

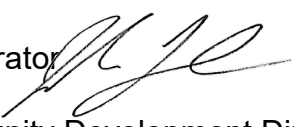



CITY AND BOROUGH OF SITKA

A COAST GUARD CITY

MEMORANDUM

To: Mayor Eisenbeisz and Assembly Members

Thru: John Leach, Municipal Administrator 

From: Amy Ainslie, Planning & Community Development Director 

Date: April 16, 2025

Subject: Lease for the Sitka Community Garden at Jarvis Street

Background

On July 23, 2024, the Assembly authorized the release of a Request for Proposals to solicit interest in leasing an approximately half acre parcel that was identified as the Jarvis Street Horticulture Site. This came from a request by the Sitka Community Gardens group, a joint project between two local nonprofit organizations, Transition Sitka and the Sitka Local Foods Network, to lease the site for the purposes of constructing and operating a community garden.

The RFP was open from July 25 – August 22, 2024; Sitka Community Gardens (SCG) was the only respondent to the RFP. Staff performed an evaluation of their response, worked with SCG on preliminary lease terms, and presented them to the Assembly on January 14, 2024 at which time the Assembly directed staff to proceed with drafting a lease agreement and ordinance authorizing the lease with the presented terms.

Analysis

Some of the primary terms/conditions of the lease are:

- The initial term is set at 3 years, with five, 5 year extension terms available that can be executed by mutual agreement of SCG and the Assembly
- The lease is to be used for a community garden, consistent with SCG's RFP response and compliant with applicable zoning code requirements
- The annual rent payment is \$1
- The lessee will provide CBS with a performance bond of \$5,000 throughout the initial term and in the first extension term until they have sufficiently demonstrated that the garden is developed and operable
- The lessee will be required to carry property damage and comprehensive general

liability insurance of \$1M, naming CBS as additionally insured and providing CBS with a waiver of subrogation.

- The lessee will provide the Assembly with a report along with any requests to execute extension terms including but not limited to the number of garden members with garden plots, the number of garden plots available and utilized, estimated volumes of edible produced harvest, community outreach and events, community benefits, projects/initiatives/improvements completed, challenges experienced and solutions implemented.

Fiscal Note

Per the Assembly's direction in RFP development, it was expected that the lease would be offered at a low/nominal fee. The annual lease payment of \$1 is in line with leases for similar sites to non-profit entities.

Recommendation

Approve the ordinance authorizing a lease to Sitka Community Gardens Association for the horticulture site on Jarvis Street.

Encl: Draft Lease Agreement

**LEASE AGREEMENT
BETWEEN
CITY AND BOROUGH OF SITKA, ALASKA
AND
SITKA COMMUNITY GARDENS ASSOCIATION**

TABLE OF CONTENTS

PREAMBLE.....	1
ARTICLE I LEASE, TERM OF LEASE, AND TERMINATION OF LEASE	1
Section 1.1 Conveyance of Estate in Lease.....	1
Section 1.2 Lease Term.....	1
Section 1.3 Option to Renew.....	1
Section 1.4 Disposition of Improvements and Lessee's Personal Property Following Term of Lease.....	2
Section 1.5 Covenants to Perform.....	2
ARTICLE II RENT	2
Section 2.1 Calculation & Method of Payment of Rent During the Initial Three-Year Term of the Lease.....	2
Section 2.2 Rent Upon Exercise of Lease Renewal.....	2
Section 2.3 Reserved.....	3
Section 2.4 Property Tax Responsibility.....	3
ARTICLE III RESTRICTIONS UPON USE OF SUBJECT PROPERTY.....	3
Section 3.1 Lessee's Obligations as to Construction, Maintenance, Repair and Safety.....	3
Section 3.2 Lessor's Approval of Certain Alterations or Improvements.....	4
Section 3.3 Rights of Access to Property	4
Section 3.4 Additional Conditions of Lease.....	5
Section 3.5 Control of Rodents and Other Creatures on Subject Property.....	6
ARTICLE IV UTILITY SERVICES AND RATES.....	7
Section 4.1 Provision of Utility Services.....	7
Section 4.2 Rates for Utility Services Provided by Lessor.....	7
Section 4.3 Lessee to Pay for Utility Services.....	7
Section 4.4 Lessor Not Liable for Failure of Utilities.....	7
Section 4.5. Requirement Regarding Potable Water Services.....	7
ARTICLE V LIABILITY.....	8
Section 5.1 Limits on Lessor Liability Limitation.....	8
Section 5.2 Limits on Lessee Liability.....	8
Section 5.3 Reimbursement of Costs of Obtaining Possession.....	8
GENERAL PROVISIONS.....	9
ARTICLE VI DEFINITIONS.....	9
Section 6.1 Defined Terms.....	9
ARTICLE VII INSURANCE	10
Section 7.1 Insurance.....	10
Section 7.2 Notification of Claim, Loss, or Adjustment	10
Section 7.3 Waiver of Subrogation	10
ARTICLE VIII RESTRICTIONS REGARDING ASSIGNMENT, LEASES, AND TRANSFERS OF SUBJECT PROPERTY	10

Section 8.1 Lessee Without Power to Assign, Lease, or Encumber Subject Property.....	10
Section 8.2 Limitations on Subleases.....	10
ARTICLE IX USE AND PROTECTION OF THE SUBJECT PROPERTY.....	10
Section 9.1 Property As Is - Repairs.....	11
Section 9.2 Compliance with Laws.....	11
Section 9.3 Notification of Lessor's Public Works Director of Discovery of Contamination. ..	11
Section 9.4 Use of Utility Lines.....	11
Section 9.5 Permits and Approvals for Activities.....	11
Section 9.6 Navigable and Public Waters.....	11
Section 9.7 Valid Existing Rights.....	12
Section 9.8 Concurrent Use.....	12
Section 9.9 Surface Resource.....	12
Section 9.10 Appropriation or Disturbance of Waters.....	12
Section 9.11 Acquisition of Rights or Interests.....	12
Section 9.12 Land Alterations Due to Natural or Artificial Causes.....	12
Section 9.13 Environmental Compliance.....	12
ARTICLE X LESSOR'S RIGHT TO PERFORM LESSEE'S COVENANTS; REIMBURSEMENT OF LESSOR FOR AMOUNTS SO EXPENDED	14
Section 10.1 Performance of Lessee's Covenants To Pay Money.....	14
Section 10.2 Lessor's Right To Cure Lessee's Default.....	14
Section 10.3 Reimbursement of Lessor and Lessee.....	14
ARTICLE XI DAMAGE OR DESTRUCTION.....	14
Section 11.1 Repair and Replacement of Structures and Improvements Following Damage....	14
ARTICLE XII MECHANIC'S LIENS	15
Section 12.1 Discharge of Mechanics' Liens.....	15
ARTICLE XIII LIEN FOR RENT AND OTHER CHARGES.....	16
Section 13.1 Lien for Rent.....	16
ARTICLE XIV DEFAULT PROVISIONS.....	16
Section 14.1 Events of Default.....	16
Section 14.2 Assumption or Assignment of Lease to Bankruptcy Trustee.....	16
Section 14.3 Remedies in Event of Default.....	17
Section 14.4 Waivers and Surrenders To Be In Writing.....	18
ARTICLE XV LESSOR'S TITLE AND LIEN	18
Section 15.1 Lessor's Title and Lien Paramount.....	18
Section 15.2 Lessee Not To Encumber Lessor's Interest.....	18
ARTICLE XVI REMEDIES CUMULATIVE.....	18
Section 16.1 Remedies Cumulative.....	18
Section 16.2 Waiver of Remedies Not To Be Inferred.....	19
Section 16.3 Right to Terminate Not Waived.....	19
ARTICLE XVII SURRENDER AND HOLDING OVER	19
Section 17.1 Surrender at End of Term.....	19
Section 17.2 Rights Upon Holding Over.....	19
ARTICLE XVIII MODIFICATION	20
Section 18.1 Modification.....	20
ARTICLE XIX INVALIDITY OF PARTICULAR PROVISIONS.....	20
Section 19.1 Invalidity of Provisions.....	20
ARTICLE XX APPLICABLE LAW AND VENUE	20

Section 20.1 Applicable Law.	20
ARTICLE XXI NOTICES.....	20
Section 21.1 Manner of Mailing Notices.	20
Section 21.2 Notice to Leasehold Mortgagee and Secured Parties.	20
Section 21.3 Sufficiency of Service.	21
Section 21.4 When Notice Deemed Given or Received.....	21
ARTICLE XXII MISCELLANEOUS PROVISIONS	21
Section 22.1 Captions.	21
Section 22.2 Conditions and Covenants.	21
Section 22.3 Entire Agreement.....	21
Section 22.4 Time of Essence as to Covenants of Lease.	21
ARTICLE XXIII COVENANTS TO BIND AND BENEFIT RESPECTIVE PARTIES AND TO RUN WITH THE SUBJECT PROPERTY	21
Section 23.1 Covenants to Run with the Subject Property.....	21
ARTICLE XXIV ADDITIONAL GENERAL PROVISIONS	22
Section 24.1 Absence of Personal Liability.	22
Section 24.2 Lease Only Effective As Against Lessor Upon Assembly Approval.....	22
Section 24.3 Binding Effects and Attorneys Fees.	22
Section 24.4 Duplicate Originals.....	22
Section 24.5 Declaration of Termination.	22
Section 24.6 Authority.....	22
Section 24.7 Recordation.....	22
Exhibits	
Exhibit A – Survey of Leased Area	
Exhibit B – Sitka Community Gardens Response to CBS Jarvis Street Horticulture Site Request for Proposals	

**LEASE AGREEMENT
BETWEEN
CITY AND BOROUGH OF SITKA, Alaska
AND
SITKA COMMUNITY GARDENS ASSOCIATION**

PREAMBLE

This Lease Agreement ("Lease") between City and Borough of Sitka, Alaska and Sitka Community Gardens Association is effective upon execution of the Lease by both Parties, City and Borough of Sitka, Alaska, 100 Lincoln Street, Sitka, Alaska 99835 ("Sitka" or "Lessor") and Sitka Community Gardens Association, 417 Arrowhead Street, Sitka, Alaska 99835 ("Lessee"). This lease is issued under authority of Sitka General Code ("SGC"), Chapter 18.15, entitled "Real Property Disposal". This Lease consists of the Special Provisions, the General Provisions, and the attached Exhibits A and B.

Exhibit A – Survey of Leased Area

Exhibit B – Sitka Community Gardens Response to CBS Jarvis Street Horticulture Site Request for Proposals

SPECIAL PROVISIONS

ARTICLE I LEASE, TERM OF LEASE, AND TERMINATION OF LEASE

Section 1.1 Conveyance of Estate in Lease.

Lessor, for and in consideration of the Rents received and of the covenants and agreements made by Lessee, does lease to Lessee, and Lessee leases from Lessor, the "Subject Property" as shown on Exhibit A. Exhibit A shows the boundaries of the lease area embracing approximately one-half (0.5) acre.

Section 1.2 Lease Term.

The Lease term is for three (3) years and commences upon execution of the lease document by Lessor and Lessee. The Lease term may be extended, based on the Option to Renew in Section 1.3.

Section 1.3 Option to Renew.

Provided there does not then exist a continuing material default by Lessee under this Lease at the time of exercise of this right or at commencement of any extended term, Lessee shall have the right to exercise options for five (5) successive terms of five (5) years each upon the same terms and conditions as this Lease (except Section 1.2), with the Lease payments during the extension terms as described in Article II. This option is effective only if (a) Lessee makes a written request to exercise such an option not more than one year or less than six months from the end of the immediately preceding term; (b) Lessee is in compliance with all applicable laws; and (c) Lessee is not in default under this Lease. The option to renew must be approved by Lessor Assembly.

Section 1.4 Disposition of Improvements and Lessee's Personal Property Following Term of Lease.

With the exception of such improvements as described in this section, Lessee shall remove from the Subject Property any personal property or improvements constructed, installed, or deposited on the Subject Property at the termination of this Lease or any extension unless Lessee makes a separate written agreement with Lessor to do otherwise. Lessee shall leave behind, at no cost to Lessor, fixed improvements defined under Subsection 6.1(c) below including but not limited to utility service lines, structures containing plumbing, and perimeter fencing. Any improvements or personal property not duly removed after termination shall be deemed abandoned, and at Lessor's option, shall become the property of Lessor. Within thirty (30) days of termination of this Lease or any extension, Lessor shall provide written notice to Lessee as to whether it is exercising this option. If Lessor does not exercise this option, Lessee and/or its personal guarantor(s) as described in Subsection 3.6(o) below shall repay to Lessor any costs of removing such improvements or personal property from the Subject Property. Subject to Lessee's obligations under Subsections 3.1 and 3.5 below, Lessee agrees to leave Subject Property in a neat, clean, and weather-tight condition at the end of the Term of the Lease. Should Lessee fail to leave Subject Property in a neat, clean, and weather-tight condition at the termination of this Lease or any extension, Lessee and/or its personal guarantor(s) as described in Subsection 3.6(o) below shall repay to Lessor any costs of remediating the Subject Property to a neat, clean, and weather-tight condition including but not limited to waste removal, site grading, soil erosion mitigations, and repairs to fixed improvements remaining on the site.

Section 1.5 Covenants to Perform.

This Lease is made upon the above and the following terms and conditions, each of which the Party bound by such covenants and conditions agrees to perform, irrespective of whether the particular provision is in the form of a covenant, an agreement, a condition, a direction, or otherwise, and each Party agrees to provide the other Party with documents or further assurances as may be required to carry out the expressed intentions.

ARTICLE II RENT

Section 2.1 Calculation & Method of Payment of Rent During the Initial Three-Year Term of the Lease.

The first year of the Lease begins on the commencement date of this Lease set out in Article I. Each successive year of the Lease begins on the corresponding anniversary commencement date of the Lease. Notwithstanding any other provision of this Lease, on the term start date set out in Article I, Lessee shall pay Rent annually on or before the corresponding anniversary commencement date at a rate of \$1.00 plus applicable sales tax.

Section 2.2 Rent Upon Exercise of Lease Renewal.

If Lessee decides to exercise the option to renew any of the successive five-year terms under Section 1.3, Lessee must notify Lessor of this intent no less than six (6) months before the end of the current Term of the Lease and be approved by Lessor Assembly. Unless otherwise adjusted or amended by Lessor Assembly when approving a lease renewal option, Rent for lease renewal options as specified in Section 2.1 shall be paid by the Lessee.

Section 2.3 Reserved.

Section 2.4 Property Tax Responsibility.

Beginning with the Term of this Lease and each calendar year after, Lessee will be responsible to pay Lessor property taxes for its possessory interest in the building, land, and equipment to the extent taxable as determined by the Municipal Assessor unless otherwise waived by Lessor Assembly through its community purpose optional property tax exemption or other property tax exemptions authorized by Sitka General Code and applicable State of Alaska statutes.

ARTICLE III RESTRICTIONS UPON USE OF SUBJECT PROPERTY

Section 3.1 Lessee's Obligations as to Construction, Maintenance, Repair and Safety

(a) Except as otherwise provided in this Lease, Lessee acknowledges the leasehold is in an "as is" condition. At the sole cost and expense of Lessee and in compliance with all legal requirements, Lessee may purchase, construct, develop, repair, transfer to the Subject Property, and/or maintain any improvements, personal property, fixtures, and other items on the Subject Property in a responsive and responsible manner using materials that are suitably and reasonably durable for Lessee's intended use of the Subject Property.

Lessor reserves the right to expand or modify the Subject Property. In that event, Lessor and Lessee will work together to complete such expansion or modification in a manner that minimizes disruption to Lessee's use of the Subject Property. Some anticipated disruptions could be interruption in utilities (e.g. power, water), and operational disturbances from noise, dust and other construction activities.

(b) Lessee acknowledges that Lessor has made no representation or warranty with respect to Lessee's ability to obtain any permit, license, or approval.

(c) Lessee shall use the Subject Property and any improvements placed on the Subject Property only for those lawful uses specified by Lessee in Exhibit B, and only for permitted and approved conditional uses subject to the Sitka General Code, Title 22. Changes or additions to the uses proposed by Lessee in Exhibit B as deemed significant by the Municipal Administrator shall require prior authorization by Lessor Assembly.

(d) Lessee shall confine its equipment, storage and operation to the Subject Property.

(e) Lessee shall not permit the accumulation of waste or refuse matter on the Subject Property, and Lessee shall not obstruct or permit the obstruction of the streets, sidewalks, access ways, or alleys adjoining the Subject Property, except as may be permitted by Lessor or other authorities having jurisdiction. Lessee shall do all things necessary during the term of this Lease to remove any dangerous condition from time to time existing on the Subject Property as the result of the use by Lessee.

(f) Lessee may erect outdoor signage at its expense with the written permission of Lessor Planning Director. The style, size and physical placement location of the sign will be approved on a case-by-case basis. All signs must comply with Sitka General Code, Title 22.

Section 3.2 Lessor's Approval of Certain Alterations or Improvements.

Lessee shall not make or permit to be made any alteration of, addition to, or change in, structures and improvements, nor demolish all or any part of the structures or improvements without the prior written consent of Lessor, which consent shall not be unreasonably withheld. The phrase "structures and improvements" in the previous sentence includes water and wastewater systems and electrical systems. In requesting consent, Lessee shall comply with all applicable laws and ordinances, and shall submit to the Lessor's Public Works Director and Planning Director, or their written designees, detailed plans and specifications of proposed work, an explanation of the needs and reasons for the work, and a plan of full payment of the costs of the work. Lessor shall notify Lessee of its approval or objections no later than thirty (30) days after receiving the information described in the previous sentence. In approving or objecting, Lessor shall be acting in its proprietary function and not its regulatory function, any such approval in this proprietary function does not relieve Lessee of any obligation to obey the law, including the obligation to require any necessary permits from any department of Lessor's or relevant department of the State of Alaska or relevant department of the United States federal government. Nothing in this Section shall be interpreted to prevent Lessee from removing at the termination of this Lease any improvements or personal property as described in Section 1.4.

Section 3.3 Rights of Access to Property

(a) Lessor reserves for itself and any public utility company the right to access the Subject Property at all reasonable times in a reasonable manner for the purposes of opening, inspecting, repairing, replacing, reconstructing, maintaining, or servicing the public utilities, if any, located on the Subject Property, as well as for the purposes of constructing or installing new public utilities and platting associated utility easements as necessary. Lessor also reserves for itself and the Alaska Department of Environmental Conservation the right to access the Subject Property at all reasonable times in a reasonable manner for the purposes of regulation and enforcement of this Lease. Lessor also reserves for itself the right to access the Subject Property at all reasonable times in a reasonable manner for the purposes of (1) inspection of all work being performed in connection with the construction of improvements; (2) showing Subject Property or exhibiting Subject Property in connection with renting or leasing Subject Property in a matter that will not unreasonably interfere with Lessee's business; and (3) placing "For Sale" or "For Rent" signs on Subject Property. Lessee shall not charge for any of the access allowed in the situations described in this subsection.

(b) Lessee shall not construct any permanent improvements over or within the boundary lines of any easement for public utilities without receiving the written prior consent of Lessor and any applicable utility company.

(c) Lessee acknowledges that the Subject Property is or shall be subject to agreements for ingress and egress, utilities, parking, and maintenance. Lessee agrees that it shall comply with the terms of such cooperative agreements, in accordance with the terms of such agreements, those portions of such maintenance expenses that are attributable to the Subject Property, as more fully set forth therein.

Section 3.4 Additional Conditions of Lease.

Lessee recognizes and shall cause all beneficiaries of Lessee and all permitted successors in interest in or to any part of the Subject Property to recognize that:

- (a) Lessee will cooperate with Lessor utility maintenance personnel and/or contractor and will notify Lessor of any maintenance deficiencies or of any equipment failures that require maintenance or repair. Lessee will be provided a 24 hour telephone number to notify Lessor of any event that requires immediate response by Lessor.
- (b) Lease payments will be made in annual installments in advance in cash or by check, bank draft or money order made available to the City and Borough of Sitka, Alaska. Installments to be delivered or mailed to 100 Lincoln Street, Sitka, Alaska 99835, by or on the first day of each lease year.
- (c) Lease payments shall become delinquent if not paid within ten (10) days after the due date. Delinquent payments are subject to a \$25.00 late charge and interest accrued from the due date consistent with Sitka General Code provisions.
- (d) The charges and fees paid by Lessee to Lessor must be separated according to Lessor's accounting standards. Specifically, the portions of any payment that are (1) lease fee, (2) sales tax, and/or (3) late fee must be broken out separately.
- (e) Lessor will only invoice if Lease payments are delinquent. Lessor will only invoice if failure to make Lease payment within thirty (30) days of due date. Lessor, at its option, can terminate the Lease for Lessee's failure to make payment, and in accordance with this Lease.
- (f) Lessee covenants and agrees that as it relates to use of the Subject Property, it will not, on the grounds of race, color or national origin, discriminate or permit discrimination against any person or group of person in any manner prohibited by Federal, State or local laws or regulations promulgated under such laws, and Lessee further grants Lessor the right to take such action to enforce such covenant as it deems necessary or as it is directed pursuant to any Federal, State or local laws or regulations.
- (g) Lessor may, upon at least ten (10) days prior written notice to Lessee, temporarily suspend the supply of water, wastewater service, the supply of electric power, the use of pipelines, or the use of the Improvements in order to perform routine maintenance and, in all events, subject to unavoidable delays. Such interruptions shall be of as short duration as necessary to perform such maintenance, and Lessor shall not be responsible for any such costs or expenses as a result of suspending such utilities.
- (h) Lessee shall timely pay the Lessor Fire Marshal or Building Inspector fees and other building permit fees, and shall also timely file and pay all applicable property taxes and assessments. These include any Local Improvement District costs that may be assessed.
- (i) Lessee shall be responsible for taking any measures that Lessee deems necessary to provide security for their property. Lessor is not responsible for theft or vandalism.

(j) Lessor sales tax applies to Rent. Sales tax rates, limits, exemptions, and exclusions are subject to change by Lessor Assembly.

(k) Lessee shall timely pay all other Lessor billings (i.e., electricity, business taxes, etc.).

(l) Failure of Lessee to file and pay such Lessor taxes, and pay utilities, assessment payments, and all other Lessor billings, may subject this Lease to be terminated.

(m) Should Lessee elect to exercise a renewal term option as specified in Section 1.3, Lessee shall, along with its request to exercise a renewal term option, submit a report to Lessor Assembly summarizing outcomes from the previous term pertaining to the Subject Property including: the number of community garden members with garden plots; the number of garden plots available and utilized; estimated volumes of edible produce harvested; community outreach and events; community benefits as observed by the Lessee; projects, initiatives, and improvements completed; challenges experienced and solutions implemented; and any other information as deemed appropriate by Lessee. The report shall also include plans for additional improvements on the Subject Property, if any, and other plans, goals, or milestones expected for the subsequent renewal term.

(n) Within ninety (90) days of the commencement date of this agreement, Lessee shall provide a performance bond in an amount no less than \$5,000, guaranteeing the faithful performance of improvements and operations in and on the Subject Property as described in Exhibit B. The bond shall be issued by a surety company authorized to do business in the state of Alaska and acceptable to Lessor. Lessee shall maintain the bond in full force and effect throughout the initial term of the Lease as defined in Section 1.2. Lessee shall also maintain the bond in full force and effect throughout the first renewal term as defined in Section 1.3 until such time this requirement is released in writing by the Municipal Administrator, upon sufficient demonstration by Lessee, that Lessee has performed the aforementioned improvement and operations in and on the Subject Property.

(o) Lessee shall identify at least one personal guarantor, who may or may not be a member, official, or employee of Lessee, who will personally guarantee repayment to Lessor under the provisions of Subsection 1.4 above in the event that Lessee is unable or unwilling to repay some or all of the costs incurred by Lessor under Subsection 1.4 above. The personal guarantor identified by Lessee is Joel H. Hanson, 417 Arrowhead Street, Sitka, Alaska 99835. Lessee may, from time to time, add additional personal guarantors, or change personal guarantor(s) subject to Lessor approval. Lessee identification and Lessor approval of personal guarantor(s) shall be made in writing.

(p) Lessee shall individually and severally be liable under this Lease to comply with all of its provisions.

Section 3.5 Control of Rodents and Other Creatures on Subject Property.

Lessee shall take reasonable affirmative measures to ensure that its operations do not attract to Subject Property any of the following creatures: rodents, vermin, insects, eagles, crows, ravens, seagulls, mink, otters, or bears.

ARTICLE IV UTILITY SERVICES AND RATES

Section 4.1 Provision of Utility Services.

Lessee will pay for utilities, if available.

Section 4.2 Rates for Utility Services Provided by Lessor.

Utility rates charged by Lessor for utility services shall be those set forth in Sitka's Customer Service Policies and/or Sitka General Code. Lessee acknowledges the requirements of Section 9.4 as to utility lines. The Sitka Assembly may change utility rates from time to time by amending the Customer Service Policies and/or Sitka General Code.

Section 4.3 Lessee to Pay for Utility Services.

Lessee will pay, or cause to be paid, all proper charges for any of the following, if available: electricity and solid waste; sewer and water; and for all other public or private utility services, which shall be used by or supplied to the Subject Property at any time during the Term of this Lease. In the event that any charge, cost, or expense for any of the above-mentioned utility services or for any of the other above-mentioned services shall not be paid when due and payable, Lessor shall have the right, but shall not be obligated, to pay it, with the understanding that amounts paid by Lessor shall constitute additional Rent due and payable under this Lease, and shall be repaid to Lessor by Lessee immediately on rendition of a bill by Lessor. Interest at the highest rate allowable by law shall be added as a charge for unpaid utility bills paid by Lessor on behalf of Lessee. Lessor reserves the right to suspend utility services if Lessee does not pay for utility services. Failure to timely pay utility services may also result in Lessor terminating this Lease.

Section 4.4 Lessor Not Liable for Failure of Utilities.

Except to the extent that any such failure, injury, or other casualty is due to Lessor's negligence or breach of any obligation under this Lease, Lessor shall not be liable for any failure of water supply, sewer, or electric current, or for any injury or damages to person or property caused by or resulting from any natural disaster, natural condition, gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain, or snows which may leak or flow from the street, sewer, or from any part of the building or the Subject Property, or leakage of gasoline or gas from pipes, appliances, sewer, or plumbing works or from any other place. Lessor shall not be held responsible or liable for any claim or action due to or arising from any suspension of operation, breakage, unavoidable accident or injury of any kind occurring to, or caused by the sewer mains by an act of God or Nature, beyond Lessor's control, or caused by the elements, strikes, riots, or a terrorist or terrorists.

Section 4.5. Requirement Regarding Potable Water Services.

All potable water services will be metered and protected by approved backflow prevention in accordance with Customer Service Policies and/or Sitka General Code.

ARTICLE V LIABILITY

Section 5.1 Limits on Lessor Liability Limitation.

Lessee agrees to indemnify, defend, and hold harmless Lessor against and from any and all claims by or on behalf of any person, firm, or entity arising, other than due to acts or omissions of Lessor, from the conduct or management of or from any work or thing whatsoever done in or about the Subject Property and structures and improvements, including liability arising from products produced on the Subject Property. Lessee also agrees to indemnify, defend, and save Lessor harmless against and from any and all claims and damages arising, other than due to acts or omissions of Lessor, during the term of this Lease from: (a) any condition of the Subject Property or improvements placed on it; (b) any breach or default on the part of Lessee regarding any act or duty to be performed by Lessee pursuant to the terms of this Lease; and (c) any act or negligence of Lessee or any of its agents, contractors, servants, employees or licensees. Lessee agrees to indemnify, defend, and hold harmless Lessor from and against all costs, counsel and legal fees, expenses, and liabilities incurred, other than due to acts or omissions of Lessor, in any claim or action or proceeding brought asserting claims of or asserting damages for any alleged act, negligence, omission, conduct, management, work, thing, breach, default, accident, injury, or damage described in the previous two sentences. The above agreements of indemnity are in addition to and not by way of limitation of any other covenants in this Lease to indemnify or compensate Lessor. The agreements of indemnity by Lessee do not apply to any claims of damage arising out of the failure of Lessor to perform acts or render services in its municipal capacity.

Section 5.2 Limits on Lessee Liability.

Except to the extent of liabilities arising from Lessee's acts or omissions, Lessor indemnifies, defends, and holds Lessee harmless for liabilities to the extent that they were incurred by reason of conditions existing on the site as of the date of execution of this Lease or by reasons of Lessor's acts or omissions. Lessor also agrees to indemnify, defend, and save Lessee harmless against and from any and all claims and damages arising, other than due to acts or omissions of Lessee, during the term of this Lease from (a) any condition of the Subject Property or improvements placed on it; (b) any breach or default on the part of Lessor regarding any act or duty to be performed by Lessor pursuant to the terms of the Lease; and (c) any act or negligence of Lessor or any of its agents, contractors, servants, employees, or licensees. Lessor agrees to indemnify, defend, and save harmless Lessee from and against all costs, counsel and legal fees, expenses, and liabilities incurred, other than due to acts or omissions of Lessee, in any claim or action or proceeding brought asserting claims of or asserting damages for any alleged act, negligence, omission, conduct, management, work, thing, breach, default, accident, injury, or damage described in the previous two sentences. The above agreements are in addition to and not by way of limitation of any other covenants in this Lease to indemnify or compensate Lessee.

Section 5.3 Reimbursement of Costs of Obtaining Possession.

Each Party agrees to pay and to indemnify the other Party prevailing in any dispute under this Lease against, all costs and charges, including but not limited to, full reasonable counsel and legal fees lawfully and reasonably incurred in enforcing any provision of this Lease including obtaining possession of the Subject Property and establishing Lessor's title free and clear of this Lease upon expiration or earlier termination of this Lease.

GENERAL PROVISIONS

ARTICLE VI DEFINITIONS

Section 6.1 Defined Terms.

For the purposes of this Lease, the following words shall have the meanings attributed to them in this Section:

- (a) "Event of Default" means the occurrence of any action specified in Section 14.1.
- (b) "Imposition" means all of the taxes, assessments, fees, utility rates or charges, levies and other governmental charges, levied or assessed against the Subject Property; any part of the Subject Property, or any right or interest or any rent, taxes and income received, including sales taxes on rent.
- (c) "Improvements" or "improvements" means all buildings, structures and improvements of any nature now or in the future located upon the Subject Property, as well as all apparatus and equipment necessary for the complete and comfortable use, occupancy, enjoyment and operation of the Subject Property, including fittings, appliances, machinery, garage equipment, heating equipment, lighting equipment, cooling equipment, air conditioning and ventilating equipment, wiring, controls, communications equipment, plumbing, switchboards, antennae, floor coverings, refrigerating equipment, hot water heating and all other appliances and equipment; excepting only in each case articles of personal property appurtenances and fixtures (including trade fixtures) owned by Lessee, sublessees, or others, which can be removed without defacing or materially injuring the improvements remaining on the Subject Property, with the portion of the Subject Property from which such items are removed being returned to a condition at least as good as that existing on the date of this Lease.
- (d) "Personal Property" means tangible personal property owned or leased and used by Lessee or any sublessee of Lessee, in connection with and located upon the Subject Property.
- (e) "Premises" means the "Subject Property."
- (f) "Rent" means the lease rate, which is the amount Lessee periodically owes and is obligated to pay Lessor as lease payments under this Lease for the use of the Subject Property.
- (g) "Subject Property" is the area leased as shown on Exhibit A.
- (h) "Sublessee" means any sublessee, concessionaire, licensee, or occupant of space in or on the Subject Property holding by or through Lessee; the term "lease" shall mean any lease, license, concession or other agreement for the use and occupancy of any part of the Subject Property made by any Person holding by or through Lessee, which has been approved by Lessor Assembly.
- (i) "Term" means the period of time Lessee rents or leases the Subject Property from Lessor.

ARTICLE VII INSURANCE

Section 7.1 Insurance

Lessee shall have and maintain property damage and comprehensive general liability insurance in the amount of One Million Dollars (\$1,000,000), including leasehold improvements. Lessor shall be named as an additional insured. Additionally, Lessee shall have the statutory amount of any Worker's Compensation.

Section 7.2 Notification of Claim, Loss, or Adjustment

Lessee shall advise Lessor of any claim, loss, adjustment, or negotiations and settlements involving any loss on the Subject Property under all policies of the character described in Section 7.1.

Section 7.3 Waiver of Subrogation

The Party insured (or so required) releases the other Party from any liability the other Party may have on account of loss, cost, damage or expense to the extent of any amount recoverable by reason of insurance and waives any right of subrogation which might otherwise exist in or accrue to any person on account of the following circumstances: (i) any loss, cost, damage or expense resulting from fire, explosion or any other casualty or occurrence is incurred by either of the Parties to this Lease, or anyone claiming under it in connection with the Subject Property or improvements; and (ii) the Party is then covered in whole or in part by insurance with respect to loss, cost, damage or expense or is required under this Lease to be insured. The release of liability and waiver of the right of subrogation shall not be operative in any case where the effect is to invalidate the insurance coverage or increase its cost. In the case of increased cost, the other Party shall have the right, within thirty (30) days following written notice, to pay the increased cost keeping the release and waiver in full force and effect.

ARTICLE VIII RESTRICTIONS REGARDING ASSIGNMENT, LEASES, AND TRANSFERS OF SUBJECT PROPERTY

Section 8.1 Lessee Without Power to Assign, Lease, or Encumber Subject Property.

Lessee has no power without Lessor Assembly approval under this Lease to assign the Lease. Lessee has no power under this Lease to transfer the Subject Property. Lessee has no power to encumber Subject Property or pledge its interest in Subject Property as collateral for a loan or mortgage, or allow any liens to be filed against the Subject Property. Any such actions under this section may cause termination of the Lease.

Section 8.2 Limitations on Subleases.

Lessee shall not sublease the Subject Property or any portion of it without the prior written approval of Lessor Assembly. All subleases entered into demising all or any part of the Improvements or the Subject Property shall be expressly subject and subordinate to this Lease. Lessor's consent to a sublease of the Subject Property shall not release Lessee from its obligations under the Lease. Lessor's consent to a sublease shall not be deemed to give any consent to any subsequent subletting.

ARTICLE IX USE AND PROTECTION OF THE SUBJECT PROPERTY

Section 9.1 Property As Is - Repairs.

Lessee acknowledges that it has examined the Subject Property and the present improvements including any public improvements presently located there, and knows the condition of them, and accepts them in their present condition without any representations or warranties of any kind or nature whatsoever by Lessor as to their condition or as to the use or occupancy which may be made of them. Lessee assumes the sole responsibility for the condition of the improvements located on the Subject Property. The foregoing shall not be deemed to relieve Lessor of its general municipal obligations, or of its obligations under Section 3.1 above.

Section 9.2 Compliance with Laws.

Lessee shall throughout any term of this Lease, 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 and all other legal requirements that may be applicable to the Subject Property and its use. Nothing in the foregoing sentence shall be deemed to relieve Lessee of its general obligations to Lessor in its municipal capacity.

Section 9.3 Notification of Lessor's Public Works Director of Discovery of Contamination.

Lessee shall promptly notify Lessor's Public Works Director within 24 hours if any contaminated soils or other contaminated materials that require special handling are encountered during construction or other activities.

Section 9.4 Use of Utility Lines.

Lessee shall connect or otherwise discharge to such utility lines as approved by the Lessor's Public Works Director and/or Electric Department, and shall obtain any permits and comply with any conditions specified by the Lessor's Public Works Director and/or Electric Department for such connections.

Section 9.5 Permits and Approvals for Activities.

Lessee shall be responsible for obtaining all necessary permits and approvals for its activities unless otherwise specifically allowed by Lessor. Not less than ten (10) days in advance of applying for permits to any public entity other than Lessor, Lessee shall provide copies of all permit applications and associated plans and specifications to Lessor's Public Works Director and Planning Director to facilitate review by departments of Lessor. Lessor is not obligated to comment on the permit applications and plans, and the result of any review by Lessor does not affect Lessee's obligation to comply with any applicable laws.

Section 9.6 Navigable and Public Waters.

(a) This Lease may be subject to a public access easement to and along all public or navigable water bodies that border on or are included in this leasehold. No public access easement may be obstructed or otherwise rendered incapable of reasonable use for the purposes for which it was reserved. No public access easement may be vacated, abandoned, or extinguished without the prior written approval of Lessor.

(b) The Public Trust Doctrine guarantees public access to, and the public right to use, navigable and public waters and the land beneath them for navigation, commerce, fishing, and other

purposes. This Lease is issued subject to the principals of the Public Trust Doctrine regarding navigable or public waters.

Section 9.7 Valid Existing Rights.

This Lease is subject to all valid existing rights, including easements, rights-of-way, reservations, or other interests in land in existence on the date of execution of this Lease. Lessor makes no representations or warranties whatsoever, either expressed or implied, as to the existence, number, or nature of such valid existing rights.

Section 9.8 Concurrent Use.

This Lease is subject to reasonable concurrent uses as provided under Article VIII, Section 8 of the Constitution of the State of Alaska. The concurrent user who is found to be at fault for damage or injury arising from noncompliance with the terms governing the user's concurrent use is liable for damages and the user's interest is subject to the forfeiture or termination by Lessor. In this context, the term "concurrent user" includes Lessee and any other person or entity who lawfully uses the land subject to this Lease, but does not include the Lessor.

Section 9.9 Surface Resource.

Unless otherwise provided by this Lease or other written authorization, Lessee may not sell or remove from the leasehold any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes.

Section 9.10 Appropriation or Disturbance of Waters.

During the term of this Lease, Lessee will have the right to apply for an appropriation of ground or surface water on the leasehold in accordance with Alaska law.

Section 9.11 Acquisition of Rights or Interests.

Any right or interest acquired during the term of this Lease and accruing to the benefit of the leasehold will remain appurtenant to the leasehold, and may not be severed or transferred from the leasehold without the prior written approval of Lessor. In the event of termination or forfeiture of this lease, any such right or interest will vest in Lessor.

Section 9.12 Land Alterations Due to Natural or Artificial Causes.

The interest described in this Lease constitutes the entire leasehold. If, through natural or artificial causes, accretion or reliction of land occurs contiguous to the leasehold, Lessee has no right to occupy or use the accreted land unless a separate lease is entered with Lessor with respect to such lands. The rules of law usually applicable to accretion or reliction of land do not apply to this lease or to the interest described in the lease.

Section 9.13 Environmental Compliance.

(a) Lessee shall, at Lessee's own expense, comply with all existing and hereafter enacted environmental responsibility laws ("Environmental Laws"). Lessee shall, at Lessee's own expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Authority") under the Environmental Laws.

(b) Should the Authority require that a remedial action plan be prepared and that a remedial action be undertaken because of the presence of, or any disposal, release, spill, or discharge, or threatened disposal, release, spill, or discharge of or contamination by hazardous materials at the leasehold that occurs during the term of the Lease or arises out of or in connection with Lessee's use or occupancy of the Subject Property of this lease, then Lessee shall, at Lessee's own expense, prepare and submit the required plans and financial assurances and carry out the approved plans. Lessee's obligations under this section shall arise if there is any event or occurrence at the leasehold during the term of this Lease, or arising out of or in connection with Lessee's use or occupancy of the Subject Property, that requires compliance with the Environmental Laws.

(c) At no expense to Lessor, Lessee shall promptly provide all information requested by Lessor for preparation of affidavits or other documents required by Lessor to determine the applicability of the Environmental Laws to the leasehold, and shall sign the affidavits promptly when requested to do so by Lessor.

(d) Lessee shall indemnify, defend, and hold harmless Lessor from all fines, penalties, suits, judgments, procedures, claims, demands, liabilities, settlements, and actions of any kind arising out of or in any way connected with the presence of or any disposal, release, spill, or discharge or any threatened disposal, release, spill or discharge of or contamination by hazardous materials at the leasehold that occurs during the Term of the Lease or arises out of or in connection with Lessee's use or occupancy of the Subject Property; and from all fines, penalties, suits, judgments, procedures, claims, demands, liabilities, settlements, and action of any kind arising out of Lessee's failure to provide all information, make all submissions, and take all steps required by the Authority under the Environmental Laws or any other law concerning any spill, discharge, or contamination that occurs during the Term of this Lease or arises out of or in connection with Lessee's use or occupancy of the Subject Property.

(e) Lessee agrees that it will not discharge or dispose of or suffer the discharge or disposal of any petroleum products, gasoline, hazardous chemicals, or hazardous materials into the atmosphere, ground wastewater disposal system, sewer system, or any body of water.

(f) In any court action or administrative proceeding, in addition to all other applicable presumptions, it shall be refutably presumed that any environmental contamination of the leasehold (i) has been released on the leasehold: (ii) has resulted from acts or omissions of Lessee or its agents: and (iii) has occurred during the term of this Lease. Lessee has the burden of rebutting the presumptions by clear and convincing evidence.

(g) As used in the lease, the term "hazardous materials" means any hazardous or toxic substance, material, or waste that is or becomes regulated by any municipal governmental authority, the State of Alaska, or the United States government.

ARTICLE X LESSOR'S RIGHT TO PERFORM LESSEE'S COVENANTS; REIMBURSEMENT OF LESSOR FOR AMOUNTS SO EXPENDED

Section 10.1 Performance of Lessee's Covenants To Pay Money.

Lessee covenants that if it shall at any time default resulting in the Lease being in a condition of default as described in Article XIV or shall fail to timely make any other payment (other than Rent), and the failure shall continue for ten (10) days after written notice to Lessee, then Lessor may, but shall not be obligated so to do, and without further notice to or demand upon Lessee and without releasing Lessee from any obligations of Lessee under this Lease, make any other payment in a manner and extent that Lessor may deem desirable.

Section 10.2 Lessor's Right To Cure Lessee's Default.

If there is a default involving the failure of Lessee to keep the Subject Property in good condition and repair in accordance with the provisions of this Lease, to make any necessary renewals or replacements or to remove any dangerous condition in accordance with the requirements of this Lease or to take any other action required by the terms of this Lease, then Lessor shall have the right, but shall not be required, to make good any default of Lessee. Lessor shall not in any event be liable for inconvenience, annoyance, disturbance, loss of business, or other damage of or to Lessee by reason of bringing materials, supplies and equipment into or through the building during the course of the work required to be done to make good such default. The obligations of Lessee under this Lease shall remain unaffected by such work, provided that Lessor uses reasonable care under the circumstances prevailing to avoid unnecessary inconvenience, annoyance, disturbance, loss of business, or other damage to Lessee.

Section 10.3 Reimbursement of Lessor and Lessee.

All sums advanced by Lessor pursuant to this Article and all necessary and incidental costs, expenses and attorney's fees in connection with the performance of any acts, together with interest at the highest rate of interest allowed by law from the date of the making of advancements, shall be promptly payable to Lessor by Lessee in the respective amounts so advanced. This reimbursement shall be made on demand, or at the option of Lessor, may be added to any Rent then due or becoming due under this Lease. Lessee covenants to pay the sum or sums with interest. Lessor shall have, in addition to any other right or remedies, the same rights and remedies in the event of the nonpayment by Lessee as in the case of default by Lessee in the payment of any installment of Rent.

Conversely, Lessee shall be entitled to receive from Lessor prompt payment or reimbursement on any sums due and owing from Lessor to Lessee, together with interest at the highest rate allowed by law. However, nothing contained in this Lease shall entitle Lessee to withhold any Rent due to Lessor or to offset or credit any sums against rent, except with respect to unpaid Rent due from Lessor to Lessee under any sublease of Subject Property.

ARTICLE XI DAMAGE OR DESTRUCTION

Section 11.1 Repair and Replacement of Structures and Improvements Following Damage.

(a) If the Premises should be destroyed or so injured by any cause as to be unfit, in whole or in part, for occupancy and such destruction or injury could reasonably be repaired within ninety (90)

days from the date of such damage or destruction, then Lessee shall not be entitled to surrender possession of the Premises, nor shall Lessee's liability to pay Rent under this Lease cease, without the mutual consent of the Parties. In case of any such destruction or injury, Lessee shall repair with all reasonable speed and shall complete such repairs within ninety (90) days from the date of such damage or destruction.

(b) If such destruction or injury cannot reasonably be repaired within ninety (90) days from the date of such damage or destruction, Lessee shall notify Lessor within fifteen (15) days after the determination that restoration cannot be made in ninety (90) days. The notice in the previous sentence shall also include Lessee's intent to repair or reconstruct.

(i) If Lessee elects not to repair or rebuild, this Lease shall be terminated thirty (30) days from the date of the aforementioned notice and in accordance with Section 1.4. Lessee will remain liable for reimbursement of all repair and reconstruction costs incurred by Lessor.

(ii) If Lessee elects to repair or reconstruct, Lessee shall specify in the aforementioned notice the time within which such repairs or reconstruction will be complete. Lessor shall, in writing, approve the time to repair or reconstruct, and shall not unreasonably withhold its approval. Lessee's duty to pay Rent under this Lease shall continue until all repair and reconstruction activities are complete, and the condition of the Subject Property is approved, in writing, by Lessor. Failure to complete such repairs or reconstruction within the time specified and agreed to by the Parties, unless otherwise extended or altered by mutual written agreement by the Parties, shall be considered an Event of Default under Article XVI.

(c) In addition to all rights to cancel or terminate this Lease set forth in Subsections 11.1(a) and 11.1(b), if the Subject Property is destroyed or damaged during the last two (2) years of the renewal Term of this Lease or any extension or renewal to the extent of fifty per cent (50%) or more of the value of the Subject Property, then Lessor shall have the right to cancel and terminate this Lease as of the date of such damage or destruction by giving Lessee notice within ninety (90) days after the date of such damage or destruction.

ARTICLE XII MECHANIC'S LIENS

Section 12.1 Discharge of Mechanics' Liens.

Lessee shall neither suffer nor permit any mechanics' liens to be filed against the title to the Subject Property, nor against Lessee's interest in the Subject Property, nor against the improvements by reason of work, labor, services or materials supplied or claimed to have been supplied to Lessee or anyone having a right to possession of the Subject Property or Improvements as a result of an agreement with or the assent of Lessee. If any mechanics' lien shall be filed against the Subject Property, including the Improvements, Lessee shall cause it to be discharged of record within 30 days after the date that Lessee has knowledge of its filing. Failure to comply may subject the Lease to be terminated.

ARTICLE XIII LIEN FOR RENT AND OTHER CHARGES

Section 13.1 Lien for Rent.

The whole amount of the Rent and each and every installment, and the amount of all taxes, assessments, utility payments, insurance premiums and other charges, fees and impositions paid by Lessor under the provisions of this Lease, and all costs, attorney's fees and other expenses which may be incurred by Lessor in enforcing the provisions of this Lease or on account of any delinquency of Lessee in carrying out any of the provisions of this Lease, shall be and they are declared to constitute a valid and prior lien against property of Lessee, except the Subject Property, and may be enforced by law and equitable remedies, including the appointment of a receiver.

ARTICLE XIV DEFAULT PROVISIONS

Section 14.1 Events of Default.

Each of the following events is defined as an "Event of Default":

- (a) Failure of Lessee to pay any installment of Rent, or any other payments or deposits of money, or furnish receipts for deposits as required, when due and the continuance of the failure for a period of ten (10) days after notice in writing from Lessor to Lessee.
- (b) Failure of Lessee to perform any of the other covenants, conditions and agreements under this Lease, including filing tax forms and/or payment of taxes, fees, utilities, and the continuance of failure for a period of thirty (30) days after Lessor's notice in writing. The notice shall specify the respects in which Lessor contends that Lessee has failed to perform any of the covenants, conditions and agreements. With respect to any default which cannot be cured within thirty (30) days, Lessee, or any person holding by, through or under Lessee, in good faith, promptly after receipt of written notice, shall have commenced and shall continue diligently and reasonably to prosecute all action necessary to cure the default within an additional sixty (60) days.
- (c) The filing of an application by Lessee (the term, for this purpose, to include any approved transferee other than a sublessee of Lessee's interest in this Lease): (i) for a consent to the appointment of a receiver, trustee or liquidator of itself or all its assets; (ii) of a voluntary petition in bankruptcy or the filing of a pleading in any court of record admitting in writing of its inability to pay its debts as they come due; (iii) of a general assignment for the benefit of creditors; or (iv) of an answer admitting the material allegations of, or its consenting to, or defaulting in answering, a petition filed against it in any bankruptcy proceeding.
- (d) The entry of an order, judgment or decree by any court of competent jurisdiction, adjudicating Lessee a bankrupt, or appointing a receiver, trustee or liquidator of it or of its assets, and this order, judgment or decree continuing unstayed and in effect for any period of sixty (60) consecutive days, or if this Lease is taken under a writ of execution.

Section 14.2 Assumption or Assignment of Lease to Bankruptcy Trustee.

In the event that this Lease is assumed by or assigned to a trustee pursuant to the provisions of the Bankruptcy Reform Act of 1978 (referred to as "Bankruptcy Code") (11 U.S.C. § 101 et seq.), and the trustee shall cure any default under this Lease and shall provide adequate assurances of future

performance of this Lease as are required by the Bankruptcy Code (including but not limited to, the requirement of Code § 365(b)(1)) (referred to as "Adequate Assurances"), and if the trustee does not cure such defaults and provide such adequate assurances under the Bankruptcy Code within the applicable time periods provided by the Bankruptcy Code, then this Lease shall be deemed rejected automatically and Lessor shall have the right immediately to possession of the Subject Property immediately and shall be entitled to all remedies provided by the Bankruptcy Code for damages for breach or termination of this Lease.

Section 14.3 Remedies in Event of Default.

Lessor may treat any one or more of the Events of Default as a breach of this Lease. At its option, by serving written notice on Lessee and each Secured Party and Leasehold Mortgagee of whom Lessor has notice (such notice not to be effective unless served on each such person) of the Event of Default, Lessor shall have, in addition to other remedies provided by law, one or more of the following remedies:

(a) Lessor may terminate this Lease. In such an event, Lessor may repossess the entire Subject Property and Improvements, and be entitled also to recover as damages a sum of money equal to the value as of the date of termination of this Lease, of the Rent due from Lessee for the balance of the stated term of this Lease, and any other sum of money and damages due under the terms of this Lease to Lessor. Any personal property not removed after such termination shall be addressed as provided for in Section 1.4 above.

(b) Lessor may terminate Lessee's right of possession and may repossess the entire Subject Property and Improvements by forcible entry and detainer suit or otherwise, without demand or notice of any kind to Lessee (except as above expressly provided for) and without terminating this Lease. In such event, Lessor may, but shall be under no obligation to do so, relet all or any part of the Subject Property for rent and upon terms as shall be satisfactory in the judgment reasonably exercised by Lessor (including the right to relet the Subject Property for a term greater or lesser than that remaining under the stated term of this Lease). For the purpose of reletting, Lessor may make any repairs, changes, alterations or additions in or to the Subject Property and Improvements that may be reasonably necessary or convenient in Lessor's judgment reasonably exercised. If Lessor shall be unable, after a reasonable effort to do so, to relet the Subject Property, or if the Subject Property and building are relet and a sufficient sum shall not be realized from reletting after paying all of the costs and expenses of repairs, change, alterations and additions and the expense of reletting and the collection of the Rent accruing from it, to satisfy the Rent above provided to be paid, then Lessee shall pay to Lessor as damages a sum equal to the amount of the Rent reserved in this Lease for the period or periods as and when payable pursuant to this Lease. If the Subject Property or any part of it has been relet, Lessee shall satisfy and pay any deficiency upon demand from time to time. Lessee acknowledges that Lessor may file suit to recover any sums falling due under the terms of this section from time to time, and that any suit or recovery of any portion due Lessee shall be no defense to any subsequent action brought for any amount not reduced to judgment in favor of Lessor. Any personal property not removed after such termination shall be addressed as provided for in Section 1.4 above.

(c) In the event of any breach or threatened breach by Lessee of any of the terms, covenants, agreements, provisions or conditions in this Lease, Lessor shall have the right to invoke any right

and remedy allowed at law or in equity or by statute or otherwise as through reentry, summary proceedings, and other remedies not specifically provided for in this Lease.

(d) Upon the termination of this Lease, or upon the termination of Lessee's right of possession, whether by lapse of time or at the option of Lessor, Lessee will at once surrender possession of the Subject Property and dispose of personal property and Improvements as described in Section 1.4. If possession is not immediately surrendered, Lessor may reenter the Subject Property and Improvements and repossess itself of it as of its former estate and remove all persons and their personal property, without being deemed guilty of any manner of trespass or forcible entry or detainer. Lessor may at its option seek expedited consideration to obtain possession if Lessor determines that the Lease has terminated as described in the first sentence of this paragraph, and Lessee agrees not to oppose such expedited consideration.

(e) In the event that Lessee shall fail to make any payment required to be made provided for in this Lease or defaults in the performance of any other covenant or agreement which Lessee is required to perform under this Lease during the period when work provided for in this Lease shall be in process or shall be required by the terms of this Lease to commence, Lessor may treat the default as a breach of this Lease and, in addition to the rights and remedies provided in this Article, but subject to the requirements of service of notice pursuant to this Lease, Lessor shall have the right to carry out or complete the work on behalf of Lessee without terminating this Lease.

Section 14.4 Waivers and Surrenders To Be In Writing.

No covenant or condition of this Lease shall be deemed to have been waived by Lessor unless the waiver be in writing, signed by Lessor, or Lessor's agent duly authorized in writing and shall apply only with respect to the particular act or matter to which the consent is given. It shall not relieve Lessee from the obligation, wherever required under this Lease, to obtain the consent of Lessor to any other act or matter.

ARTICLE XV LESSOR'S TITLE AND LIEN

Section 15.1 Lessor's Title and Lien Paramount.

Lessor will hold title to the Subject Property.

Section 15.2 Lessee Not To Encumber Lessor's Interest.

Lessee shall have no right or power to and shall not in any way encumber the title of Lessor regarding the Subject Property. The fee-simple estate of Lessor in the Subject Property shall not be in any way subject to any claim by way of lien or otherwise, whether claimed by operation of law or by virtue of any express or implied lease or contract or other instrument made by Lessee. Lessee's interest in the Improvements shall in all respects be subject to the paramount rights of Lessor in the Subject Property.

ARTICLE XVI REMEDIES CUMULATIVE

Section 16.1 Remedies Cumulative.

No remedy conferred upon or reserved to Lessor shall be considered exclusive of any other remedy, but shall be cumulative and shall be in addition to every other remedy given under this

Lease or existing at law or in equity or by statute. Every power and remedy given by this Lease to Lessor may be exercised from time to time and as often as occasion may arise or as may be deemed expedient by Lessor. No delay or omission of Lessor to exercise any right or power arising from any default shall impair any right or power, nor shall it be construed to be a waiver of any default or any acquiescence in it.

Section 16.2 Waiver of Remedies Not To Be Inferred.

No waiver of any breach of any of the covenants or conditions of this Lease shall be construed to be a waiver of any other breach or to be a waiver of, acquiescence in, or consent to any further or succeeding breach of it or similar covenant or condition.

Section 16.3 Right to Terminate Not Waived.

Neither the rights given to receive, sue for or distrain from any Rent, moneys or other payments, or to enforce any of the terms of this Lease, or to prevent the breach or nonobservance of it, nor the exercise of any right or of any other right or remedy shall in any way impair or toll the right or power of Lessor to declare ended the term granted and to terminate this Lease because of any event of default.

ARTICLE XVII SURRENDER AND HOLDING OVER

Section 17.1 Surrender at End of Term.

On the last day of the last Lease year of the original Term, or on the earlier termination of the Term, Lessee shall peaceably and quietly leave, surrender and deliver the entire Subject Property to Lessor, subject to the provisions of Section 1.4, in good repair, order, and condition, reasonable use, wear and tear excepted, free and clear of any and all mortgages, liens, encumbrances, and claims. At the time of the surrender, Lessee shall also surrender any and all security deposits and rent advances of Sublessees to the extent of any amounts owing from Lessee to Lessor. If the Subject Property is not so surrendered, Lessee shall repay Lessor for all expenses which Lessor shall incur by reason of it, and in addition, Lessee shall indemnify, defend and hold harmless Lessor from and against all claims made by any succeeding Lessee against Lessor, founded upon delay occasioned by the failure of Lessee to surrender the Subject Property.

Section 17.2 Rights Upon Holding Over.

At the termination of this Lease, by lapse of time or otherwise, Lessee shall yield up immediately possession of the Subject Property to Lessor and failing to do so agrees at the option of Lessor, to pay to Lessor for the whole time such possession is withheld, a sum per day equal to the aggregate of the Rent paid or payable to Lessor during the last year of the term of the Lease. The provisions of this Article shall not be held to be a waiver by Lessor of any right or reentry as set forth in this Lease, nor shall the receipt of a sum, or any other act in apparent affirmance of the tenancy, operate as a waiver of the right to terminate this Lease and the Term granted for the period still unexpired for any breach of Lessee under this Lease.

ARTICLE XVIII MODIFICATION

Section 18.1 Modification.

None of the covenants, terms or conditions of this Lease to be kept and performed by either Party to this Lease shall in any manner be waived, modified, changed or abandoned except by a written instrument duly signed, acknowledged, and delivered by both Lessor and Lessee.

ARTICLE XIX INVALIDITY OF PARTICULAR PROVISIONS

Section 19.1 Invalidity of Provisions.

If any provision of this Lease or the application of it to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstance other than those as to which it is invalid or unenforceable, shall not be affected, and each provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

ARTICLE XX APPLICABLE LAW AND VENUE

Section 20.1 Applicable Law.

This Lease shall be construed and enforced in accordance with the laws of the State of Alaska. The forum and venue for any action seeking to interpret, construe, or enforce this Lease shall be only in the Superior Court for the State of Alaska at Sitka, Alaska.

ARTICLE XXI NOTICES

Section 21.1 Manner of Mailing Notices.

In every case where under any of the provisions of this Lease or otherwise it shall or may become necessary or desirable to make or give any declaration or notice of any kind to Lessor or Lessee, it shall be sufficient if a copy of any declaration or notice is sent by United States Postal Service, postage prepaid, return receipt requested, addressed: If to Lessor at: Municipal Administrator, City and Borough of Sitka, Alaska, of 100 Lincoln Street, Sitka, Alaska 99835, with a copy to: Municipal Clerk at address listed above; and if to Lessee, at: the address set out in the Preamble. Alternatively, said declarations or notices may be delivered via electronic mail, If to Lessor at: administrator@cityofsitka.org, with a copy to clerks@cityofsitka.org; and if to Lessee, at: sitkajoel@gmail.com. Each party from time to time may change its address for purposes of receiving declarations or notices by giving written notice of the changed address, to become effective seven (7) days following the giving of notice.

Section 21.2 Notice to Leasehold Mortgagee and Secured Parties.

Lessor shall provide each Leasehold Mortgagee and Secured Party, who has so requested, copies of all notices from Lessor to Lessee relating to existing or potential default under, or other noncompliance with the terms of this Lease. All notices, demands or requests which may be required to be given by Lessor or Lessee to any Leasehold Mortgagee and Secured Parties shall be sent in writing, by United States Postal Service, registered or certified mail or express mail, postage prepaid, addressed to the Leasehold Mortgagee at a place as the Leasehold Mortgagee may from time to time designate in a written notice to Lessor and Lessee.

Section 21.3 Sufficiency of Service.

Service of any demand or notice as in this Article provided shall be sufficient for all purposes.

Section 21.4 When Notice Deemed Given or Received.

Whenever a notice is required by this Lease to be given by any Party to the other Party or by any Party to a Leasehold Mortgagee, the notice shall be considered as having been given when a registered or certified notice is placed in the United States Post Office mail, or by electronic mail, as provided by this Article. If placed in the United States Post Office mail, it shall be deemed received on the third business day thereafter. For all purposes under this Lease of starting any time period after notice, the time period shall be conclusively deemed to have commenced three (3) business days after the giving of notice, whether or not it is provided that a time period commences after notice is given or after notice is received.

ARTICLE XXII MISCELLANEOUS PROVISIONS**Section 22.1 Captions.**

The captions of this Lease and the index preceding it are for convenience and reference only and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

Section 22.2 Conditions and Covenants.

All the provisions of this Lease shall be deemed and construed to be "conditions" as well as "covenants," as though the words specifically expressing or importing covenants and conditions were used in each separate provision.

Section 22.3 Entire Agreement.

This Lease contains the entire agreement between the Parties and shall not be modified in any manner except by an instrument in writing executed by the Parties or their respective successors or assigns in interest.

Section 22.4 Time of Essence as to Covenants of Lease.

Time is of the essence as to the covenants in this Lease.

ARTICLE XXIII COVENANTS TO BIND AND BENEFIT RESPECTIVE PARTIES AND TO RUN WITH THE SUBJECT PROPERTY**Section 23.1 Covenants to Run with the Subject Property.**

All covenants, agreements, conditions and undertakings in this Lease shall extend and inure to the benefit of and be binding upon the successors and assigns of each of the Parties, the same as if they were in every case named and expressed, and they shall be construed as covenants running with the Subject Property. Wherever in this Lease reference is made to any of the Parties, it shall be held to include and apply to, wherever applicable, also the officers, directors, successors and assigns of each Party, the same as if in each and every case so expressed.

ARTICLE XXIV ADDITIONAL GENERAL PROVISIONS

Section 24.1 Absence of Personal Liability.

No member, official, or employee of Lessor shall be personally liable to Lessee, its successors and assigns, or anyone claiming by, through or under Lessee or any successor in interest to the Subject Property, in the event of any default or breach by Lessor or for any amount which may become due to Lessee, its successors and assigns, or any successor in interest to the Subject Property, or on any obligation under the terms of this Lease. No member, official, or employee of Lessee shall be personally liable to Lessor, its successors and assigns, or anyone claiming by, through, or under Lessor or any successor in interest to the Subject Property, in the event of any default or breach by Lessee or for any amount which become due to Lessor, its successors and assigns, or any successor in interest to the Subject Property, or on any obligation under the terms of this Lease with the exception of Lessee's identified personal guarantor(s) as described in Subsection 3.6(o) above.

Section 24.2 Lease Only Effective As Against Lessor Upon Assembly Approval.

This Lease is effective as against Lessor only upon the approval of such Lease by the Sitka Assembly.

Section 24.3 Binding Effects and Attorneys Fees.

This Lease shall be binding up and inure to the benefit of the respective successors and assigns of the Parties hereto. In the event of litigation over this Lease, the Parties agree that the prevailing party shall receive full reasonable attorney's fees.

Section 24.4 Duplicate Originals.

This Lease may be executed in any number of copies, each of which shall constitute an original of this Lease. The warranties, representations, agreements and undertakings shall not be deemed to have been made for the benefit of any person or entity, other than the Parties.

Section 24.5 Declaration of Termination.

With respect to Lessor's rights to obtain possession of the Subject Property or to revest title in itself with respect to the leasehold estate of Lessee in the Subject Property, Lessor shall have the right to institute such actions or proceedings as it may deem desirable to effectuate its rights including, without limitation, the right to execute and record or file with the Recorder of the Sitka Recording District, a written declaration of the termination of all rights and title of Lessee in the Subject Property, and the revesting of any title in Lessor as specifically provided in this Lease.

Section 24.6 Authority.

Lessor and Lessee represent to each other that each has, and has exercised, the required power and authority and has complied with all applicable legal requirements necessary to adopt, execute and deliver this Lease and perform its obligations. Both parties also represent that this Lease has been duly executed and delivered by each and constitutes a valid and binding obligation of each enforceable in accordance with its terms, conditions, and provisions.

Section 24.7 Recordation.

The parties agree that the Lease will be no be recorded. At the request of either party, the parties shall execute a memorandum of the Lease for recording purposes in lieu of recording this Lease

in such form as many be satisfactory to the parties or their respective attorneys. Each party shall bear their own related expenses, including attorney fees. Lessor shall pay for all recording fees.

[SIGNATURES AND ACKNOWLEDGEMENTS ON NEXT PAGE]

DRAFT

CITY AND BOROUGH OF SITKA, ALASKA

Date

By: John Leach
Its: Municipal Administrator

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by John Leach, Municipal Administrator of the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, on behalf of the municipality.

Notary Public in and for the State of Alaska
My commission expires: _____

SITKA COMMUNITY GARDENS ASSOCIATION

Date

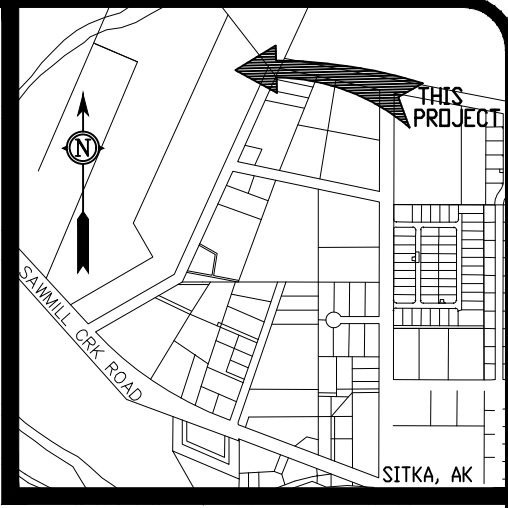
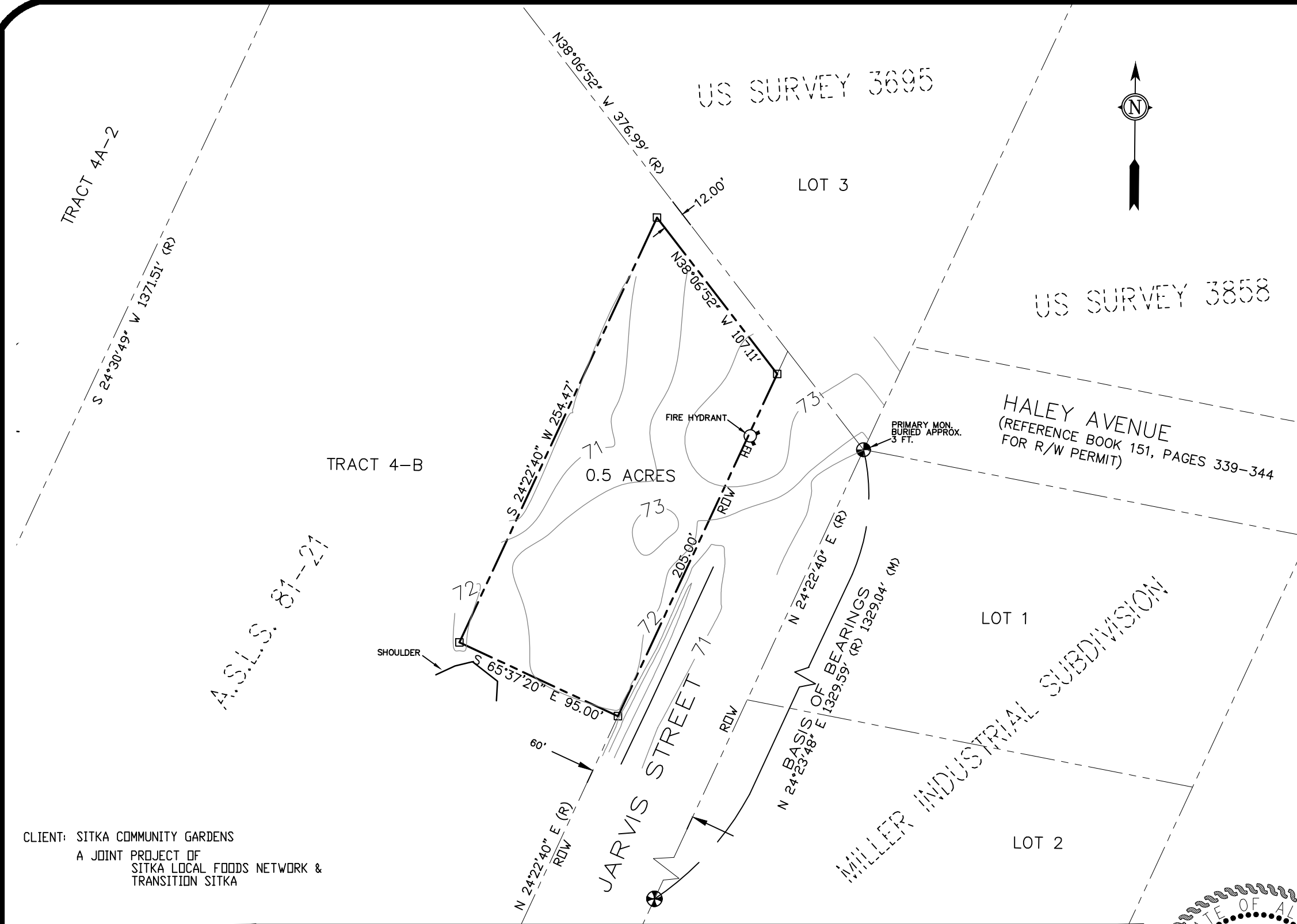
By: Joel Hanson
Its: Director
And Its: Personal Guarantor per Subsection 3.6(o)

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2025, by _____.

Notary Public in and for the State of Alaska
My commission expires: _____

EXHIBIT A



VICINITY MAP (N.T.S.)

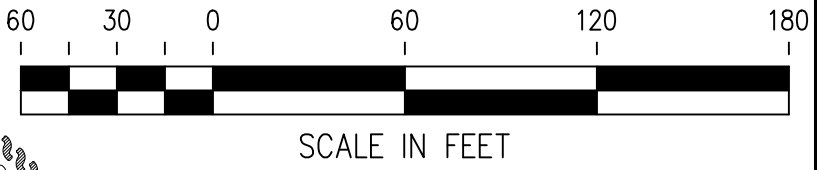
LEGEND

- PRIMARY MONUMENT (RECOVERED)
- GLO/BLM MONUMENT (RECOVERED)
- SET LATH
- (R) RECORD DATA (PLAT# 86-3)
- (C) COMPUTED DATA
- (M) MEASURED DATA

PLAT NOTES

1. THIS DRAWING REPRESENTS AN OVERALL VISUAL RENDERING OF A PORTION OF TRACT 4-B, ALASKA STATE LAND SURVEY 81-21 (PLAT #86-3) PROPOSED FOR LEASE TO SITKA COMMUNITY GARDENS (ET AL.).

CLIENT: SITKA COMMUNITY GARDENS
A JOINT PROJECT OF
SITKA LOCAL FOODS NETWORK &
TRANSITION SITKA



NORTH 57*
LAND SURVEYING LLC
(907) 747-6700 215-F SMITH STREET, SITKA, AK
8800 GLACIER HWY, SUITE 224 1/2, JUNEAU, AK 99801
MAILING ADDRESS - 2007 CASCADE CREEK ROAD,
SITKA, AK 99835
EMAIL: north57landsurveying@yahoo.com

SURVEYOR'S CERTIFICATE
I HEREBY CERTIFY THAT I AM A REGISTERED SURVEYOR, LICENSED IN THE STATE OF ALASKA, AND THAT IN **DEC. 2023** A SURVEY OF THE HEREIN DESCRIBED LANDS WAS CONDUCTED UNDER MY DIRECT SUPERVISION AND THAT THIS PLAT IS A TRUE AND ACCURATE REPRESENTATION OF THE FIELD NOTES OF SAID SURVEY, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT ACCORDING TO SAID FIELD NOTES.
Kelly J. O'Neill
KELLY J. O'NEILL LS 13321
DATE **1/20/24**



PROPOSED LEASE AREA
PORTION OF TRACT 4-B, ASLS 81-21 (PLAT #86-3)
DRAWN BY: MV/KD/ACAD
CHECKED BY: KD
DATE SURVEYED: DEC, 2023
SCALE: 1" = 60'

EXHIBIT B

Response to the City and Borough of Sitka, Alaska Jarvis Street Horticulture Site RFP

Submission due by 2:00 P.M. AKST, Thursday, August 22, 2024

Submitted by:

Sitka Local Foods Network and Transition Sitka

dba

Sitka Community Gardens



Contact: Joel Hanson, Project Manager

sitkajoel@gmail.com email

(907) 747-9834 phone

(907) 738-1033 mobile

1. Experience and Qualifications

Organization and key consultant/contractor qualifications

Sitka Local Foods Network (SLFN) is a 501(c)(3) nonprofit that was founded in 2008 by participants in that year's Sitka Health Summit. The group recognized the need for a new organization that could focus on two initiatives: 1) coordinating seasonal Sitka Farmers Market events, and 2) designing and developing a community greenhouse.

The first initiative has been an unqualified success with SLFN hosting its seventeenth market season this year. Detailed designs for a community greenhouse were drafted in 2014, but finding suitable locations for development have not yet been successful.

SLFN has expanded its activities beyond the original initiatives, organizing other numerous projects aimed at enhancing the production and distribution of local foods. Perhaps the most notable has been the development of St. Peter's Fellowship Farm, a communal cooperative garden located behind Saint Peter's by the Sea Episcopal Church on Lincoln Street. The farm has operated for 16 years and is now producing at capacity. Organically grown fruits and vegetables are available for purchase at the Sitka Farmers Market.

Transition Sitka (TS) founders began meeting in late 2021 when members of the Sitka Chapter of Citizens Climate Lobby decided to apply some of their energies toward addressing climate and sustainability issues at the local level in Sitka. TS is loosely aligned with the Transition Town movement which is dedicated to working for a low-carbon, socially just future with greater local food security and economic self-reliance. TS has adopted two initial goals for its work: 1) to help Sitka reduce its current reliance on fossil fuels, and 2) to enhance Sitka's food security.

Like SLFN, TS is recognized as a tax-exempt entity under IRS Section 501(c)(3). Its activities since its formation have included organizing two large public events showcasing local energy efficiency opportunities. It has also partnered with SLFN to fund and provide oversight for a second edition of the Sitka Community Food Assessment, due for release later this year.

TS and SLFN ("Proposers") are now also collaborating in the development of this project, doing business jointly as **Sitka Community Gardens** (SCG). If this proposal is selected and a lease agreement executed, an SCG Steering Committee will be assembled to help guide the Jarvis project's development to completion, and to assume subsequent management responsibilities through a phase-in process once the garden is operational. The Committee will be composed of TS and SLFN representatives, plus community members who have horticultural interests and other expertise.

The RFP includes a list of requirements that must be met within specific times. The Proposers will be responsible for conducting fundraising and financial accounting, as well as for providing project liability coverage during the first and second lease periods outlined in the RFP. Both TS and SLFN have demonstrated their capabilities in these areas. Beyond the first five years, it is expected that SCG will assume these responsibilities. Information on the structure and function of SCG is covered later in the Operating Plan section of this proposal.

Key consultants/contractors: In-principal agreements have been negotiated with two firms to provide some of the services required to be completed during the Initial Term as detailed in the RFP. These are: 1) the civil engineering firm **proHNS** in Juneau, and; 2) the planning firm **Anderson Land Planning** in Sitka. Both are highly experienced. Suitably qualified and bonded local contractors will be hired as

needed to provide lot clearing, excavation, haulage, grading, utility tie-in and building construction services as required by code and/or lease terms.

Project Manager qualifications

Joel Hanson is the Project Manager. He is a retired US Coast Guard licensed ship captain with extensive experience in the operations and maintenance of various commercial fishing vessels and passenger vessels up to 160'. He has several years of Operations Manager experience working for a multi-million-dollar ecotour cruise business between 1996 and 2017.

He is a 24-year resident of Sitka, moving here from Wrangell Island where he resided with his wife and son on a 2-acre Alaska State Land Lottery parcel. Here he gained experience clearing property, building a home and outbuildings, and establishing a large garden. Currently, he grows tomatoes and zucchini in his greenhouse and cultivates a wide variety of leafy greens, root vegetables, fruits and legumes in a small kitchen garden. He is a lifelong advocate for fish and wildlife protection and will ensure that the Jarvis Street project is developed and operated in a manner that is minimally disruptive to the environment and wildlife.

Proposers' applicable experience

Sitka Local Foods Network's applicable experience is the development and operation of St. Peter's Fellowship Farm over the past 16 years. The farmsite was generously donated for this purpose, but costs have been borne largely by SLFN. This includes the purchase of two high tunnel structures (a third was donated) plus a garden shed and framing lumber for numerous raised beds. To date, these costs have amounted to more than \$20,000. SLFN also supports the farm's operations by seasonally employing contract gardening labor. Master Gardener Laura Schmidt has served as Lead Gardener for the last 12 years. SLFN also underwrites the purchase of seeds, garden tools and other necessary materials for the project. Ongoing labor and materials expenses accruing to SLFN for farm operations amount to between \$8,000 and \$10,000 per year.

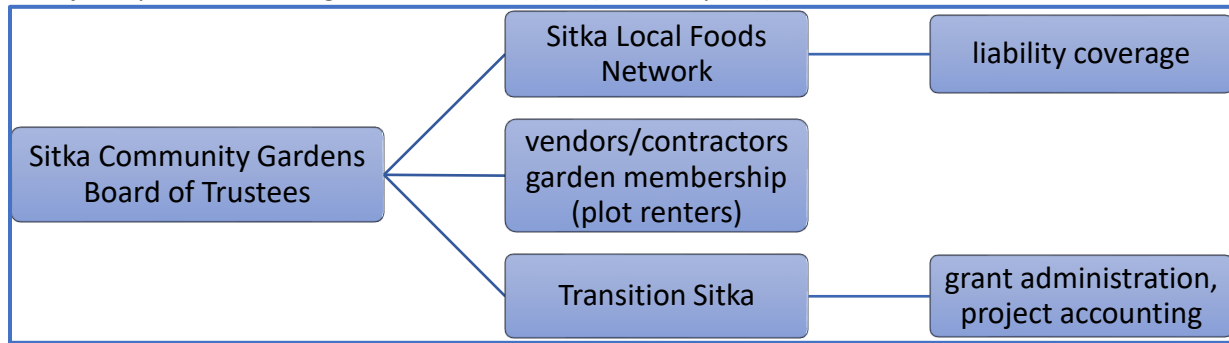
Transition Sitka's applicable experience is in community outreach. Also, several members of TS are active gardeners. Lisa Sadleir-Hart has operated a home horticulture business called Anam Cara Family Garden since 2015. She and her husband, Tom, offer a community supported garden box program that provides shareholders with regular deliveries of fresh organically grown produce. They also distribute a variety of transplantable potted seedling starts out of their greenhouse in spring.

Organizational charts

1: Project development & construction through launch of operations



2: Project operations through First Renewal Term (first five years)



3: Project operations beyond First Renewal Term (after five years) will be organized by SCG Trustees and garden members. At this time, it is expected that SGC will function independently either as an incorporated or unincorporated nonprofit entity observing cooperative business principles.

To summarize the three proposed organizational structures above: the objective is to use the existing capacities of SLFN and TS to develop the ability of SCG to operate and manage the Jarvis Street Community Garden largely on its own after a phase-in period, initially through an SCG Steering Committee and later through a Board of Trustees elected by members of the cooperative.

2. Development Plan

Development Plan narrative description

The proposed development is ½-acre. The entire site will be cleared of vegetative overburden, but only about 12% will be excavated and hardened. Garden plots will “float” atop the existing natural substrate. The site will include 45 standard 10’ by 20’ garden plots and two 3’ by 20’ by 24” high ADA accessible raised beds. It will also include approximately 22 standard 2’ by 8’ raised beds along the perimeter fence for climbing or tall plants. A hardened work area accessible to vehicles will be provided where deliveries of locally excavated soil may be staged and screened, or where quantities of lumber, commercial compost and other soil amendments may be temporarily stockpiled. Off-street parking for 7 vehicles will be provided outside the fenced garden perimeter, with some additional overflow parking space available at the drive-in entrance gate or inside the fenced perimeter in the garden work area.

The site will be fully fenced and gated. The fencing will be galvanized steel wire mesh, 6’ high, welded or fixed knot, and of suitable gauge for affixing to 8’ or 10’ steel “T”-stakes spaced at about 10’ intervals. Two or three strands of electric fence wire will be affixed to the outside of the t-stakes to further discourage bear intrusion, except no electric fencing will be used in the parking area where there may be risk of accidental contact. Appropriate warning signage will be posted for safety. One 5’ wide walk-in gate and one 12’ wide drive-in gate will be provided. The walk-in gate will be fitted with a programmable keypad lock.

Structures will be few and relatively small. A 10’ by 16’ garden shed will provide storage for bulky items like wheelbarrows, hand tools and materials that need to be kept out of the weather. A 15’ by 20’ open-sided covered area will provide shelter and dry workspace for gardeners. A single-stall unisex ADA accessible restroom with attached utility/mechanical room for housing an electrical panel and related equipment will be constructed. The shelter, restroom and utility/mechanical room may or may not share a common roof, depending on final design.

Development plan

Proposers intend to work quickly to complete the required activities listed in Section C(1) of the RFP. However, the development schedule will depend on final contract terms, execution timing, and funding.

The Proposers' highest priority development objective is to prepare as many garden plots for use as possible, as soon as possible. We're hopeful, therefore, that permits authorizing site clearing, fencing and garden plot layout can be provided while design plans are finalized and permits approved for other elements of the project such as excavating and grading for parking, as well as for constructing ancillary garden structures.

In very general terms, our hoped-for project schedule would allow us to begin clearing this fall and winter, develop parking spaces and construct two or three demonstration garden plots in spring 2025, carry out much of the essential garden plot development work over summer and fall, and begin leasing a majority of plots in spring 2026. Meanwhile, progress on remaining tasks may proceed as funding allows.

Proposed project schedule:

Immediately upon execution of lease agreement

Task 1: Begin recruitment for volunteer labor to assist with all aspects of project development. This task will be designed to engage individuals and families as much as possible, potentially boosting interest in plot rentals upon project completion.

Task 2: With volunteer labor, clear property of trash, scrap metal, etc. Cost estimated at \$300.

Task 3: Contract civil engineering firm proHNS to prepare and submit to CBS for approval a comprehensive Drainage Plan and, if required, a Storm Water Pollution Prevention Plan and/or Storm Water Treatment Plan. Per Lucas Chambers at proHNS, cost estimated at \$3K to \$5K.

Task 4: Contract planning firm Anderson Land Planning to prepare and submit to CBS for approval a Final Site Plan. Preliminary work on this Plan has already begun with input from former CBS City Engineer Dan Jones. Per Monique Anderson, cost estimated at \$3.5K.

Task 5: Prepare and submit to CBS for approval a Site Remediation Plan and other planning and policy documents required by CBS before allowing work to commence on land clearing and perimeter fence installation. This task will be performed in-house.

Within 6 months after execution of lease agreement

Task 6: Using volunteer labor and/or contractor services, build or otherwise place onsite two small temporary structures (storage shed and portable toilet) for use during project construction. Cost estimated at \$3,000.

Task 7: Using volunteer labor as much as possible, begin clearing site of vegetative overburden starting with fence line clearing. Stage chipped/shredded materials for later use in pathways and garden beds. This task will seek to treat the site's native substrate in garden plot areas with as light a touch as possible by avoiding the use of heavy equipment except where necessary. Such treatment conforms to the project's October 26, 2023 US Army Corps of Engineers permit conditions. Equipment costs (primarily hand tools) estimated at \$2K. Absolute Tree Care LLC or other contractors may provide tree removal and chipping services. Estimated cost at \$7K.

Task 8: Purchase and, using volunteer labor, install 650 linear feet of 6'-high deer fence and up to 80 fence posts, plus two gates. Cost including shipping estimated at \$6K.

Within 1 year after execution of lease agreement

Task 9: Prepare and submit to CBS for approval all planning documents required for excavation, grading, foundation work, building construction, and utility connections. Cost estimated at \$3K.

Task 10: Hire contractors and/or rent equipment and employ volunteer labor to begin excavating, filling and hardening an area of approximately 5,000 ft² at north end of project site to provide for off-street parking and for drive-in access to work area and structures. Per licensed contractor Del Co. LLC, cost estimated at \$125K. Per licensed contractor Affordable Grading & Excavation with offer to donate excavation labor and equipment but not haulage and rock, cost estimated at \$42K.

Task 11: Begin acquisition and onsite staging of quantities of purchased and/or donated bulk garden materials including topsoil, compost, mulch and raised-bed framing lumber. The objective is to accumulate enough growing medium and bed-building materials to prepare a substantial number of plots for use beginning in spring of 2026. Labor and materials cost estimated at \$30K.

Task 12: Hire contractors to tie into and bring onsite nearby municipal water and sewer services, and provide stub-outs at property entry points. Labor and materials costs estimated at \$23K.

Task 13: Employ volunteer labor to lay out garden plots and walkways.

Task 14: Employ a combination of volunteer and contract labor to install water distribution system per Final Site Plan. Labor and materials cost estimated at \$1.5K.

Within 2 years after execution of lease agreement

Task 15: Hire electrical contractor to install service main, meter and temporary service panel onsite for use during construction of planned structures. Labor and materials cost estimated at \$4K.

Task 16: Purchase materials and employ volunteers or use contractors to construct storage shed per Final Site Plan. Labor and materials cost estimated at \$8K.

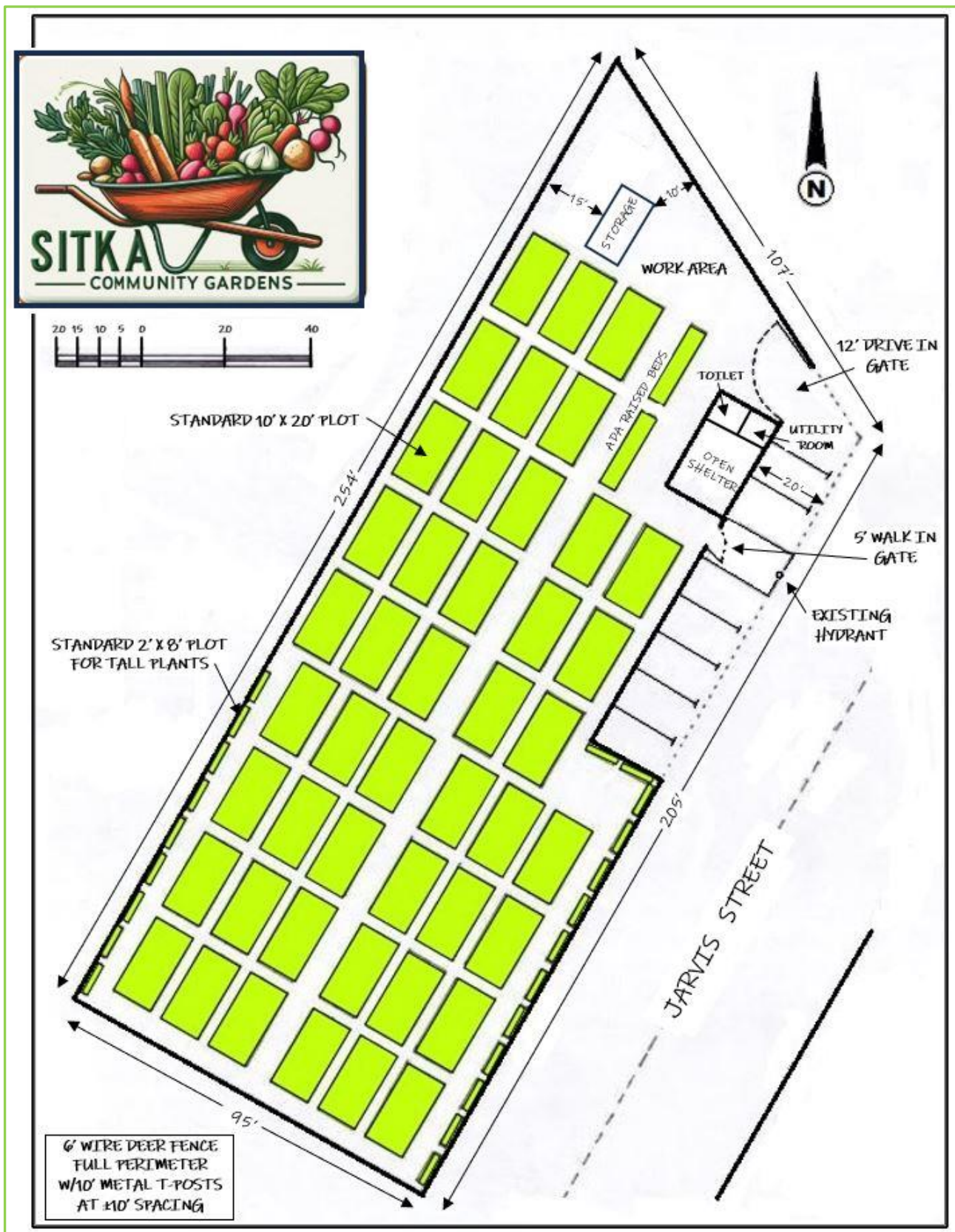
Task 17: Hire contractors to submit to CBS for approval design details for a permanent toilet facility and adjoining utility/mechanical room per Final Site Plan, and proceed with construction. Labor and materials cost estimated at \$40K.

Within 3 years after execution of lease agreement

Task 18: Hire contractors to submit to CBS for approval design details for an open-sided shelter per Final Site Plan and proceed with construction. Labor and materials cost estimated at \$22K.

Grants and donations will be the project's primary sources of development funding. So far, Proposers have successfully raised \$10K from the Alaska Community Foundation, \$2.5K from the Sitka Alaska Permanent Charitable Trust, \$1.5K through the Sitka Food Business Innovation Contest, \$2.4K through online crowdfunding via SeedMoney, and \$1.5K from a Sitka Health Summit Coalition grant. Proposers anticipate receiving award announcements over coming months in response to applications to other funders, including \$5K from the AgWest Rural Community Grant program, \$10K from the Alaska Division of Agriculture Microgrants for Food Security program, and \$20K from the 2024 Lots of Compassion Grant program offered by KidsGardening. A Rasmuson Foundation Tier 1 Grant application for \$35K will be submitted immediately upon this proposal's selection.

Detailed site plan



Utility service needs

The garden will operate seasonally, from March 1 to October 31. It is hoped that lease contract provisions for utility services may take this into consideration and allow for a negotiated solution. The cost of providing year-round municipal sewer, water and electricity may be more than what the project can reasonably support with a negligible, primarily plot rental-based, revenue stream.

The restroom will be equipped with one toilet and one sink, so a 4" diameter sewer pipe will suffice.

Dan Jones has recommended a 2" IPS HDPE SDR11 water service connection be installed. Water will be distributed to an array of 5 garden watering risers equipped with ¾" outdoor hose bibs on posts, and also to the rest room/utility room structure which may also be fitted with an outdoor hose bib.

Electrical service will be 60 amps. The project is expected to have minimal electrical energy needs over a normal operating season. It is presently not known whether a seasonal electrical utility rate structure for the project may be allowed. If not, Proposers may opt for installing a solar system with battery storage and inverter once the construction phase is completed, thus substituting this system for that of a metered electrical supply from Sitka's grid.

Lease term structure feasibility assessment

Several project pre-development requirements listed in the RFP have already been fully met, needing only CBS review and approval. These include a stamped survey of the proposed lease area conducted by North 57 Land Surveying and a USACE authorization to discharge into wetlands for the purpose of constructing a community garden. Also, much of the policy work addressing site use, security, etc. has already been prepared.

The Lease Term Structures identified in sections C(1) and C(2) appear to be realistic and achievable with one possible adjustment. If Proposers determine that "[p]roof of funds sufficient to complete project development" cannot be provided to CBS as required by the end of the Initial Term *for the project as it is described in the Final Site Plan*, then Proposers should be given the opportunity to either modify the Plan (with CBS approval) or receive a time-definite deadline extension. To some extent, the Final Site Plan will be aspirational in nature, thus projected costs may be reduced substantially by simply modifying it.

3. Operating Plan

Operating Plan narrative description

The proposed Jarvis Street Community Garden operating procedures will closely mirror those established by the Juneau Community Garden Association for managing their garden site in the Mendenhall Valley, called the Juneau Community Garden. That garden is managed as a small business cooperative where active gardeners automatically become cooperative members. The Juneau Community Garden has been operating successfully in this manner on municipal lands for more than 20 years. Importantly, they have done so without imposing a financial burden on the city. Proposers expect the Jarvis Garden can have similar success.

As indicated in Section 1 of this proposal where SCG's organizational structure was introduced, Proposers intend to use a phased strategy in the assignment of responsibilities to the SCG Steering Committee. During the winter preceding the initial garden opening, the Steering Committee will review and revise the proposed operating procedures as necessary to ensure members' full understanding and common

agreement on all policies and procedures. In subsequent operating seasons, the SCG membership, through the organization's Board of Trustees and appointed committees, will assume these responsibilities.

The proposed Operating Plan is as follows:

—Plot rental application and approval process

Applications are open to all year-round or seasonal Sitka residents and to public service or non-profit entities. Applications submitted by entities require that an individual Sitka resident (full-time or seasonal) be identified as 'agent' who will then be held responsible for the entity's compliance with all SCG rules and conditions.

All applicants including returning gardeners are required to apply during the application window of November 1st to January 31st. Applications are reviewed in early February by the SCG Membership Committee (or the SCG Steering Committee prior to the first season of operations) and are scored on a simple scale to ensure fair consideration of need. Successful applicants are assigned garden space(s) and notified. A Membership Agreement form must be signed and returned with fee payment.

—Garden space assignment process

New and lapsed members are assigned one randomly selected standard garden plot. Returning members in good standing are awarded their prior season garden space(s) unless a change is requested. If space is available, returning gardeners are eligible for selecting up to two standard garden plots plus one standard vertical garden bed for climbing or tall plants. This method of allowing for some flexibility in the assignment process is intended to provide gardeners with incentives for good gardening performance from year to year, and to ensure maximum utilization of the entire garden site.

—Fees, service hours, fee alternatives

Outlined in the table below is the proposed fee and service hour schedule:

Garden Space Type	Fee + Service Hours
Standard 10' by 20' plot	\$45 + minimum 6 hours of service
Standard 2' by 8' vertical garden bed	\$10 + minimum 2 hours of service

All members are required to perform service hours in order to benefit the garden site and surroundings as a whole. Regular maintenance on a member's garden space, on walkways/aisles between spaces, or on another member's space DO NOT count toward the performance of service hours. All service hours must be coordinated with and approved by a Senior Gardener. Work parties will be periodically announced and held. Only members with assigned garden space(s) may be given credit for performing service hours. A member's partner or friend is welcome to contribute their help, but their time doesn't count toward service hour credit.

If a member is unable to pay a full fee, (s)he can increase their service hours to "equal" the fee at a rate of one service hour per \$10. Members are urged to pay the fee if at all possible as funds are always needed for operations and maintenance.

Approved service hours must be reported online, where they will be tallied and posted for reference on the SCG website's service hour logbook page. If a member has no internet access or abilities, they must coordinate with a member who does have such access and ability in order to ensure proper reporting.

—Garden space maintenance

The following rules are intended to ensure proper garden space maintenance:

1. Members who wish to share the upkeep responsibilities of maintaining their garden space(s) with someone else may list a 'partner' on their application. However, members are ultimately responsible for their garden space(s), not their partners or other helpers.
2. In order to prevent shading of neighboring garden spaces, low profile permanent and seasonal structures such as row cover hoops or frames may be erected as long as the total height of such structures plus contained vegetation remains less than four (4) feet above adjacent average walkway levels. The height limit for vertical garden beds (including both trellising structures and vegetation) is eight (8) feet above walkway level. Variances may be permitted where shading is not a concern.
3. Rocks, sheet metal, untreated lumber, logs, cinderblocks or other similar materials may be placed along garden space perimeters, but should not be allowed to 'creep' into walkway or aisle spaces.
4. Members are responsible for weeding and mowing walkways and aisles adjacent to their garden spaces.
5. Composting is encouraged, and members are allowed to keep one (1) compost barrel, tumbler, or other such portable enclosable bin onsite per assigned garden plot. Gardeners may not bring material from outside sources to put in a compost bin other than clean additives intended to aid the composting process. Rodent-attractive materials such as meats, kitchen garbage scraps and processed starches like bread are not considered clean additives.
6. Members must follow organic gardening practices. For the health and safety of all gardeners and visitors, **the use of non-organic pesticides, herbicides, or fertilizers is prohibited in and around garden sites. Treated or painted lumber may not be used** in the construction of raised beds, trellises or other structures.
7. During, and especially at the end of the growing season, members must keep their spaces orderly. Garden spaces should be put to bed for the winter by October 31st. Water service is turned off and hoses placed in storage between November 1st and April 1st.

Key proposed management policies

Pets—Dogs (including assistance dogs) brought onto the garden site must be kept on a leash, under strict control at all times, and cleaned up after. Pets that are unduly loud, rambunctious or aggressive are not welcome.

Gated access—Only members and members' partners (those individuals listed on a Membership Application form) are provided with gate access codes. Notwithstanding this safety and security precaution, public access is allowed and encouraged when members are on site. Gates should be kept open during these times but closed when the last remaining garden member or partner leaves.

Liability—By signing the Membership Agreement form, members acknowledge that gardening may carry certain risks of personal injury for which SCG cannot be reasonably held responsible. As a "project" of TS and SLFN, general liability insurance coverage for the Jarvis Garden will be provided. As a future stand-alone entity, SCG will provide its own coverage.

Rules for the unruly—Breaking or deliberately overstretching rules may be cause for temporary suspension of SCG membership and seasonal forfeiture of garden space assignment(s.) Willful violations after due warning are cause for eviction and permanent suspension.

Policy statement on non-discrimination, anti-harassment and child abuse—The following behaviors will not be tolerated when interacting with fellow gardeners and others: Displays that promote, foster or perpetuate discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, or sexual orientation. Abuse of any type against a minor will be noted and reported to civil authorities.

Financial viability

Two standard garden plots will be allocated to charitable organizations without charge, as will the two ADA accessible raised beds. However, business or private sponsorships for these “community benefit allotments” is expected to fully compensate. The potential annual revenue, therefore, from renting all garden spaces at the rates proposed in this Section amounts to \$2,245. Additional revenue may be generated from membership donations of surplus garden produce to SCG for sale at Sitka Farmers Markets. Such sales income is difficult to estimate, but may amount to \$1,000 over a good growing season. Unless a CBS ordinance can be passed authorizing certain conditional community garden-specific uses within the public lands district, agricultural product sales at the garden site will not be allowed.

Periodic scheduled events such as an annual fair can also generate revenue. Juneau’s 2023 Harvest Fair, for instance, generated \$2,000 in revenues from entry fees for “best in category” competitions for everything from most productive garden plot to biggest rutabaga. The entire community participates in this event, with private parties bringing flower displays and vegetables from their own home gardens to enter into the competition to win ribbon awards from panels of judges. A Harvest Fair event in Sitka at the Jarvis Garden could raise a smaller, but still significant, amount.

Annual donations from individuals and sponsors are expected to contribute an additional \$2,000 or more per year.

The annual cost of leasing the site from CBS is expected to be nominal, as are the annual costs of labor for site maintenance due to the SCG membership’s obligation to perform service hours. But the annual costs of utilities could be substantial unless terms can be agreed upon for seasonal rates. Without such accommodation, services for sewer, water and electricity could amount to as much as \$4,000 per year depending on the amount of electricity and/or water usage.

Remediation

Site remediation needs and costs are expected to be minor due to the fact that expected land changes will be superficial. Trees can be replanted in areas that were previously tree covered. Remaining areas can be simply left to regenerate vegetative cover naturally once perimeter fencing and structures are removed. The demolition, clean-up, disposal and remediation process may take, at most, a few days to complete. If carried out by contractors rather than SCG members and volunteers, such work is expected to cost no more than a few thousand dollars.

4. Community Benefits

Benefits narrative description

The community benefits of well-organized and operated community gardens are firmly established in academic urban planning literature. Countless studies indicate that improvements can be realized in social cohesion, civic involvement, neighborhood galvanization, physical wellbeing and dietary health.

Community gardens can be a source of pride for participants, and an object of appreciation or recreational enjoyment for visitors. They can enhance a community’s economic and environmental resiliency. They can teach us about plants, their care, and our personal connection to them.

Some metrics for measuring benefits can be quantitative and data based (i.e., pounds of produce harvested, shared, distributed) while others can be more qualitative and subjective. Assessing the benefits of the project might be easily done by simply questioning users and visitors: Do you enjoy the

garden? Or more complex assessments may be obtained by using surveys, feedback boxes or bulletin boards where people can respond to prompts such as: What do you like about the community garden? What should be improved? What programs or activities would you like to see in this space?

Proposers intend to routinely use both quantitative and qualitative means to assess project benefits, and will share assessment results with the community at-large. Ideally, a CBS representative will be assigned to the project as liaison, both early in the project's development and later during normal operations. This representative would participate in Steering Committee and Board of Trustees meetings. The city's long-term involvement as an advisor to the project at the management level could be extremely valuable. Since many communities around the country operate their community gardens under the aegis of their parks departments, perhaps a representative from Sitka's Department of Parks and Recreation may be made available. Such an association may be particularly helpful in developing and scheduling future recreational or educational garden programs.

Despite the many known community benefits and the very best efforts of those who promote and develop garden projects, sometimes community gardens fail. But as is the case with many other undertakings, an economy of scale can make a big difference to a garden's success. The Jarvis Street Community Garden proposal is designed to be of a size that should allow it to be self-supporting over time. And, logically, one of the Proposers' reasons for wanting to pursue the development of additional sites in future, is to further enhance SCG's economy of scale. Many additional community benefits may be realized if SCG could boast of a half-dozen neighborhood community gardens located strategically from one end of Sitka's road system to the other, with small edible landscaping improvements along rights of way in between, all built and managed cooperatively by SCG members and community volunteers.

Contribution to Strategic Plan

The Strategic Plan's community outreach process gathered thousands of comments from community members. These were carefully reviewed and categorized to yield 5 strategic goal areas and 21 recommendations for action. On pages 26 thru 28 of the Plan, a chart is presented providing a matrix of strategic goals and associated actions, with each action followed by a listing of different opportunities available for community members to become engaged. These so-called Community Engagement Notes are essentially suggestions on how to stimulate the recommended action.

Sometimes the Community Engagement Notes for a particular action are brief, or even absent. And sometimes they are extensive. It is revealing that the lines of text in the Notes associated with Action 1.5 pertaining to food security far exceed those of any other recommended action's Notes. They are double those associated with Action 1.4 pertaining to tourism impacts.

Clearly, Sitka residents who participated in the strategic planning outreach process saw many different opportunities for enhancing community food security. The suggestion to "secure land for community gardens" is only one of many, but Proposers contend that it is the most important and readily achievable one.

At the very foundation of the concept of food security lies the concept of providing for one's own self. There are only four ways to do so in Sitka: hunting, fishing, gathering, or cultivating. The last one, cultivating, includes any of the various methods of food production that are included in the all-encompassing term agriculture. Certainly, we have other opportunities to improve our food security here through planning strategies, policy development and regional trade agreements. But only by enhancing our ability to provide for ourselves can we achieve a meaningful measure of real security.

One way to consider how much of a potential contribution the Jarvis Garden may play in enhancing food security is to evaluate how much food production it may conceivably provide in case of an extended supply chain disruption. The probability of such a disruption occurring may be low, but the impact would be very high, so it merits consideration.

In case of an emergency, the entire available garden area inside the perimeter fence could readily be reconfigured to produce as much of an easily grown staple food crop, such as potatoes, as possible. Potatoes grow well here and are a staple food in many places around the world. They have been cultivated in and around Sitka since ancient times by the Tlingit people.

According to a 2006 research report by the Alaska Agricultural and Forestry Experiment Station, the potential yield of potatoes from a well-managed ½-acre parcel of land with good southern exposure could be as much as 11 tons. Consumer statistics suggest that with the current annual per capita consumption of fresh potatoes in the United States at 29.3 pounds, the Jarvis Street Community Garden could conceivably be managed to provide 750 Sitka residents with today's average demand for this staple food.

The most important contribution that a community garden can make to food security, however, is through the role it can play in fostering local horticultural innovation, knowledge and experience. There are a few home kitchen gardens in Sitka, but there are many more residences around town with yards that are planted with aesthetics in mind, if they are planted at all. If food prices continue to rise relative to income earnings, which has been the trend now for some time, it is reasonable to expect that kitchen gardens will become much more common. The Jarvis Street Community Garden could become the locus for insights on how residents may best begin food growing projects at home.