminates, ~~and which is the location where the remaining physical facilities and equipment employed in the transportation of such water are facilities owned by others.~~ Sitka's flow meter which is used to calculate the quantities of water delivered to TAB shall be located near the point of delivery.

10.6 Sitka shall retain the right to ~~pay for, install,~~ own, and operate a raw water delivery pipeline that serves the Sawmill Cove Industrial Park, if Sitka so desires. In such event, Sitka may require TAB to use Sitka's facilities and may change the point of delivery to the point at which Sitka's ~~new~~ facilities end. Unless and until Sitka shall deliver such new facilities TAB shall be fully responsible, at its own cost and expense, for arranging and accomplishing transport of bulk water from the point of delivery established by Sitka.

## **11. Ballast Water and Wash Water Discharges.**

11.1 TAB shall comply with all provisions of law applicable to its obligations under this Agreement. TAB shall comply with all applicable international, federal, state, and local requirements regarding the discharge of any ballast water (including bilge water) or any wastes at all times and as to all vessels traveling to and from Silver Bay and/or Sawmill Cove for the purpose of receiving any water to be delivered to TAB by Sitka under this Agreement. Such requirements described in this Section include but are not limited to those in Section IV of the Sawmill Cove Management Plan, which is included in Appendix B.

11.2 TAB shall comply with all applicable federal, state and local requirements regarding the use and disposal of any raw or treated water delivered to TAB by Sitka for the purposes of vessel wash-down or washout, or any other non-export application.

## **12. Water Loading Plan Requirements.**

12.1 Before TAB loads any bulk water delivered to it by Sitka, TAB shall submit to Sitka a written Water Loading Plan. This Plan shall be deemed approved by Sitka unless no later than seven days after the submission the Municipal Administrator of Sitka in his or her sole discretion rejects—or requires TAB to resubmit—any portion of the Plan in a writing to TAB that states the deficiency. Sitka shall deliver no bulk water to TAB and TAB shall not load any bulk water delivered to it by Sitka as long as any portion of the Plan has been rejected and not deemed approved after re-submittal. TAB shall submit a separate Water Loading Plan at least ten (10) days before each loading of bulk water under this Agreement.

12.2 The Water Loading Plans required by this section shall address environmental and logistical considerations related to the loading of water. The issues and items to be addressed in each Water Loading Plan shall include, without limitation, each of the following:

- a) details concerning any vessel to be used by TAB in the loading or transport of bulk water;
- b) steps to be taken to insure the safety of persons involved in the loading of bulk water;
- c) steps to be taken to insure safety of the public before, during, and after loading of water;
- d) steps to be taken to address the effects of wind and tidal conditions on the loading;
- e) steps to be taken concerning moorage and access to vessels during loading;
- f) steps to assure communication before, during, and after loading between those loading and Sitka representatives;
- g) details about the precise location and proposed use of any structure, facility, pipe, pipeline, or other infrastructure to be used in the loading of water and details of how TAB intends to address the risks associated with a catastrophic event arising from TAB's loading activities or TAB's failure to adhere to the proposed Water Loading Plan;
- h) steps to be taken to avoid conflicts with other vessel traffic and industrial park users;
- i) details on proposed handling of any ballast water in any vessel to be used in the loading of water;
- j) details on proposed handling of any residual and/or wash water, or other materials in the tanks of any vessel to be used in the loading;
- k) the days and the periods of time within each day that water is proposed to be loaded; and
- l) details on consistency between the proposed Water Loading Plan and Appendix B, which includes the "Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property" dated April 28, 1999, including all attachments, which specifically includes "Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka [:] Management Plan for Sawmill Cove Property (Former APC Property)." Such details on such consistency must include any and all specific steps to be taken to avoid anchoring in prohibited areas and disturbance of the sea bottom in the "No Disturbance" zone described in the last-referenced document.

12.3 TAB shall comply with all provisions of each Water Loading Plan after all of such provisions have been deemed approved either upon submittal or re-submittal under Subsection 12.1 above, as to the water loading operation for which the Water Loading Plan was submitted.

12.4 Approval by Sitka of any Water Loading Plan shall not be deemed to have imposed upon Sitka the status of guarantor of the feasibility, propriety, or safety of any aspect of an approved Water Loading Plan, nor shall such approval be deemed to have created or conferred benefits on any third party.

### **13. Indemnification of Sitka.**

Notwithstanding anything to the contrary in this Agreement, TAB shall defend, indemnify, and hold Sitka harmless from any claim, demand, action, or proceeding of any kind or nature, based upon, arising out of, or related to:

- a. any defect or flaw in the quality of water supplied under this agreement;
- b. any delays on the part of Sitka in the delivery of water under this agreement as the result of the mechanical or physical breakdown of equipment or facilities owned or operated by the Sitka;
- c. claims arising from the transportation or shipment of water after such water has left Sitka's water delivery system and as such has passed the point of delivery;
- d. injuries to employees of TAB or any of its contractors;
- e. damages resulting from accidents involving mooring, unmooring, navigation of vessels, or cargo loading operations, including but not limited to claims for personal injury, property damage, and pollution.

TAB shall at all times during this Agreement maintain insurance policies providing umbrella coverage against matters including but not limited to those discussed in this agreement in an amount not less than U.S. \$5,000,000, with the City and Borough of Sitka named as an additional insured, and with a waiver of subrogation against Sitka. TAB shall be responsible for ensuring that each of its contractors complies with this term. TAB shall deliver reasonable evidence of TAB's compliance with this term to Sitka. TAB shall assure that any contractor for TAB who is to perform any task or work within the territorial jurisdiction of Sitka has insurance appropriate to any task to be performed by that contractor, and TAB shall be responsible for delivering reasonable evidence of such insurance to Sitka.

TAB will ensure that its customers take full responsibility for water product quality that they receive subsequent to TAB's on-site Quality Control laboratory tests. TAB's Quality control staff shall securely store a reasonable quantity of water sampled from each bulk water shipment for 24 months for re-analysis, if required.

#### **14. Assignment.**

This Agreement, which is in the nature of a personal services contract, may not be assigned by either party without the prior written consent of the other party, which shall have full discretion to grant or withhold such approval, in its sole and absolute discretion except as provided below.

~~TAB may assign this Agreement on a one-time basis to Langenberg Research LLC 3590 W. Third St, Eugene, Oregon 97402 if, at the time of assignment, Langenberg Research LLC can demonstrate it is financially capable of performing the requirements of this Agreement to the satisfaction of Sitka.~~

~~Langenberg Research shall be bound by all the terms and requirements of this Agreement.~~

~~Langenberg Research shall not be authorized to assign this Agreement to any third party without prior written consent of Sitka.~~

Sitka may form a Port Authority or similar entity, in the future and this agreement shall be completely transferable to said Port Authority. A transfer of the agreement to any such entity shall not create any restrictions upon TAB to purchase water other than those restrictions named in this agreement.

#### **15. Waiver and Integration.**

This Agreement integrates the entire Agreement between the parties regarding the sale and purchase of water in bulk. This Agreement supersedes all previous agreements, discussions, and negotiations, whether written or oral. Each party specifically acknowledges and represents that it has had ample opportunity to consult with legal counsel regarding this Agreement, and that any rule that an agreement should be construed against its drafter shall not apply to this Agreement.

#### **16. Force Majeure.**

Neither party shall be in breach of this Agreement as the result of any failure or delay in performing any of the obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by storm, flood, avalanche, landslide, earthquake, tsunami, act of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, or act of God. Sitka shall not be in breach of this Agreement as the result of any failure or delay in performing any of its obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by any order of any United States court of competent jurisdiction, or by any act, rule, regulation, order or directive of any superior governmental unit or any agency thereof, or by any termination, modification, suspension, or revocation of any permit, license, allocation, appropriation, or certificate held by Sitka. In the event Sitka or TAB is relieved of an obligation under this Agreement due to Force Majeure, time frames under this Agreement shall be adjusted accordingly. The party asserting a Force Majeure event must demonstrate direct and proximate cause by clear and convincing evidence.

**17. Applicable Law.**

Any action or lawsuit brought to construe, interpret, or enforce this Agreement shall be brought in the superior court of the State of Alaska in Sitka, Alaska. Venue for any such action or lawsuit shall lie exclusively in Sitka, Alaska. The parties specifically disavow any application under the removal jurisdiction of the federal courts on grounds of diversity of citizenship, in any litigation concerning this Agreement.

**18. Effective Date.**

This Agreement is effective as of the last date signed below, which shall be deemed the "effective date" for the purpose of any time period which incorporates that term in this Agreement.

**19. Authority.**

The parties represent and warrant to each other that they have the full, complete, and absolute authority to enter into this Agreement; that this Agreement has been duly authorized by the governing body of each party; that the person executing this Agreement on its behalf has the full power and authority to do so; and that this Agreement is binding and enforceable against it in accordance with its terms. TAB acknowledges that this Agreement is only effective as against Sitka if the City and Borough of Sitka Assembly votes to authorize the Municipal Administrator to execute this Agreement on behalf of Sitka, and the Municipal Administrator of Sitka represents and warrants by affixing his signature to this Agreement that the Assembly has so voted.

**20. Amendment and Severability.**

This Agreement may not be amended except by written agreement of both parties. If any provision of this Agreement or any application thereof to any person, entity, or circumstance is held invalid, the remainder of this Agreement and application thereof to any person, entity, or circumstances shall not be affected thereby.

**21. Time of Essence.**

Time is of the essence in this Agreement.

**AMENDMENT NO. 3 TO  
TRUE ALASKA BOTTLING COMPANY PURCHASE AGREEMENT  
FOR RAW WATER IN BULK FOR EXPORT**

WHEREAS, the City and Borough of Sitka ( "Sitka") and True Alaska Bottling Company ("TAB") entered into the "True Alaska Bottling Company Purchase Agreement for Raw Water in Bulk for Export" ("Agreement"), on December 7, 2006;

WHEREAS, Sitka and TAB agreed to amend the Agreement as set out in the Amendment No. 1 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 1");

WHEREAS, Sitka and TAB agreed to further amend the Agreement as set out in the Amendment No. 2 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 2");

WHEREAS, Sitka and TAB agree to further amend the Agreement as set out in this Amendment No. 3 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 3");

WHEREAS, this Amendment No. 3 extends TAB deadlines by two additional years at Sections 3.1 and 3.2, contingent upon TAB agreeing to the following conditions, which were required and approved by the CBS Assembly at its Regular Meeting on January 25, 2011:

1. Sitka receives a non-refundable payment of \$150,000 in two installments of \$75,000 from TAB to be applied towards export water payments owed to Sitka during the two-year term of this Amendment No. 3;
2. Amendment No. 3 will take effect only upon receipt of the first \$75,000 installment, received no later than February 26, 2011;
3. To keep the Agreement in effect, the second installment of \$75,000 is owed no later than February 26, 2012.
4. If no water export occurs within the two-year term of this Amendment No. 3, in accordance with the Agreement at Article 3.1 and 3.2, both payments shall be retained by Sitka unencumbered; and

NOW, THEREFORE, Sitka and TAB, based on TAB agreeing and fulfilling all conditions required by the City and Borough of Sitka Assembly set out above, agree to Amendment No. 3, which includes amending the Agreement as follows and as authorized pursuant to Section 20 of the Agreement (new language underline; deleted language stricken):

**3. Water Volumes Contracted by TAB from Sitka.**

3.1 Sitka will make available to TAB a total of 8,972 acre-feet of raw water for a period of ~~72~~ 48 months after the effective date of this Agreement. At the conclusion of the ~~72~~48 -month period described in the previous sentence, TAB's access to water will revert to the stages outlined in Subsection 3.2 of this Agreement, providing TAB has met the minimum export volumes set out in Section 3 (this Section) of this Agreement. During the ~~72~~48 -month period immediately



after the effective date of this Agreement, TAB must take delivery of and export at least 50 million gallons of water. If TAB does not take delivery of and export at least 50 million gallons of water from Sitka pursuant to this Agreement in the first ~~72~~ months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one of more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.2 ~~72~~ months after the effective date of this Agreement, the Stages described in this subsection start. The quantities of raw water in bulk which is available for export by TAB from Sitka under this Agreement are set forth below, and shall increase in maximum export volumes available and minimum export requirements as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Foot Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	230.2 af (75mg)	153.4 af (50 mg)	12-month period
Stage 2	33.6 MG	2,000 af	306.9 af (100mg)	230.2 af (75 mg)	12-month period
Stage 3	33.6 MG	4,000 af	920.7 af (300mg)	306.9 af (100mg)	12-month period
Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	( ) <sup>1</sup>	N/A	3,068.9 af (1bg)	12-month period

Stage 1: Stage 1 begins ~~72~~ months after the effective date of this Agreement. Sitka will make available to TAB not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, TAB must have taken delivery of and exported from Sitka a minimum of 153.4 af (50 MG) of bulk water within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 1. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 1, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka gives notice to TAB by certified mail that TAB has failed to meet such requirement, unless within the 45-day period, TAB cures such failure as determined by Sitka in its sole discretion.

\* \* \*

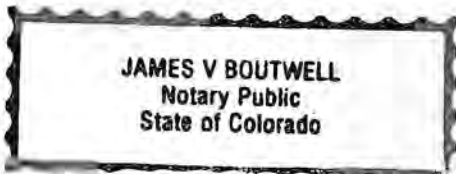
<sup>1</sup> Annual acre-feet available and the minimum amount of water available for export per 12-month period will be determined solely by Sitka at that time based on availability.

TRUE ALASKA BOTTLING COMPANY

Terrence J. Trapp  
CEO (title)

STATE OF COLORADO )  
 ) ss.  
COUNTY OF JEFFERSON )

THIS CERTIFIES that on this 9<sup>TH</sup> day of FEB., 2011, TERRENCE TRAPP, known to me or who has produced sufficient identification to be the person whose name is subscribed to this document, signed this document, and by signing affirms that he is the President of TRUE ALASKA BOTTLING COMPANY, that he has been authorized to execute the foregoing document on its behalf, and executes the document freely and voluntarily.



James V. Boutwell  
Notary Public by and for JAMES V BOUTWELL  
My Commission Expires: 9/28/2014

THE CITY AND BOROUGH OF SITKA

James E. Dinley  
JAMES E. DINLEY, Municipal Administrator

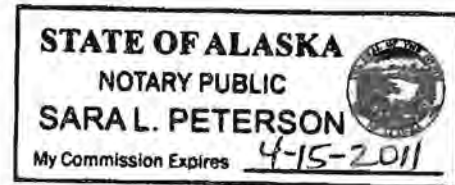
STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

THIS CERTIFIES that on this 15 day of February, 2011, James Dinley signed this document, and by signing affirms that he is the MUNICIPAL ADMINISTRATOR of the City and Borough of Sitka, Alaska, a municipality organized under the laws of the State of Alaska, that he has been authorized to execute the foregoing document, and executes the document freely and voluntarily.

Sara L Peterson  
Notary Public for Alaska  
My Commission Expires: 4-15-2011

ATTEST:

Serena Wild  
Sara Peterson  
Acting Municipal Clerk  
Assistant



**AMENDMENT NO. 4 TO  
TRUE ALASKA BOTTLING COMPANY PURCHASE AGREEMENT  
FOR RAW WATER IN BULK FOR EXPORT**

WHEREAS, the City and Borough of Sitka ( "Sitka") and True Alaska Bottling Company ("TAB") entered into the "True Alaska Bottling Company Purchase Agreement for Raw Water in Bulk for Export" ("Agreement"), on December 7, 2006;

WHEREAS, Sitka and TAB agreed to amend the Agreement as set out in the Amendment No. 1 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 1");

WHEREAS, Sitka and TAB agreed to further amend the Agreement as set out in the Amendment No. 2 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 2");

WHEREAS, Sitka and TAB agreed to further amend the Agreement as set out in this Amendment No. 3 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 3");

WHEREAS, Sitka and TAB agree to further amend the Agreement as set out in this Amendment No. 4 To True Alaska Bottling Company Purchase Agreement For Raw Water In Bulk For Export ("Amendment No. 4");

WHEREAS, this Amendment No. 4 extends TAB deadlines by three additional years at Sections 3.1 and 3.2, contingent upon the following conditions, which were required and approved by Sitka Assembly at its Regular Meeting on November 27, 2012:

1. Sitka receives a non-refundable payment of \$1,000,000 from TAB to be applied towards export water payments owed to Sitka during the three-year term of this Amendment No. 4. Sitka shall retain any interest earned from this non-refundable payment;
2. Amendment No. 4 will take effect only upon receipt of the \$1,000,000, received no later than December 8, 2012;
3. Prior non-refundable payments of \$350,000 made by TAB to Sitka based on this Agreement will be applied towards export of water payments within the three-year term of this Amendment No.4; and
4. If water export does not occur within the three-year term of this Amendment No. 4 in accordance with the Agreement at Article 3.1 and 3.2, all prior payments as listed including the \$1,000,000 payment made under Amendment No. 4 shall be retained by Sitka unencumbered.

NOW, THEREFORE, Sitka and TAB, based on the conditions required above, agree to Amendment No. 4, which includes amending the Agreement as follows and as authorized pursuant to Section 20 of the Agreement (new language underline; deleted language stricken):

### 3. Water Volumes Contracted by TAB from Sitka.

3.1 Sitka will make available to TAB a total of ~~27,773~~ ~~8,972~~ acre-feet of raw water for a period of ~~108~~ ~~72~~ months after the effective date of this Agreement. At the conclusion of the ~~108~~ ~~72~~-month period described in the previous sentence, TAB's access to water will revert to the stages outlined in Subsection 3.2 of this Agreement, providing TAB has met the minimum export volumes set out in Section 3 (this Section) of this Agreement. During the ~~108~~ ~~72~~ -month period immediately after the effective date of this Agreement, TAB must take delivery of and export at least 50 million gallons of water. If TAB does not take delivery of and export at least 50 million gallons of water from Sitka pursuant to this Agreement in the first ~~108~~ ~~72~~ months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day after Sitka gives notice to TAB by certified mail that TAB has breached or failed to comply with one of more of the conditions or requirements of this Agreement, unless within said 45-day period, TAB cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

3.2 ~~108~~ ~~72~~ months after the effective date of this Agreement, the Stages described in this subsection start. The quantities of raw water in bulk which is available for export by TAB from Sitka under this Agreement are set forth below, and shall increase in maximum export volumes available and minimum export requirements as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Foot Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	230.2 af (75mg)	153.4 af (50 mg)	12-month period
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Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	( ) <sup>1</sup>	N/A	3,068.9 af (1bg)	12-month period

Stage 1: Stage 1 begins ~~108~~ ~~72~~ months after the effective date of this Agreement. Sitka will make available to TAB not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, TAB must have taken delivery of and exported from Sitka a minimum of 153.4 af (50 MG) of bulk water within the 12-month period immediately previous to the most recent Stage Anniversary Date of Stage 1. If TAB does not meet the requirement set out in the previous sentence to remain at Stage 1, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45<sup>th</sup>) day

<sup>1</sup> Annual acre-feet available and the minimum amount of water available for export per 12-month period will be determined solely by Sitka at that time based on availability.

after Sitka gives notice to TAB by certified mail that TAB has failed to meet such requirement, unless within the 45-day period, TAB cures such failure as determined by Sitka in its sole discretion.

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**5. Water Distribution**

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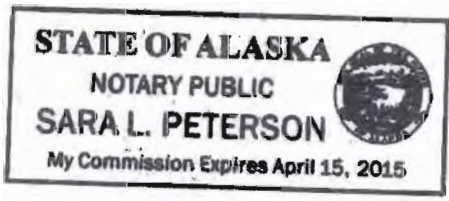
5.2 Sitka will not enter into any agreement to sell water in bulk with the remaining 1.462 acre-feet of its bulk water allocation. Any sales of the remaining bulk water allocation will be limited to export in containers of a 20' container van or smaller. Sale of water bottled in City and Borough of Sitka is not subject to this restriction.

**TRUE ALASKA BOTTLING COMPANY**

Terrence Trapp  
CEO - TAB (title)

STATE OF ALASKA )  
 ) ss.  
COUNTY OF NA )

THIS CERTIFIES that on this 28 day of November 2012, Terrence Trapp, known to me or who has produced sufficient identification to be the person whose name is subscribed to this document, signed this document, and by signing affirms that he is the President of **TRUE ALASKA BOTTLING COMPANY**, that he has been authorized to execute the foregoing document on its behalf, and executes the document freely and voluntarily.



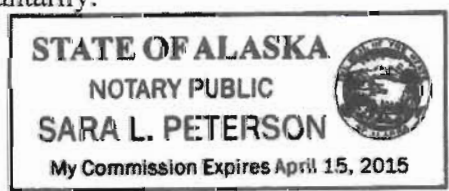
Sara L Peterson  
Notary Public by and for City + Borough of Sitka  
My Commission Expires: 4-15-2015

**THE CITY AND BOROUGH OF SITKA**

James E Dinley  
JAMES E. DINLEY, Municipal Administrator

STATE OF ALASKA )  
 ) ss.  
FIRST JUDICIAL DISTRICT )

THIS CERTIFIES that on this 28 day of November, 2012, **James Dinley** signed this document, and by signing affirms that he is the **MUNICIPAL ADMINISTRATOR** of the City and Borough of Sitka, Alaska, a municipality organized under the laws of the State of Alaska, that he has been authorized to execute the foregoing document, and executes the document freely and voluntarily.



Sara L Peterson  
Notary Public for Alaska  
My Commission Expires: 4-15-2015





## Legislation Details

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File #: 14-233      Version: 1      Name:

Type: Item      Status: AGENDA READY

File created: 12/3/2014      In control: City and Borough Assembly

On agenda: 12/9/2014      Final action:

Title: Award a contract to Coastal Excavation, L.L.C. in the amount of \$812,433.13 for completion of the Hollywood Way and New Archangel Street Utility and Street Improvement project

Sponsors:

Indexes:

Code sections:

Attachments: [Hollywood New Archangel.pdf](#)

Date	Ver.	Action By	Action	Result
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## **POSSIBLE MOTION**

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**I move to approve an award to Coastal Excavation Inc., in the amount of \$812,433.13 for completion of the Hollywood Way and New Archangel Street Utility and Street Improvements project**



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## MEMORANDUM

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**To:** Mayor McConnell and Members of the Assembly  
Mark Gorman, Municipal Administrator

**From:** Michael Harmon, P.E., Public Works Director  
Dan Tadic, P.E., Municipal Engineer  
David Longtin, P.E., Senior Engineer

**Reviewed:** Tori Fleming, Contract Coordinator  
Jay Sweeney, Chief Finance and Administrative Officer

**Date:** December 1, 2014

**Subject:** Hollywood Way and New Archangel Street Utility and Street Improvements  
Recommendation for Award of Contract to Coastal Excavation, LLC

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Background:

The Public Works Department advertised an Invitation to Bid for the Hollywood Way and New Archangel Street Utility and Street Improvements project in accordance with City and Borough of Sitka (CBS) procurement policies. The project scope includes replacement and/or extension of existing CBS water, sewer and storm drainage utilities and new pavement, curb & gutter and sidewalk.

Bids were opened for this project on November 25, 2014. Two responsive and responsible bids were received, as indicated in the following table

Bidder	Base Bid	Additive Alternate	Total Bid
Coastal Excavation, LLC	\$ 734,428.23	\$ 78,004.90	\$ 812,433.13
Aggregate Construction, Inc.	\$ 834,233.00	\$ 60,880.00	\$ 895,113.00
Engineer's Estimate	\$ 679,405.00	\$ 76,474.00	\$ 755,879.00

The base bid provides for replacement of existing utilities. The additive alternate extends the water main on Hollywood Way. The Hollywood Way main from DeGross Street currently dead-ends approximately half way to Sawmill Creek Road. The additive alternate proposes to push it through to Sawmill Creek Road, improving water circulation and flow characteristics.

Analysis:

Public Works proposes to award a contract to Coastal Excavation, LLC, in the amount of \$812,433.13 for this project, to complete the base bid and the additive alternate. The work is anticipated to be finished by August 2015.

Fiscal Note:

The project budget consists of the following revenue sources:

\$220,000.00	CBS funding (water, wastewater and streets budgets)
+ \$552,300.00	Alaska Department of Environmental Conservation (ADEC) grant
+ \$750,000.00	<u>ADEC loans</u>
<b>\$1,524,300.00</b>	<b>total project funding available</b>

The ADEC Municipal Matching Grant program offers a 70% grant / 30% municipal match for communities with a population of less than 10,000. The loan will be used for the local match. It is anticipated that the majority of the loan will not be needed.

**Recommendation:**

**Award a contract to Coastal Excavation, LLC, in the amount of \$812,433.13 for completion of the Hollywood Way and New Archangel Street Utility and Street Improvements project.**



## Legislation Details

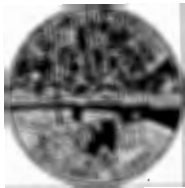
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File #: 14-229      Version: 1      Name:  
Type: Appointment      Status: AGENDA READY  
File created: 12/2/2014      In control: City and Borough Assembly  
On agenda: 12/9/2014      Final action:  
Title: Appoint Marjorie Hennessy to a term on the Tree & Landscape Committee  
Sponsors:  
Indexes:  
Code sections:  
Attachments: [Appointment Marjorie Hennessy.pdf](#)

Date	Ver.	Action By	Action	Result
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## **POSSIBLE MOTION**

**I MOVE** to appoint Marjorie Hennessy to a term on the Tree & Landscape Committee.



**Application for Appointment to Boards, Committees, and Commissions  
City and Borough of Sitka**

Board/Commission/Committee: TREE & LANDSCAPE COMMITTEE

Name: MARJORIE HENNESSY Daytime Phone: 747-7509

Address: AZALEA HPR, SITKA Evening Phone: 406-581-5654

Email Address: marjoriehennesy@gmail.com Fax Number: -

Length of Residence in Sitka: 2 years (Jan 2013) Registered to vote in Sitka?  Yes  No

Employer: SITKA CONSERVATION SOCIETY

Organizations you belong to or participate in:

SCS SITKA SOUND SLAYERS  
Sitka Kitch  
Land Trust - Housing

Explain your main reason for applying:

Interest in urban tree cover, city trees & green space

What background, experience or credentials will you bring to the board, commission, or committee membership?

Landscape Architect  
LEED AP in neighborhood design

Please attach a letter of interest, outline, or resume which includes your education, work, and volunteer experience that will enhance your membership.

→ (To be considered, your application must be complete AND be accompanied by one of the above supporting documents.)

Date: 11.20.14

Signature: \_\_\_\_\_

Your complete application and resume should be returned to the Municipal Clerk's Office by noon on the Wednesday prior to an advertised Assembly meeting. Applications received after the deadline will be considered but will not be included in the Assembly packets for review prior to appointment.

Appointments are normally made during open session of an Assembly meeting, however, Assembly members may vote to discuss applicant(s) in closed executive session. In this case, do you wish to be present when your application is discussed?  Yes  No

Return to:

Sara Peterson, Deputy Clerk  
100 Lincoln Street  
Fax: 907-747-7403  
Email: sara@cityofsitka.com

# Marjorie Hennessy, LEED AP ND

308 Marine Street  
marjoriehennessy@gmail.com

Sitka, Alaska 99835  
406.581.5654

## ACTIVITIES & PROFESSIONAL DEVELOPMENT

LEED AP, Neighborhood Development November 2010  
Indiana Urban Forest Council, Fall Conference October 2010, 2011  
Preparing Successful Grant Applications, IU Center for Philanthropy October 2009  
AASHE Greening of the Campus, Indianapolis, IN September 2009  
Central Indiana Land Trust Green Infrastructure Forum June 2009  
Eco-Architecture Studio; Costa Rica June-July 2003  
US-ACOE Wetland Delineation Course; Orlando, FL March 1999

## GRANTS & COMMUNITY PROJECTS

**Young-Growth Utilization Project: Micro Home** June 2014-May 2015  
Co-PI: Marjorie Hennessy. Successfully secured grant funding from the National Forest Foundation to purchase local, young-growth timber while partnering with UAS Sitka. The project is slated to construct a micro home to illustrate multiple uses of young-growth, its potential role in affordable housing options and explore current market options for young-growth.  
Funding Amount: \$24,000 (\$10,000 for timber)

**Community Blessings Grant: Sitka Kitch** June 2013  
Prepared a proposal on behalf of the Sitka Kitch project and its partner, the First Presbyterian Church of Sitka. Funding was awarded in June to renovate the existing kitchen to meet DEC standards. These funds are being combined with \$1,500 the project was awarded through the Sitka Health Summit.  
Funding Amount: \$13,000

**Young-Growth Utilization Project: Red Alder** June 2013-May 2014  
Co-PI: Marjorie Hennessy. Successfully secured grant funding from the National Forest Foundation to purchase local, young-growth timber for a community asset project. The installation is in a public space and serves to educate the community about young-growth.  
Funding Amount: \$24,000 (\$10,000 for timber)

**Wings Over Indy** Oct. 2010-Aug. 2011  
Co-PI: Marjorie Hennessy. Successfully secured grant funding for a program with the local Audubon chapter that will provide nesting habitat for two declining, urban bird species, and provide hands-on conservation education to a predominantly minority student population in Indianapolis, Indiana.  
Funding Amount: \$25,000

**Rain Barrels and Cisterns Project** Jan. 2010 - Jan. 2011  
PI: Tim Carter. Assisted with grant proposal for water quality sampling and mapping of 'micro' green infrastructure sites around Indianapolis, highlighting the role rain barrels play in local water conservation. An outreach component educates local residents about the combined sewer overflow (CSO) system and urban runoff effects.  
Funding Amount: \$60,000

## ACADEMIC PROJECTS

These projects were conducted with upper level college students through courses taught at Butler. Final reports may be found here: <http://www.butler.edu/urban-ecology/publications/>. This course featured semester long, community based projects that provided some capacity to local organizations. The course had an interdisciplinary approach, allowed students to combine multiple skillsets and work with students outside of their major.

**ROWing Through Fall Creek** Aug. 2012-Dec. 2012  
This course tied into a larger community effort known as ROW (Reconnecting to Our Waterways). Students focused on a target neighborhood and evaluated three of ROW's project metrics.

**Indianapolis Cultural Trail** Jan. 2012-May 2012  
Students worked to conduct a triple bottom line evaluation for the new Indianapolis Cultural Trail. This course included multiple field visits, GIS analysis and working with project partners.

**A Walk in the Suburban Woods** Aug. 2011-Dec. 2011  
Students analyzed a site and evaluated options for a community health and wellness trail. Students conducted social surveys, worked with a local community center, and learned basic GIS for analysis.

**Indy Food, Farm, Family Coalition (IFFFC)** Jan. 2011-May 2011  
A spring 2011 practicum project that worked with the IFFFC to conduct a community food assessment in Indianapolis.

**Lights Out Indy** Aug. 2010-Dec. 2010  
Fall 2010 practicum project working with the local Audubon Chapter, to further develop their outreach, education and policy messages.

**Scenario Planning: Central Canal** Jan. 2010 - May 2010  
Spring 2010 practicum project that worked with the Broad Ripple Village Association to conduct an inventory and analysis of a site in Broad Ripple, and made recommendations regarding management.

**Parking at Butler: Achieving the Triple Bottom Line** Nov. 2009 - Dec. 2009  
A terminal project for the ST 390 course, students researched existing campus policy, evaluated other institutions, researched sustainable practices and materials, and made policy recommendations.

# Marjorie Hennessy, LEED AP ND

308 Marine Street  
marjoriehennessy@gmail.com

Sitka, Alaska 99835  
406.581.5654

## EDUCATION

**Bachelor of Science, Wildlife Ecology & Conservation**  
University of Florida, 1997

**Master of Landscape Architecture, Focus: GIS and Natural Resource Planning**  
University of Florida, 2004

## PROFESSIONAL EXPERIENCE

**Sitka Conservation Society, Sitka, AK** Feb. 2013 - Present  
*Conservation Solutions Director.* Work as part of the Sustainable Southeast Partnership along with other non-profits, Tribal organizations and partners on community development projects that prioritize environmental, social and economic values for SE Alaska communities. Also work in collaboration with the USFS and other partners on initiatives that exemplify appropriate Tongass management in the spirit of the Transition Framework. These projects seek to influence policies that further sustainability values and lead to resilient communities. Current projects include young growth wood utilization, entrepreneurial capacity building, affordable housing, collaborative stewardship and community food initiatives.

**Butler University, Center For Urban Ecology, Indianapolis, IN** Sept. 2008 - Jan. 2013  
*Assistant Director and Adjunct Instructor.* Responsibilities at the CUE included project management, developing and managing an internship program, grant proposal writing, strategic planning, writing reports, budget management, teaching one course per semester, designing and preparing marketing materials and outreach materials and creating partnerships in the community. I also served on a two year appointment working as coordinator for the J. James Woods Lecture Series. The series produced six to eight lectures per year and responsibilities included speaker selection, budget management, contract negotiation, event planning, social media networking and preparing press releases.

**CTA Inc., Bozeman, MT** Sept. 2005 - Aug. 2008  
*Land Planner/ Landscape Designer.* Responsibilities included design at various scales, preparation of support documents for municipal applications, outreach packages, site visits, baseline data reports for conservation easements, master planning, CAD drafting, preparation and facilitation of public meetings.

**Urban Resource Group, Miami Beach, FL** May 2004 - Aug. 2005  
*Land Planner/ Landscape Designer.* Responsibilities included assisting lead designers, design and composition of project handbooks, preparation of support documents for applications, preparation of construction documents, master planning, and preparation for public meetings.

**Alachua County Forever, Gainesville, FL** June 2003 - April 2004  
*Land Conservation Intern.* Generated GIS coverages, prepared figures and maps, performed general research, served as the teaching assistant for a graduate GIS studio course at UF that emphasized conservation planning, and assisted in the preparation and facilitation of public meetings.

**City of Orlando, Orlando, FL** May 2002 - Aug. 2002  
*Urban Design Intern.* Prepared support documents for public meetings, reviewed site plans, assisted applicants with revisions and application procedure, prepared presentations, and assisted staff with revisions to the landscape code.

**LPGEPS, Mt. Dora, FL** Nov. 1998 - May 2001  
*Environmental Scientist II.* Conducted field surveys and environmental assessments, wildlife surveys, wildlife trapping and relocations, wetland delineations, mitigation monitoring, surface-water quality surveys, prepared reports, attended public meetings, and maintained correspondence with regulatory agencies.

## SKILLS

MS Office      Adobe Photoshop & InDesign  
AutoCAD      ArcGIS  
Google Drive      File Sharing: Google Drive, DropBox, Filezilla

## SERVICE

Sitka Kitch, Committee Chair      October 2013 - Present  
SCDC Community Land Trust Housing Committee      Fall 2013 - Present  
Indiana Urban Forest Council, Board of Directors      December 2010 - December 2012  
Butler Campus Farm, advisor and planning team member      Spring 2010 - December 2012  
Center for Urban Ecology Strategic Planning Team, Butler University      Fall 2009  
An Evening With Dr. Doug Tallamy, organizing team      Fall 2009  
Public Discussion of the Waxman-Markey Bill, organizing team      Fall 2009  
Indiana Regional Science Olympiad; Remote Sensing Coordinator, Butler University      Feb. 2009, 2010, 2011  
Habitat for Humanity Volunteer, Belgrade and Bozeman, MT      Fall 2006, Spring 2008





## TREE AND LANDSCAPE COMMITTEE

NAME	CONTACT NUMBERS	TERM STARTS	EXPIRES	CATEGORY
JOE D'ARIENZO 2219 SMC	747-7448 delsenzo@live.com	6/22/10 11/12/13	7/24/04 7/13/07 7/10/10 6/22/13 11/12/16	CHAIR
LISA MOORE Box 2943	747-5534 moorelisa@aol.com	10/26/10 11/12/13	7/24/04 7/13/07 9/25/10 10/26/13 11/12/16	SECRETARY
DEB MILLER 708 Lake St.	738-1344 c sitkadjm@gmail.com	10/22/13	10/22/16	
CHRIS GALE Box 906	747-5163 ctgale@gci.net	4/13/10 1/28/14	11/28/09 4/13/13 1/28/17	
CORA NISBET 722 Lake St.	738-5147 coranisbet@gmail.com	11/10/14	11/10/17	
LINDA SPEERSTRA 210 Crabapple Dr.	747-8316 h moonspeer@gci.net	4/14/09 6/12/12	4/25/09 4/14/12 6/12/15	Resigned
LISA BUSCH 215 Shotgun Alley	747-6481 w 747-3462 f lisajeانبusch@gmail.com	7/13/10	7/24/04 7/13/07 7/10/10 7/13/13	Resigned 2/14/12
Steven Eisenbeisz 208 Lincoln Street	738-9075 c assemblyeisenbeisz@cityofsitka.com			Assembly Liaison

### MUNICIPAL STAFF SUPPORT

Shawn McLeod 100 Lincoln St	747-7630 747-7668 fax	<a href="mailto:shawn@cityofsitka.com">shawn@cityofsitka.com</a>	Groundskeeper
Lynne Brandon 100 Lincoln St	747-1852 747-7403 fax	<a href="mailto:parks@cityofsitka.com">parks@cityofsitka.com</a>	Parks & Rec. Director

Established by Ord. 01-1625; revised by Ord. 03-1718  
 7 members 3-year terms  
 Meets: 3rd Tuesday, Noon, Centennial Building

Revised: November 12, 2014



## Legislation Details

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File #: 14-235      Version: 1      Name:

Type: Item      Status: AGENDA READY

File created: 12/8/2014      In control: City and Borough Assembly

On agenda: 12/9/2014      Final action:

Title: Sitka Community Hospital Finances

Sponsors:

Indexes:

Code sections:

Attachments: [Exec. session Hospital 08.doc](#)  
[Executive Session Outline.docx](#)

Date	Ver.	Action By	Action	Result
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