


MEMORANDUM

To: Mayor McAdams and Assembly Members
Jim Dinley, Administrator

From: Michael Harmon, Public Works Director 
Stephen L. Weatherman, P.E. Municipal Engineer 

cc: Dave Wolff, Finance Director
Garry White, SCIP Site Director
Dan Jones, P.E. Engineering Manager (operations)

Date: August 18th, 2010

Subject: Sawmill Cove Industrial Park Rock Quarry Site
Recommendation for Material Sales Agreement

Background

A 2006 quarry site investigation in Sitka by the FAA, as a part of the environmental investigation for the Sitka Rocky Gutierrez Airport Runway Safety Area Project, studied the rock at a number of sites including the Sawmill Cove Industrial Park site. The investigation concluded that 80 to 90% of the rock produced at any of those sites would be suitable for use as aggregate, rip rap, or armor rock for the airport project.

In early 2007 some Assembly members expressed concern about the supply of rock products in Sitka for the 2007 construction season. Investigations by staff indicated that the available supply was adequate for at least 2007, but that both private and City and Borough rock quarries were near the end of their productive life.

Based on Assembly direction in 2008, staff platted three quarry lots in the Granite Creek Industrial Site (GCIS), revised the second replat of the Sawmill Cove Industrial Park (SCIP) to include one quarry lot, and platted a quarry lot at Herring Cove. The Planning Commission granted Conditional Use permits for quarrying on the GCIS lots and the SCIP lot, but denied the application for a Conditional Use permit at the Herring Cove lot. The SCIP lot is Lot 3 Block 3 of the Sawmill Cove Industrial Park Resubdivision No. 1 and the conditional use permit expires December 16, 2010 if the use is not activated.

Recently this year several contractors have contacted the Public Works Department and expressed interest in purchasing rock from the SCIP source.

Analysis

Public Works prepared a proposed Material Sales Agreement specifically for sale of rock from the SCIP quarry site. A copy of that proposed agreement is attached. Due to the difficulty in arranging an outcry auction for sale of rock at this time, we recommend a set royalty price for the rock. If the Agreement is approved by the Assembly, a contractor who wishes to purchase rock from the SCIP lot would complete the Material Sales Agreement with the City and Borough.

Royalty fees under current City and Borough Material Sales Agreements in the Granite Creek Industrial Site range from \$0.35/Ton or \$0.80/Cubic Yard, to \$0.68/Ton or \$1.55/Cubic Yard.

The proposed royalty fee for the SCIP rock is \$1.35/Cubic Yard in place. This includes a credit for the preparation of the site for rock extraction including approximately 700 feet of roadway and removal of the slide area material. This work has a value of approximately \$100,000.00, reducing the value of the rock to \$0.20 less than the \$1.55/Cubic Yard charged for the high valued site at the Granite Creek Industrial Site.

Should a contractor purchase the rock and wish to utilize the SCIP site for handling and loading barges, handling space would be available based on the property value of \$4/SF, and the wharfage fee for loading is proposed to be \$0.05/Ton. The SCIP board has approved the royalty fee of \$1.35 Cubic Yard.

It is important to note that the SCIP site will be very difficult to mine safely and requires the contractor to obtain various permits and access approvals in addition to developing an appropriate mining plan for approval. Any mining plan is expected to include elements necessary to develop a working pit and provide slope mitigation in relationship to the known slide area. Public Works will provide a concept plan in the lease agreement to further communicate what is expected of contractor in terms of building an access and benching slopes within the known slide area. Public Works will also obtain a Corps of Engineers Permit to develop the access road over the two ephemeral streams on the project site.

The quality of the rock is unknown. However, there are a number of contractors interested in tackling this difficult site and believe it may be possible to meet the requirements for ADOT projects. In order to pursue this site, contractors need to have an idea of what the City and Borough will require and the cost of the rock.

Fiscal Note

The quantity of rock initially required to be extracted by December 31, 2012 is 200K to 800k Cubic Yards. If a contractor could fully utilize the SCIP site for current projects, it has a potential royalty value in excess of \$675,000 excluding any revenue from lease areas or wharfage fees (based on 500K CY @ \$1.35/Cubic Yard royalty). Other revenue benefits include job creation, bringing in mining contractors to work and live in Sitka during the rock extraction, developing a usable quarry to be operated through competitive bid in the future,

and cost avoidance related to mitigating a potential rock fall hazards associated to the known slide area adjacent to Sawmill Creek Road.

Recommendation:

Approve a Material Sales Agreement for the sale of rock from the SCIP quarry site, with a royalty fee of \$1.35/Cubic Yard in place.

CITY AND BOROUGH OF SITKA
100 LINCOLN STREET
SITKA, AK. 99835

AGREEMENT

MATERIAL SALE

FROM

MUNICIPALLY OWNED PROPERTY

The City and Borough of Sitka, represented by the Administrator or his authorized representative, hereinafter referred to as the CBS, does hereby sell; and

Xxx

Xxxx

Xxxx

Xxxx

(name and address of purchaser)

hereinafter called the Purchaser, does hereby agree to purchase the material designated herein, subject to the following terms and conditions:

SECTION I. DESCRIPTION

A. MATERIAL SALE AREA:

Lot 3, Block Three, Sawmill Cove Industrial Park Resubdivision No. 1.

B. TERMS

1. The term of this agreement is through December 31, 2012
2. The Purchaser agrees to pay the following royalty fees for the material removed from the material site:
\$1.35 Per Cubic Yard, in place
3. It is not the intent of the CBS to allow indeterminate holding of lease areas without development. The Contractor shall be required to begin development prior to

December 16, 2010 and pay royalties for a minimum of 200,000 cubic yards of materials to a maximum of 800,000 cubic yards during the term of this lease.

SECTION II. PAYMENTS

1. Purchaser shall be required to submit a performance bond in the amount of \$270,000.00 issued by a Surety licensed to do business in Alaska. At the time each year that the pit cross sections are accomplished and purchaser is inspected for adherence to a continuation plan, the CBS shall release the prior year's bond, in writing and accept a new bond for the next year of operation. (See Section III, 1)

The purpose of said bond shall be correct non-conforming conditions created by the Purchaser. An example might be to do necessary continuation work left undone or otherwise correct site problems such as drainage control. Said bond may also be used to pay for unpaid royalties or other costs fairly owed to the CBS.

2. The \$1.35 per cubic yard Royalty Fee shall be paid prior to each shot based on in place calculated blast yield quantities. These quantities shall be verified quarterly (January, April, July and October) by field survey cross-sections certified by a registered engineer/surveyor.
3. Final royalty payments shall be based on records required in Section III, and shall be submitted to the CBS no later than the tenth (10) working days following the month in which operations on the material site are completed.

Payment shall be accomplished by an accounting voucher provided by the CBS.

SECTION III. RECORDS

1. Once a quarter (January, April, July and October), and at the end of the term of this agreement the Purchaser shall have the quarry fully cross-sectioned by a registered engineer/surveyor, licensed to practice in the State of Alaska. The cross sections shall be certified by said engineer/surveyor and submitted to the CBS. Surveyed volume will be compared to royalty yardage paid as a method of accounting control. All royalty payments will be adjusted based on survey quantities.
2. The overburden removed and disposed is incidental to the quantities measured. However the Purchaser may at their discretion provide additional cross-sections with the overburden removed prior to blasting to be used as a base of the quantities measured.

SECTION IV. OPERATING REQUIREMENTS

1. Boundary Lines and Survey Monuments – Upon execution of this lease, the Purchaser shall bear the responsibility to have the lease area surveyed and control monuments placed by a registered land surveyor to fully identify the boundaries. No boundary mark of the sale area or any survey lines or witness tree to any survey corner or monument, shall be severed or removed, nor shall any survey corner or

monument be damaged or destroyed. Any violation of this clause will require the Purchaser to bear the expense of re-establishing the lines, corners, or monuments by a registered land surveyor.

The Purchaser shall also bear the responsibility of having the lease area, as it exists when the lease is signed, cross sectioned within sixty (60) days of the lease execution and prior to the removal of any material. The purpose shall establish the beginning configuration of the lease and base line to be used when the quarterly cross section is accomplished.

2. Erosion Control and Protection of Waters – Road construction or operations in connection with this contract shall be conducted so as to avoid damage to streams, lakes or other water areas and lands adjacent thereto. Vegetation and materials shall NOT be deposited into any stream or other waste area. Locations and/or improvements such as road crossings over streams shall be approved, in advance, by the CBS.

All roads or other areas to be abandoned or an area to cease being an active portion of the Lessee's operation shall be treated with such measures to prevent erosion and shall be reclaimed per the required reclamation plan. Any damages resulting from any failure to perform to these requirements shall be repaired by the Purchaser to the satisfaction of the CBS. This includes, but is not limited to waters defined in Title 5 – Fish and Game and Title 6 – Protection to Anadromous Fish; State of Alaska.

All operations shall be performed in accordance with an approved Storm Water Pollution Prevention Plan (SWPPP). This plan shall be prepared by the purchaser and approved by the CBS and the Alaska State Department of Environmental Conservation before work begins in the material sale area.

3. The CBS has obtained a Corps of Engineers permit for the development of the Quarry Site. The Purchaser shall perform all operations in conformance with the Corps of Engineers Permit.
4. Mining Plan- The purchaser shall conduct all operations in accordance with industry standards, and an approved MSHA mining plan. This plan shall be prepared by the purchaser and approved by the CBS and the MSHA before work begins in the material sale area. Operations shall also be in accordance with the following:
 - a. Warning signs shall be placed every 50 feet along the top of all rock cuts over 20 feet in height. The metal signs shall be 12" x 12" in size with the legend "Warning, Steep Embankment" clearly displayed. They will be installed on metal sign posts. Signs shall be painted safety orange in color.
 - b. Slopes of back walls of rock cuts and benching shall be as determined by MSHA requirements.

- c. Upon completion of a rock cut the back wall shall be scaled back of all loose rock rubble.
- d. Storage and handling of explosives shall be performed under the direction of persons holding proper certifications for such work.

The Mining Plan shall incorporate the components noted on the Conceptual Mining Plan exhibit. These shall include the working faces – benches, roads and the slide area to be cleaned of loose rock.

5. Blasting Requirements

- a. The Purchaser shall obtain the services of a qualified blasting consultant who will review and approve the blasting plan of each shot. The Purchaser shall also obtain the services of a licensed Geologist/Geotechnical Engineer qualified to evaluate and approve the blasting plan of each shot.
- b. The Geologist/Geotechnical Engineer shall prepare, sign and seal a report evaluating the stability conditions of the quarry site. The report shall address the stability conditions of the existing condition, during extraction and future conditions. The report will address the need for temporary supports of the rock such as rock bolting or other methods as required.
- c. The Purchaser is fully responsible for damage to any facility within the Sawmill Cover industrial Site or other parties damaged by the blasting. The Purchaser shall install Monitoring Stations around the quarry to include the Sawmill Cover industrial Site to measure the Peak Particle Velocity (PPV) (in/sec) and Peak Air Overpressure (P) (psi) values resulting from the rock blasting. After each blast the record of the blast will be provided to the CBS Municipal Engineer or his designee.
- d. Safety assurance measures shall be detailed in the Blasting Plan certified stamped and signed by the Geologist/Geotechnical Engineer. The blasting plan shall identify what blasting standards and methodologies will be followed to set limits on the blasting impacts. For example the 17th edition ISEE Blasters Handbook, (1998) identifies two measurable factors that can be used to guide the limits of blasting impact to adjacent facilities in the Sawmill Cove Industrial Site.

These are Ground and Air Vibration Levels more specifically Peak Particle Velocity (PPV) (in/sec) and Peak Air Overpressure (P) (psi). The limits set for these factors are as follows:

The Peak Particle Velocity (in/sec) allowed at the nearest corner of the Siverbay Seafood Plant is 0.6 in/sec. The Peak Air Overpressure (psi) allowed at the nearest corner of the Siverbay Seafood Plant is 0.01 psi. These factors may be estimated from the following formulas:

$$PPV = 242 (D/W^{1/2})^{-1.6}$$
 Equation 1 from 17th edition ISEE Blasters Handbook, (1998)
Cleveland, OH, pg. 601

Where PPV = Peak particle velocity (in./sec)
D = Distance from blast to structure (feet)
W = Maximum lbs. of explosive / delay

$$P = 1.0 (D / (W)^{1/3})^{-1.1}$$
 Equation 2

Where P = Peak air overpressure (psi)
D = Distance from blast to structure (feet)
W = Maximum lbs. of explosive / delay

These values are provided as guidelines based on industry standards however the Purchaser is fully responsible for damage to any facility within the Sawmill Cover industrial Site or other parties damaged by the blasting. The licensed Geologist/Geotechnical Engineer may recommend or require more stringent limits if the conditions warrant more stringent limits.

6. Continuation Plan- In addition to the mining plan, operations shall be performed in a manner designed to leave the material sale area in a condition conducive to additional mining after termination of this agreement. A continuation plan shall be prepared by the purchaser and approved by the CBS before work begins in the material sale area.
7. Fire Protection – Purchaser shall take all necessary precautions for the prevention of wild fires and shall be responsible for the suppression and bear the suppression costs of any and all destructive or uncontrolled fires occurring within or without the contract area resulting from any and all operations involved under the provisions of this contract. The Purchaser shall comply with all laws, regulations and rules promulgated by the agency responsible for fire protection in the area.
8. Roads – Before constructing any haul road, secondary or spur roads across Municipal lands, the Purchaser shall obtain written approval of the location and construction standards of such roads from the CBS.
9. Access over any route not under Municipal control is the sole responsibility of the Purchaser. The Purchaser agrees that any permanent route, access or right of way obtained over privately owned property shall include a permanent easement to the CBS.
10. The Purchaser shall maintain adequate supervision at all times when operations are in progress to insure that the terms and conditions of this contract and all applicable Federal, State and local laws, rules and regulations governing such operations are enforced. At all times, when operations are in progress, the

Purchaser or a person authorized by him to assume the responsibilities imposed by this contract, shall be present on the contract area.

11. The terms and conditions of this contract shall apply with equal force upon any agent, employee or contractor designated by the Purchaser to perform any or all of the operations of severance, extraction or removal of the materials sold under this contract, and the Purchaser shall be liable for non-compliance caused by any such agent, employee or contractor.
12. The Purchaser shall be responsible for the accurate location of operations under this contract, including any survey that may be necessary for such location unless otherwise specified in this contract.
13. Special Provisions – It is mutually agreed that:
 - a. Sound engineering practices and procedures shall be adhered to at all times during removal operations. Engineering plans for roads, drainage and other components of the project shall be submitted for review. The plans shall be sealed and signed by a registered engineer, licensed to practice in the State of Alaska.
 - b. Stumps and any other debris shall be disposed of by burning (subject to ADEC approval) or burying at the Granit Creek Overburden Site and in a manner considered suitable by the CBS representatives.
 - c. Overburden shall be disposed of at the Granit Creek Overburden Site and in a manner considered suitable by the CBS representatives.
 - d. Trees shall be stock piled at a designated location on the Sawmill Cove Industrial Site for public fire wood use.
 - e. In working the land to effect the removal of the contract entitlement, the Purchaser agrees to so manage that upon completion of the removal, a reasonable degree of level land is maintained, per the continuation plan, from which material has been taken, and no holes-of-water are formed.
 - f. The Purchaser agrees to remove slide material and stabilize the slide area noted on the proposed mining plan.
 - g. At the expiration of this contract, the Purchaser shall notify the Director of Public Works, so that an inspection for release can be scheduled. This inspection shall include general clean-up, compliance with the reclamation plan, removal of all Purchasers equipment and any other item felt a responsible element of any final inspection.
 - h. All responsibilities and liabilities of the Purchaser shall remain in effect until this lease contract file shall be closed. This includes cleanup of site and compliance with all contract items.

- i. The Purchaser agrees to submit the Standard Accounting Voucher and payment for material removed within ten (10) working days of the expiration date or completion, whichever occurs earlier.
- j. If the Purchaser is forced to end, restrict or curtail his operations due to State or Federal law or regulations or for any other cause over which the CBS has no control, the CBS shall have no liability, whatsoever.

14. Purchaser may not assign its rights under this lease or allow other parties to produce gravel material on the site without prior written approval of the CBS.

Prior to the approval of any such sub-lease, the CBS shall be provided with all the terms of the proposed assignment or production agreement. This shall include time of assignment and potential volumes of production. If such terms are deemed inflationary or of such a type to be considered a total abandonment of further interest in the lease by the original party, the assignment may be denied.

15. Maintenance of the main road, culverts and other such improvements shall be maintained by the Purchasers at no expense to the CBS.

16. The Purchaser shall adhere to all State and local regulations regarding the storage and handling of explosives.

SECTION V. LIABILITY

1. The Purchaser shall indemnify the CBS and hold it harmless from any and all claims, demands, suits, loss, liability and expense for injury to or death or persons and damage to or loss of property arising out of or connected with the exercise of the privileges granted with the Purchaser by this contract, or arising out of any incident whatsoever which may occur on the lease site or commonly used facility. This includes but not limited to damage to power lines, poles and facilities, telephone lines and poles, survey monuments, roads, bridges and culverts, pollution and/or damage to water systems, or personal injury.

In addition, Sitka shall be named as an additional insured on Purchaser's Comprehensive Liability Insurance Policy.

2. The Purchaser shall carry Worker's Compensation Insurance covering all employees and shall also carry \$1,000,000 general liability insurance, naming the CBS as an additional insured, and take such measures as are reasonable to protect the general public from injury on the site.

SECTION VI. INSURANCE

1. The Purchaser shall carry Workers' Compensation insurance, in accordance with the rules and regulations of the State of Alaska. This policy shall also include

Employers' Liability limits of no less than \$500,000. If applicable, the policy shall also cover USL&H and Maritime employees that may be employed by purchaser, as relates to the activities of this agreement.

2. The Purchaser shall carry Commercial General Liability insurance with occurrence limits of \$1,000,000 and aggregate limits of \$2,000,000. This policy shall in no way limit or exclude blasting operations and any other significant exclusions of coverage shall be shown on the certificate of insurance. This policy shall name the City & Borough of Sitka as an additional insured.
3. The Purchaser shall carry Business Automobile insurance with limits of \$1,000,000. This shall cover all owned, non-owned and hired automobiles that used in the operations related to this agreement. The policy shall name the City & Borough of Sitka as an additional insured.
4. The Purchaser shall carry Excess or Umbrella Liability insurance with limits of no less than \$10,000,000. This insurance shall be excess to the Commercial General Liability, Business Automobile and Employers' Liability.

The Purchaser shall provide a Certificate of Insurance that evidences the above. This Certificate shall also allow for a 30 day notice of cancellation or material change of coverage.

SECTION VII. IMPROVEMENTS AND OCCUPANCY

1. Any improvements to transportation facilities including crushers, mixing plants, buildings, bridges, roads or any other constructed by the Purchasers in connection with this lease and within the lease area shall be in accordance with plans approved by the CBS. Improvement and facility safety (both design & operation) shall be the responsibility of the Purchaser not the CBS. Purchaser agrees to follow all applicable safety codes and regulations.
2. The Purchaser shall, within sixty (60) days, after the expiration of termination date of this contract, remove all equipment and other personal property from the contract area. (See Section IV, 10, f.)

SECTION VIII. INSPECTION

1. Authorized agents of the CBS shall have access at all times to the sale area.
2. At all times, when operations are in progress, the Purchaser shall have a representative readily available at the site of operations who shall be authorized to receive on behalf of the Purchaser, any notices and instructions given by authorized CBS personnel in regard to the performance under this contract, and to take such action thereon as is required by the terms of this contract.

SECTION IX. TERMINATION AND SUSPENSION

1. This contract may be terminated by the CBS if the Purchaser breaches the contract and fails to correct this breach within thirty (30) days after written notice is served upon the Purchaser.
2. Failure of the Purchaser to take immediate action to correct unwarranted damage to natural resources may be corrected by the CBS to prevent additional damage. Any cost incurred by the CBS shall be paid by the Purchaser.
3. This contract may be terminated by mutual agreement of both parties on terms and conditions agreed upon, in writing by both parties.

SECTION X. RESERVATIONS

1. The CBS makes no representations as to the suitability of the property as a material source for any particular use. The Purchaser shall determine the suitability of the material for any application.

SECTION XI. PERMITS

1. The CBS has obtained a Corps of Engineers permit for the development of the Quarry Site. The Purchaser shall perform all operations in conformance with the Corps of Engineers Permit.
2. The CBS has obtained a State of Alaska Department of Transportation Driveway Permit for the Quarry. The Purchaser shall perform all operations in conformance with the ADOT Driveway Permit.
3. The Purchaser must prepare and submit a Storm Water Pollution Prevention Plan (SWPPP). The plan shall be approved by the CBS and the Alaska State Department of Environmental Conservation before work begins in the material sale area.
4. All operations shall be in accordance with the City and Borough of Sitka Conditional Use Permit, as it now exists or modified in the future.
5. The Purchaser shall obtain any other permits required as needed to construct and operate the Quarry.

SECTION XII. PASSAGE OF TITLE

1. All rights, title and interest in or to any material included in this contract shall remain with the CBS until it has been paid for, or removed from the site, provided

however, that the right, title and interest in or to any material which has been paid for, but not removed from the sale area by the Purchaser within the period of the contract or any extension there shall vest in the CBS.

SECTION XIII. EXPIRATION AND EXTENSION

1. This contract shall expire 31 December 2012

SECTION XIV. WARRANTIES

1. THIS LEASE IS MADE WITHOUT ANY WARRANTIES BY THE CBS, EXPRESS OR IMPLIED, AS TO THE QUANTITY, QUALITY, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR USE, CONCERNING THE MATERIAL TO BE EXTRACTED UNDER CONTRACT.

SECTION XV. WAIVER

1. No agent, representative or employee of the CBS has authority to waive any provision of this agreement unless expressly authorized to do so, in writing, by the Administrator.

IN WITNESS WHEREOF, on this _____ day of _____, 20

CITY AND BOROUGH OF SITKA

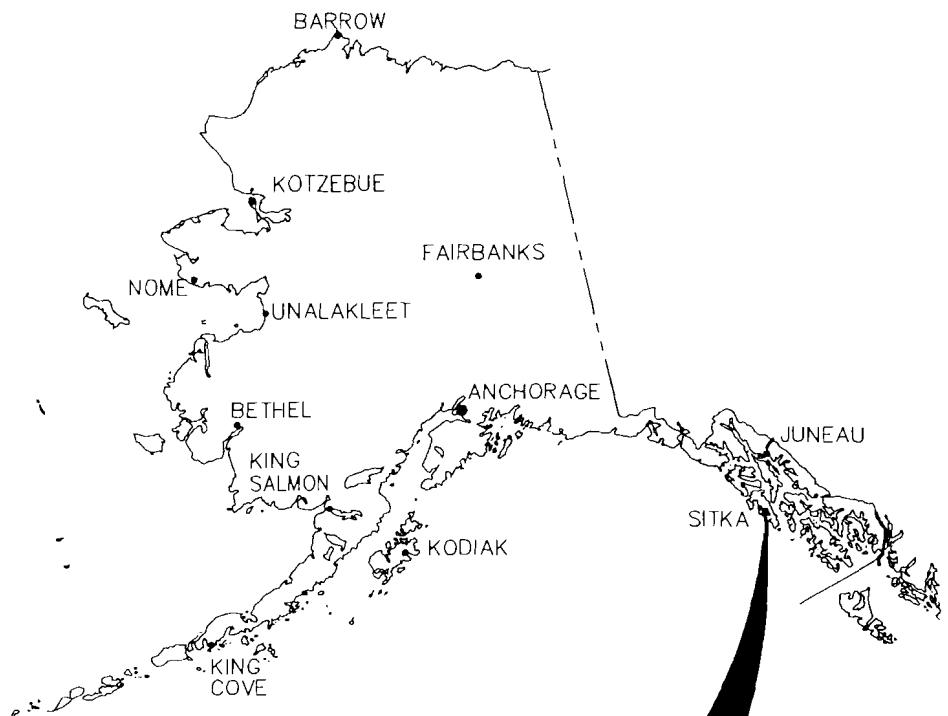
By _____
Lessee

By _____
Administrator

(SEAL)

ATTEST:

By _____
Municipal Clerk



PROJECT LOCATION

State of Alaska

Granite Creek Overburden Landfill

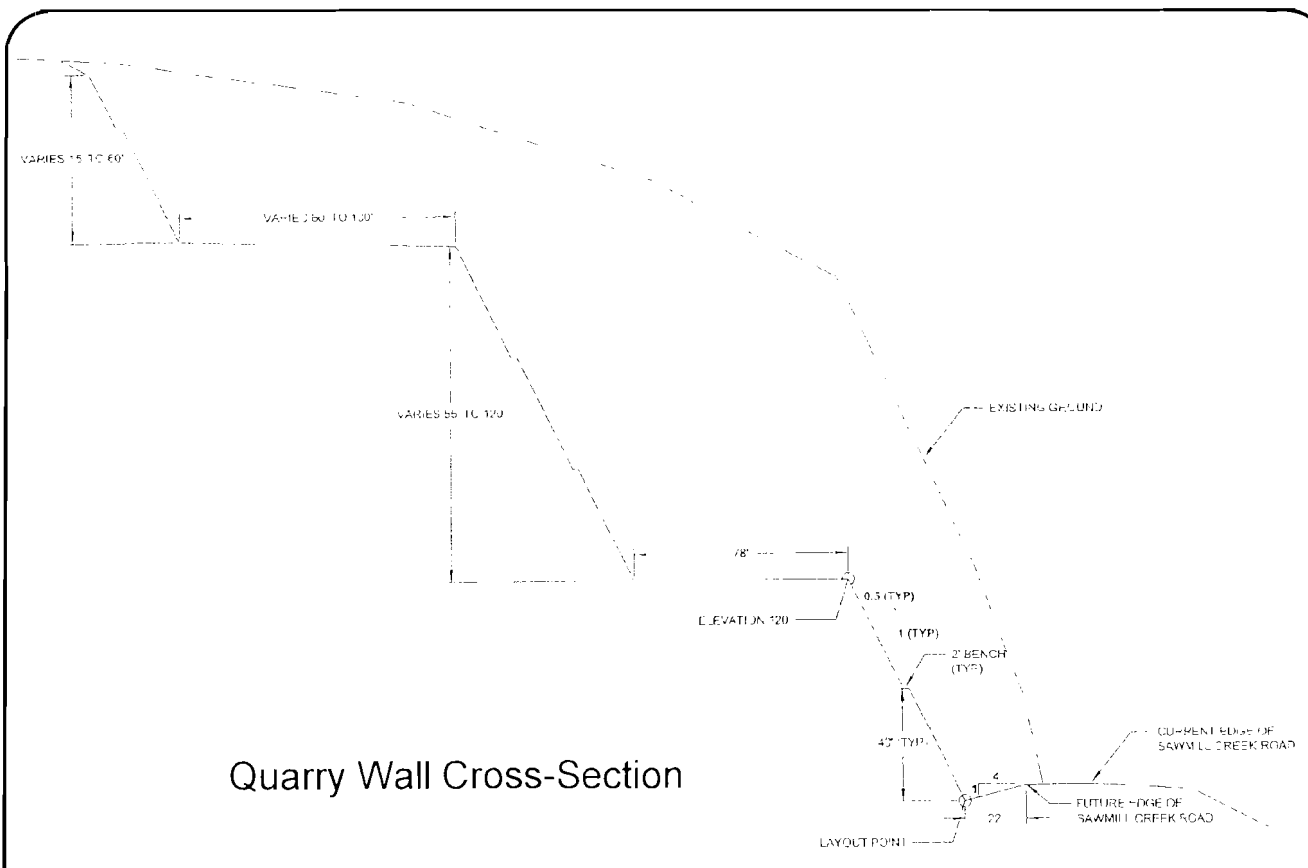
Project Location
 SCIP Rock Quarry

Sitka Road System

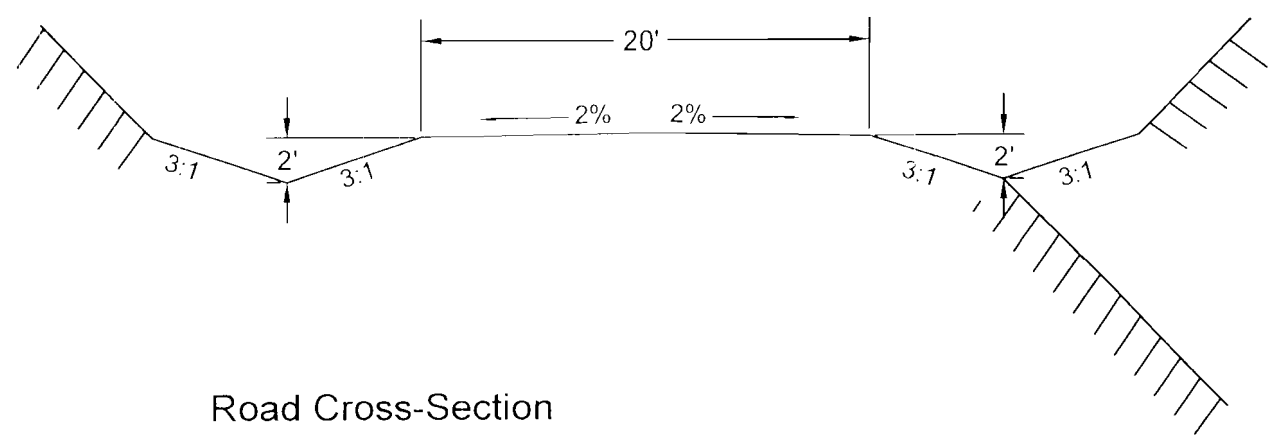
City and Borough of Sitka
 DEPARTMENT OF PUBLIC WORKS
 100 LINCOLN STREET • SITKA, ALASKA 99835
 TEL (907) 747-1804 FAX (907) 747-3158

Drawn: TAD
 Checked: S Weatherman

Proposed Activity: SCIP Rock Quarry
 Purpose: Rock Extraction
 File Number:
 Waterbody Name:
 Sheet: page 1 of 4
 Date: Aug 2010



Quarry Wall Cross-Section

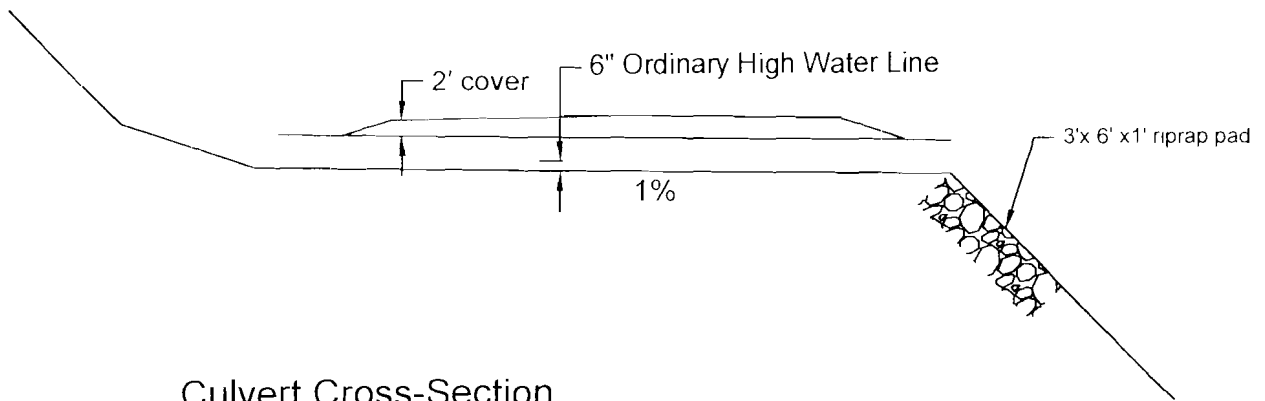


Road Cross-Section

City and Borough of Sitka
 DEPARTMENT OF PUBLIC WORKS
 100 LINCOLN STREET • SITKA, ALASKA 99835
 TEL (907) 747-1804 FAX (907) 747-3158

Drawn: TAD (from AK DOT)
 Checked: S Weatherman

Proposed Activity: SCIP Rock Quarry
 Purpose: Rock Extraction
 File Number:
 Waterbody Name:
 Sheet: page 3 of 4
 Date: Aug 2010



Culvert Cross-Section

City and Borough of Sitka
 DEPARTMENT OF PUBLIC WORKS
 100 LINCOLN STREET • SITKA, ALASKA 99835
 TEL (907) 747-1804 FAX (907) 747-3158

Drawn: TAD
 Checked: S Weatherman

Proposed Activity: SCIP Rock Quarry
 Purpose: Rock Extraction
 File Number:
 Waterbody Name:
 Sheet: page 4 of 4
 Date: Aug 2010