

POSSIBLE MOTION

I MOVE TO approve a month-to-month lease, between the City and Borough of Sitka and Samson Tug and Barge Company, for tidelands adjacent 5309 Halibut Point Road that includes a lease term requiring compliance with the applicable conditions of approval and authorize the Interim Municipal Administrator to execute the document.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

MEMORANDUM

To: Phillip Messina, Municipal Administrator
Mayor Hunter and Members of the Assembly

From: Michael Scarcelli, Planning and Community Development Department Director *MS*
Samantha Pierson, Planner I

Subject: Lease of Tidelands Adjacent 5309 Halibut Point Road – Month to Month

Date: August 2, 2017

Background: Samson Tug and Barge Company requests a short-term (month-to-month) lease renewal for tidelands adjacent to 5309 Halibut Point Road. The 4.52 acre parcel is also known as US Survey 1571. The lease parcel and uplands properties are zoned Industrial. On these tidelands and adjacent uplands, Samson Tug and Barge operates a freight facility and Delta Western operates a bulk fuel facility. The bulk fuel facility is in compliance with the required conditional use permit. Further detail on the extensive lease history can be found in the first 2 pages of the attached staff report.

The lease expires August 13, 2017 and a month-to-month lease is recommended to facilitate continued operations while a long-term lease can be drafted to the agreement of both parties. Sitka General Code 18.12.010(D) states that the Administrator may execute temporary leases upon motion of the assembly without ordinance. Please note: legal and planning staff are working with the applicants to negotiate and draft a long-term lease and will bring that back for Assembly approval by ordinance.¹

Valuation: Staff recommend that the current lease amount of \$11,144 per year be applied to the month-to-month lease. In the next few months, when staff bring back a long-term lease, a revaluation will be presented.² Competitive bidding is not appropriate, as the lease applicants are the upland property owners and have existing rights for lease renewal.³

Recommendations: At their July 18, 2017 meeting, the Planning Commission recommended approval of the tideland lease renewal on a 4-0 vote subject to making the existing conditions of approval for the bulk fuel facility a term of the lease.

Staff suggests the assembly pass a motion authorizing the Administrator to execute a month-to-month lease for tidelands adjacent 5309 Halibut Point Road that includes a lease term requiring compliance with the applicable conditions of approval as attached.

¹ Real property long-term lease may be leased only when authorized by ordinance.

² The Assessor valued the parcel at \$555,000, resulting in a \$24,975 plus tax annual lease payment for the long-term lease pursuant to SGC 18.16.210(A), which requires a lease payment of 4.5% of price established.

³ Competitive Bidding is inappropriate as the applicants retain lease rights that precede applicable code, would result in unjust results to current lessees, and due to their reasonable investment backed expectations (See SGC 18.12.010(C)&(E)).



City and Borough of Sitka

100 Lincoln Street Sitka, Alaska 99835

Coast Guard City, USA

October 8, 2013

Delta Western
420 L Street, Ste 101
Anchorage, AK 99501

COPY

Dear Mr. Payne,

This letter is to officially inform you the Sitka Assembly approved your request for a bulk fuel facility at 5309 Halibut Point Road. This approval was granted at the October 8, 2013 meeting with the following conditions:

1. The project be completed in conformance with the plans submitted in the conditional use application to the Planning Commission;
2. Prior to the activation of the conditional use permit, the operator of the facility shall certify to the Municipality, in writing, that all necessary permits have been received including but not limited to:
 - a. State of Alaska driveway permits for the configuration shown in the application;
 - b. All Alaska Department of Environmental Conservation permits;
 - c. State Fire Marshall approval;
 - d. City and Borough of Sitka Building permits;
 - e. Any other permits considered necessary by the Planning Department;
3. In addition, prior to the activation of the conditional use permit, the Planning Director shall indicate, in writing, that all permits have been received that the municipality considers necessary;
4. The applicant recognizes that other permits, not specifically mentioned by the municipality, may be required by state or federal agencies;
5. The applicant shall provide a narrative on the status of the operations nine months after the activation of the conditional use permit;
6. The Planning Commission has an annual review of the first nine to twelve months of operation of the facility within one year of the activation of the conditional use permit. The purpose of the annual review is to determine what, if any impacts of the operation need to

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- be mitigated. The Planning Commission, by its own motion, may undertake a second annual review if the board considers it to be necessary;
7. The Assembly, at its discretion, may complete an annual review if any issues are not satisfactorily resolved at the Planning Commission level.
 8. That the project will be completed in conformance to the plans submitted; and
 9. That the project be operated in conformance with the narrative;
 10. The applicant shall provide by September 27, 2013, a narrative that clarifies the request and includes; an updated timetable, list of the range of uses for the fuel facility, and amended to add that fuel distribution will be to a range of residential and commercial locations;
 11. The municipality recognizes the offices for the facility will be shared with Samson Tug and Barge, Inc. in a facility that is not shown on the site plan.

All work must be in general conformance with the plans that were approved by the Planning Commission and Assembly.

The permit must be activated within two years of the approval date or the permit becomes void. Following activation, if the permit is not used for a period of two years or longer, the permit becomes void.

We appreciate your patience throughout this process and thank you for working with us on this matter. If you should have any questions, please feel free to contact me at 747-1814.

Sincerely,



Maegan Bosak
Planner I