



CITY AND BOROUGH OF SITKA

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

Meeting Agenda

City and Borough Assembly

Mayor Matthew Hunter
Deputy Mayor Bob Potrzuski
Vice-Deputy Mayor Steven Eisenbeisz
Tristan Guevin, Kevin Knox
Aaron Bean, and Aaron Swanson

Municipal Administrator: Keith Brady
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Tuesday, September 12, 2017

6:00 PM

Assembly Chambers

WORK SESSION 5:00 PM

[17-149](#)

Smart Growth America - Planning Department

Attachments: [Work Session Smart Growth America.pdf](#)

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

IV. CORRESPONDENCE/AGENDA CHANGES

[17-159](#)

Reminders, Calendars and General Correspondence

Attachments: [Reminders and Calendars.pdf](#)

[Letter to ANS.pdf](#)

V. CEREMONIAL MATTERS

none anticipated

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

[17-152](#) Recap of the August Healthcare Town Hall Meetings - Maegan Bosak

Attachments: [Recap Town Hall Meetings.pdf](#)

VII. PERSONS TO BE HEARD

Public participation on any item off the agenda. All public testimony is not to exceed 3 minutes for any individual, unless the mayor imposes other time constraints at the beginning of the agenda item.

VIII. REPORTS

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

IX. CONSENT AGENDA

All matters under Item IX Consent Agenda are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

A [17-153](#) Approve the minutes of the August 19 and 22 Assembly meetings

Attachments: [Consent and Minutes.pdf](#)

B [RES 17-19](#) Supporting the Sitka Trail Works, Inc. grant application to the State of Alaska Recreational Trails Program for repairs to the Sea Lion Cove Trail

Attachments: [Memo and Resolution 2017-19.pdf](#)

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

C [17-154](#) Appoint Ken Creamer to an unexpired term on the Port and Harbors Commission

Attachments: [Creamer app.pdf](#)

XI. UNFINISHED BUSINESS:

D [ORD 17-29S](#) Adjusting the FY18 Budget (Sitka Airport Terminal Improvements Project)

Attachments: [Motion and Memo Ordinance 2017-29S.pdf](#)

[Ord 2017-29S.pdf](#)

[Spreadsheet.pdf](#)

- E** [ORD 17-30](#) Adjusting the FY17/FY18 Budgets (Solid Waste Fund, Harbor Fund, Management Information Systems Fund, Public Works - Recreation Department)
Attachments: [Motion and Memo Ordinance 2017-30.pdf](#)
[Ord 2017-30.pdf](#)
[March 2017 Solid Waste Financial Analysis.pdf](#)
[March 2017 Harbor Financial Analysis.pdf](#)
[Public Work's Director email correspondence.pdf](#)
- F** [ORD 17-31](#) Adjusting the FY18 Budget (O'Connell Lightering Facility Repair Project)
Attachments: [Motion and Memo Ordinance 2017-31.pdf](#)
[Ord 2017-31.pdf](#)
- XII. NEW BUSINESS:**
- G** [17-155](#) Approve a 20-year purchase agreement between the City and Borough of Sitka and Eckert Fine Beverages for the export of bulk water
Attachments: [Eckert Fine Beverages.pdf](#)
- H** [17-156](#) Approve a 20-year purchase agreement between the City and Borough of Sitka and Arctic Blue Waters Inc. for the export of bulk water
Attachments: [Arctic Blue Waters Inc..pdf](#)
- I** [17-157](#) Presentation by Alaska Department of Transportation and Public Facilities of the Sawmill Creek Road Resurfacing and Pedestrian Improvements Project followed by approval of Option 1 or Option 2 (Project website: http://dot.alaska.gov/sereg/projects/sitka_sawmill_rd/index.shtml)
Attachments: [Steps and Motion Sawmill Creek Road Project.pdf](#)
[Sawmill Creek Road Resurfacing and Pedestrian Improvements Project.pdf](#)
[Public Works Memo.pdf](#)
- J** [RES 17-18](#) Urging the US Government to utilize any and all powers under the Boundary Waters Treaty to ensure that Alaska resources are not harmed by upstream development in the Alaska/British Columbia (BC) Transboundary Region (first and final reading)
Attachments: [Motion and Resolution 2017-18.pdf](#)
[Email Correspondence from Trout Unlimited.pdf](#)
[2014 CBS Resolution.pdf](#)
- K** [17-158](#) Decision on whether to allow sales tax free day(s) following the Thanksgiving holiday and set date(s)
Attachments: [Memo sales tax free days.pdf](#)

- L [ORD 17-32](#) Adjusting the FY18 Budget (Solid Waste Fund - Operations) 1st reading

Attachments: [Motion and Memo Ordinance 2017-32.pdf](#)
[Ordinance 2017-32.pdf](#)

XIII. **PERSONS TO BE HEARD:**

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

XIV. **EXECUTIVE SESSION**

- M [17-150](#) Update from legal counsel regarding the defense of the litigation arising out of the August 18, 2015 landslide events

Attachments: [Motion Executive Session.pdf](#)

XV. **ADJOURNMENT**

Note: Detailed information on these agenda items can be found on the City website at <https://sitka.legistar.com/Calendar.aspx> or by contacting the Municipal Clerk's Office at City Hall, 100 Lincoln Street or 747-1811. A hard copy of the Assembly packet is available at the Sitka Public Library. Assembly meetings are aired live on KCAW FM 104.7 and via video streaming from the City's website. To receive Assembly agenda notifications, sign up with GovDelivery on the City website.

*Sara Peterson, CMC, Municipal Clerk
Publish: September 8*



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-149 **Version:** 1 **Name:**
Type: Item **Status:** AGENDA READY
File created: 8/29/2017 **In control:** City and Borough Assembly
On agenda: 9/12/2017 **Final action:**
Title: Smart Growth America - Planning Department
Sponsors:
Indexes:
Code sections:
Attachments: [Work Session Smart Growth America.pdf](#)

Date	Ver.	Action By	Action	Result
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Assembly Work Session with Smart Growth America



Smart Growth America

Improving lives by improving communities



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

MEMORANDUM

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

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

Subject: Work Session with Smart Growth America

Date: August 4, 2017

In November 2016, the City and Borough of Sitka (CBS) was selected as one of six recipients of a free smart growth technical assistance grant opportunity offered by Smart Growth America (SGA). The grant application was supported by the Assembly at their September 27, 2016 meeting on a 5-0 vote.

As part of the Sustainable Land Use Code Audit, SGA's team of national experts will visit Sitka September 12-13, 2017 to conduct community workshops. SGA and the CBS Planning and Community Development Department request that the Assembly hold a work session on the evening of September 12th to meet with SGA representatives and hear their suggestions for improving the municipality's land use code. A separate day-long community discussion will be held September 13th at Harrigan Centennial hall.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-159 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 9/7/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Reminders, Calendars and General Correspondence

Sponsors:

Indexes:

Code sections:

Attachments: [Reminders and Calendars.pdf](#)
[Letter to ANS.pdf](#)

Date	Ver.	Action By	Action	Result
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REMINDERS

<u>DATE</u>	<u>EVENT</u>	<u>TIME</u>
Tuesday, September 12	Work Session <i>Smart Growth America</i>	5:00 PM
Tuesday, September 12	Regular Meeting	6:00 PM
Thursday, September 14	Special Meeting <i>Non Profit Grant Awards</i>	6:00 PM
Tuesday, September 26	Regular Meeting	6:00 PM



2017 Municipal Election Reminders

Monday, September 18	First day of advanced absentee voting
Tuesday, October 3	Municipal Election
Friday, October 6	Advanced/Absentee/Questioned Ballot Counting

Expiring Terms:

Assembly
Steven Eisenbeisz
Tristan Guevin
Aaron Swanson

School Board
Dionne Brady-Howard
Tom Conley

Assembly Calendar

2016 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 2018

September 2017

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
27 Aug	28	29	30	31	1 Sep	2
Eisenbeisz	Eisenbeisz	Eisenbeisz	Eisenbeisz 6:00pm - 8:30pm Healthcare Town Hall at ANB Hall	Eisenbeisz 6:00pm - 8:30pm Healthcare Town Hall at Harrigan Centennial Hall meeting room 1	Eisenbeisz	
3	4	5	6	7	8	9
	HOLIDAY	7:00pm Planning	6:30pm Library Commission	12:00pm SEDA Board Meeting	Knox	Knox
10	11	12	13	14	15	16
Knox	6:00pm Special Hospital Board Meeting and Work Session	Guevin 12:00pm Parks & Rec 5:00pm Work Session: Smart Growth America 6:00pm Regular Assembly Mtg		12:00pm Health Needs & Human Services Commission 12:00pm LEPC 6:00pm Special Meeting: Non Profit Grant Awards	12:00pm Historic Preservation	
17	18	19	20	21	22	23
		12:00pm Tree/Landscape 7:00pm Planning				
24	25	26	27	28	29	30 Oct
		Guevin - telephonic 6:00pm Regular Assembly Mtg	Knox 6:00pm Police and Fire Commission	Knox 6:00pm Hospital Board Meeting	Knox	Knox

Assembly Calendar

2016 Jan Feb Mar Apr May Jun Jul Aug Sep Oct Nov Dec 2018

October 2017

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1 Oct	2	3	4	5	6	7
Knox	Knox	Knox MUNICIPAL ELECTION 7:00pm Planning	Knox 6:30pm Library Commission	Knox 12:00pm SEDA Board Meeting		
8	9	10	11	12	13	14
		Guevin - telephonic 12:00pm Parks & Rec 6:00pm <u>Regular Assembly Mtg</u>	12:00pm Health Needs & Human Services Commission 6:00pm Historic Preservation	12:00pm LEPC		
15	16	17	18	19	20	21
		12:00pm <u>Tree/Landscape</u> 7:00pm <u>Planning</u>	HOLIDAY			
22	23	24	25	26	27	28
		6:00pm <u>Regular Assembly Mtg</u>	6:00pm Police and Fire Commission	6:00pm Hospital Board Meeting 6:00pm <u>Worksession: Historic Preservation Plan</u>		
29	30	31	1 Nov	2	3	4
			6:30pm Library Commission	12:00pm SEDA Board Meeting		



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

Coast Guard City, USA

September 6, 2017

Alaska Native Sisterhood
Paulette Moreno, 1st Grand Vice-President
Via email lifespringmoreno@yahoo.com

Dear Ms. Moreno,

Thank you for your email, dated August 31, 2017, informing myself and the Assembly of the Alaska Native Brotherhood and Alaska Native Sisterhood Grand Camp 104th Convention in Juneau. It appears that the meeting was very successful as many important resolutions were supported and passed. We appreciate you informing us of Resolution #16-20 Conduct avenues for balanced community input in regards to healthcare in Sitka.

With that Resolution in mind, I would again like to thank the Alaska Native Brotherhood and Alaska Native Sisterhood for allowing the City and Borough of Sitka to use the ANB Hall for the August 30, 2017 Town Hall on the future of healthcare in Sitka. Our goal was to provide a different location in hopes of attracting a diverse audience to this Town Hall meeting. The meeting was very successful and had attendance of over 65 people. I appreciate your members assisting staff in coordination and set up.

Our goal throughout this process is to have as much community input as possible and we appreciate all who took the time to attend the town hall meetings and contribute to the future of healthcare in Sitka.

Gunalchéesh,

Matthew Hunter
Mayor



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-152 Version: 1 Name:
Type: Item Status: AGENDA READY
File created: 8/31/2017 In control: City and Borough Assembly
On agenda: 9/12/2017 Final action:
Title: Recap of the August Healthcare Town Hall Meetings - Maegan Bosak
Sponsors:
Indexes:
Code sections:
Attachments: [Recap Town Hall Meetings.pdf](#)

Date	Ver.	Action By	Action	Result
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Special Report

Recap of the August Healthcare Town Hall Meetings

Community Affairs Director – Maegan Bosak





CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-153 Version: 1 Name:
Type: Item Status: AGENDA READY
File created: 8/31/2017 In control: City and Borough Assembly
On agenda: 9/12/2017 Final action:
Title: Approve the minutes of the August 19 and 22 Assembly meetings
Sponsors:
Indexes:
Code sections:
Attachments: [Consent and Minutes.pdf](#)

Date	Ver.	Action By	Action	Result
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CONSENT AGENDA

POSSIBLE MOTION

**I MOVE TO APPROVE THE CONSENT AGENDA
CONSISTING OF ITEMS A & B**

I wish to remove Item(s) _____

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

Should this item be pulled from the Consent Agenda the following motion is suggested:

POSSIBLE MOTION

I MOVE TO approve the minutes of the
August 19 and August 22 Assembly
meetings.



CITY AND BOROUGH OF SITKA

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

Minutes - Draft

City and Borough Assembly

Mayor Matthew Hunter
Deputy Mayor Bob Potrzuski
Vice-Deputy Mayor Steven Eisenbeisz
Tristan Guevin, Kevin Knox
Aaron Bean, and Aaron Swanson

Interim Municipal Administrator: Phillip Messina
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Saturday, August 19, 2017

9:00 AM

Assembly Chambers

SPECIAL MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 6 - Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

Absent: 1 - Swanson

IV. NEW BUSINESS:

A 17-143 Municipal Administrator applicant interviews (Brady, Fuqua, Shultz, and Zimmerman)

In-person interviews were held for each of the Municipal Administrator candidates: Keith Brady, David Fuqua, Delray Shultz, and Kim Zimmerman. In addition to receiving a tour of the community by City staff, candidates were also interviewed by a panel of City staff members and a representative of the Sitka Tribe of Alaska. Interviews concluded at 1:50pm.

Public Comment:

Pat Alexander wished to hear from the candidates on their understanding of medical finances. Further, she wondered how the candidates planned to relieve their ignorance after hearing that none of them had experience working with tribes.

B 17-144

Discussion/Direction/Decision regarding today's interviews (*executive session anticipated*)

Staff was invited into executive session to offer their impressions of the candidates.

A motion was made by Potrzuski to go into Executive Session to discuss subjects that may tend to prejudice the reputation and character of Municipal Administrator Candidates Keith Brady, David Fuqua, Delray Shultz, and Kim Zimmerman, and invite in John Hodgson, Mark Danielson, Melissa Henshaw, Don Kluting, Maegan Bosak, Shilo Williams, Jeff Ankerfelt, Ron Duvall, Jay Sweeney, and Lisa Gassman. The motion PASSED by the following vote.

Yes: 6 - Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

Absent: 1 - Swanson

The Assembly was in Executive Session with staff from 2:05pm to 3:00pm. The Assembly dismissed staff at 3:00pm and remained in executive session, with a 10 minute recess from 3:55pm to 4:05pm, until 4:40pm. A 10 minute recess followed.

At 4:50pm, a motion was made by Potrzuski to reconvene as the Assembly in regular session. The motion PASSED by a unanimous voice vote.

Assembly members shared some of their reasons for selecting Brady: positive review from staff, community outreach while in Sitka, positive attitude, strong interpersonal skills, approachability, and commitment to growing into the position of Municipal Administrator.

A motion was made by Potrzuski to direct staff to offer and negotiate a contract with Keith Brady to be the next City Administrator. The motion PASSED by the following vote.

Yes: 6 - Eisenbeisz, Guevin, Potrzuski, Hunter, Knox, and Bean

Absent: 1 - Swanson

V. PERSONS TO BE HEARD:

None.

VI. EXECUTIVE SESSION

See Item B.

VII. ADJOURNMENT

A motion was made by Bean to ADJOURN. Hearing no objections, the meeting ADJOURNED at 5:02pm.

ATTEST: _____
Sara Peterson, CMC
Municipal Clerk



CITY AND BOROUGH OF SITKA

ASSEMBLY CHAMBERS
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Minutes - Draft

City and Borough Assembly

Mayor Matthew Hunter
Deputy Mayor Bob Potrzuski
Vice-Deputy Mayor Steven Eisenbeisz
Tristan Guevin, Kevin Knox
Aaron Bean, and Aaron Swanson

Interim Municipal Administrator: Phillip Messina
Municipal Attorney: Brian Hanson
Municipal Clerk: Sara Peterson

Tuesday, August 22, 2017

6:00 PM

Assembly Chambers

REGULAR MEETING

I. CALL TO ORDER

II. FLAG SALUTE

III. ROLL CALL

Present: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

IV. CORRESPONDENCE/AGENDA CHANGES

17-148 Reminders, Calendars and General Correspondence

V. CEREMONIAL MATTERS

None.

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

None.

VII. PERSONS TO BE HEARD

None.

VIII. REPORTS

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

Deputy Mayor - Potrzuski reported on the Alaska Municipal League Summer Legislative Meeting held in Haines. He announced Municipal Administrator candidate, Keith Brady, had accepted the City's offer and would begin mid-September. Potrzuski noted the interview process was thorough and thanked staff for their input.

Attorney - Hanson noted his new Legal Assistant was scheduled to start September 25. In addition, he stated he would be on vacation August 26 through September 10.

Clerk - Peterson shared information on the upcoming Town Hall Meetings regarding healthcare in Sitka, August 30 and 31.

IX. CONSENT AGENDA

- A 17-141** Approve the minutes of the August 8 and August 9 Assembly meetings

A motion was made by Swanson that the Consent Agenda consisting of item A be APPROVED. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

X. BOARD, COMMISSION, COMMITTEE APPOINTMENTS

- B 17-142** 1) Appoint Darryl Rehkopf to an unexpired term on the Library Commission, and, 2) Appoint one of the following to the Sitka Community Hospital Board: ~~Lee Bennett~~—(*application withdrawn*) or Owen Kindig - *possible executive session*

Knox thanked Rehkopf for applying.

A motion was made by Knox to appoint Darryl Rehkopf to an unexpired term on the Library Commission. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

Lee Bennett withdrew his application prior to the meeting.

Assembly members Eisenbeisz, Potrzuski, and Knox expressed concern with appointing Mr. Kindig to the Hospital Board. It was noted Mr. Kindig's spouse was employed at Sitka Community Hospital (SCH). Correspondence from the Municipal Attorney stated a spouse of a SCH employee may serve on the Board, however, for all discussions, deliberations, and decisions which would have a "substantial financial interest" on the spouse, the applicant (Board member) would have to recuse himself. Eisenbeisz, Potrzuski, and Knox wondered how often Kindig would need to recuse himself and the potential inefficiencies that could create. Bean reminded the term of the vacant seat expired in January and supported appointing Kindig.

A motion was made by Swanson to appoint Owen Kindig to an unexpired term on the Hospital Board. The motion FAILED by the following vote.

Yes: 2 - Swanson, and Bean

No: 3 - Eisenbeisz, Potrzuski, and Knox

Absent: 2 - Guevin, and Hunter

XI. UNFINISHED BUSINESS:

C ORD 17-15 Adjusting the FY18 Budget (Sitka Community Hospital Modular Unit)

Eisenbeisz believed it was important to provide Sitka Community Hospital (SCH) with the tools needed (e.g. modular) in order to be successful. He wished to see the suggestions from the Stroudwater Report implemented and close monitoring of their progress to ensure benchmarks were met. Knox asked SCH staff to provide an explanation of their goals and business plan.

Steven Hartford, SCH Director of Operations, and Rob Allen, SCH Chief Executive Officer, referenced the modular information included in the Assembly packet. Hartford and Allen indicated clinic visits were continuing to rise; SCH was currently unable to meet demands, hence the need for the modular unit. Allen stated the Hospital was working on its long-term capital needs.

Potrzuski noted the industry standard for clinic visits was 16 patients per day per provider; currently SCH numbers were 9-12 patients per day. Allen reminded the industry standard was based on a properly functioning clinic - e.g. adequate space, electronic health records system. He noted SCH did not meet those markers but was working to overcome the roadblocks and meet the industry standard. Potrzuski noted, after a recent tour of the clinic facility, it was clear the space needs and working conditions were inadequate. He reminded SCH was a department of the City and it was the responsibility of the Assembly to investigate and understand the financial plans of the Hospital.

Bean spoke in support of the modular and reminded it was a recommendation of the Stroudwater Report. He believed at the very least the modular would be an asset that would make the Hospital more marketable.

Knox wondered how this appropriation would affect other capital needs moving forward. Hartford reminded the funds to pay for the modular unit would be paid for out of the Hospital operating capital; it wasn't an additional request for \$400,000 from the City. He explained the electronic health records program, aside from the modular unit, was a top priority of SCH. Hartford explained it would be paid for operationally on a month-to-month basis and would not need a significant capital outlay. Once the proposal was more concrete, it would go before the Hospital Board and Assembly. In conclusion, he stated the Hospital welcomed the Assembly's oversight and tough questions. He expected the Assembly to hold SCH accountable and stated they would do their best to provide the most accurate information to help the Assembly make informed decisions with regards to the Hospital's future.

A motion was made by Swanson that this Ordinance be APPROVED on SECOND AND FINAL READING. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

XII. NEW BUSINESS:**New Business First Reading****D ORD 17-29S Adjusting the FY18 Budget (*Sitka Airport Terminal Improvements Project*)**

Delta Airlines Sitka Station Manager, Jeremy Smith, read a statement from Delta Airlines Corporate Headquarters supporting the terminal improvement project. Bean inquired on the possibility of year-round service offered by Delta. Smith explained that currently year-round service was difficult due to space and de-icing needs. Eisenbeisz wondered if Delta planned to commit money to the project. Smith didn't have that information but noted it wasn't unheard of for the Airlines to contribute to projects.

Chief Finance and Administrative Officer, Jay Sweeney, explained the substitute ordinance was to account for the overall capital appropriation, as opposed to the increased amounts of revenue streams comprising it.

Bean, recognizing the cost of the project, and the amount of debt the City had, suggested the City save for the project first and then proceed. Knox reminded going this route, the City may encounter issues with the FAA - e.g. support.

Michael Harmon, Public Works Director, explained passenger facility charges (PFC) would be the primary funding mechanism for construction costs, or, for paying debt service if debt financing was ultimately approved. He indicated PFC's were required to be spent on a project that was expected to be built and completed in 3-5 years. At the beginning of this project, a model was set that PFC's would be collected at \$4.50 a head to further obtain bond funding to debt finance the project. He stressed the only way this project could happen was to debt finance and was how the PFC's were structured.

A motion was made by Swanson that this substitute Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 4 - Swanson, Eisenbeisz, Potrzuski, and Knox

No: 1 - Bean

Absent: 2 - Guevin, and Hunter

E ORD 17-30 Adjusting the FY17/FY18 Budgets (*Solid Waste Fund, Harbor Fund, Management Information Systems Fund, Public Works - Recreation Department*)

With regards to the Solid Waste Fund, staff explained the adjustment was needed on the expense side to accurately reflect the overall cost of the contract. The revenue side had been accounted for.

A motion was made by Knox that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

F ORD 17-31 Adjusting the FY18 Budget (O'Connell Lightering Facility Repair Project)

Harbormaster, Stan Eliason, stated an unexpected wind event had damaged the O'Connell Lightering Facility. It had been determined the Facility was unable to safely accommodate yachts and large vessels over 40 feet in length. He believed the Facility, once repaired, had significant revenue potential citing it was a popular docking site for yachts. Deputy Harbormaster, Chuck Hackett, stated current charges were approximately \$1,000 per night. Outside sources had suggested the Facility should charge more, possibly between \$3,000 and \$5,000 a day. With a portion of the budget appropriation, Eliason and Hackett planned to conduct marketing research to determine demand and moorage fees. Eliason added the Facility would pay for itself and be a revenue stream for the Harbor Department. Dan Tadic, Municipal Engineer, relayed the repair barge planned to be used for construction of the Gary Paxton Industrial Park dock this fall could be used to repair the Lightering Facility, saving the City money.

Knox feared, if a decision was delayed, repair costs would increase and potential revenue would be lost. Eisenbeisz and Potrzuski expressed a desire for further analysis and marketing.

A motion was made by Bean that this Ordinance be APPROVED on FIRST READING. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

Additional New Business Items**G 17-146 Approve a lease amendment between the City and Borough of Sitka and SECON, Inc. for Granite Creek Industrial Site #7**

A motion was made by Swanson that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

H 17-145 Approve a request from Sitka Community Hospital in the amount of \$60,171 for additional paving of the clinic parking lot and pedestrian walkway

Steven Hartford, Director of Operations at Sitka Community Hospital (SCH), summarized there were remaining funds in the FY17 capital account. SCH hoped to use the money for repair and resurfacing of the existing clinic pedestrian access (between the Clinic and the ER entrance of the Hospital) and parking area. The paving work was needed to eliminate hazardous safety conditions for patients, customers and employees. SCH planned to piggyback on the City's paving project of the Emergency Room (ER) entrance driveway.

Knox wondered what phase the project was in as it appeared the project had started and where it fell within the capital plan. Hartford explained demo work had been done while the equipment and crew were available for the ER driveway project. SCH Chief Executive Officer, Rob Allen, added that any capital improvement projects over \$25,000

were required to come before the Assembly. It was not on the original capital improvement project list; however, identified as a need.

A motion was made by Knox that this Item be APPROVED. The motion PASSED by the following vote.

Yes: 5 - Swanson, Eisenbeisz, Potrzuski, Knox, and Bean

Absent: 2 - Guevin, and Hunter

XIII. PERSONS TO BE HEARD:

Dr. Wein spoke in support of Owen Kindig's Hospital Board application.

Owen Kindig stated he would apply again for the Hospital Board and didn't feel there would be times he would need to recuse himself. He believed he was a strategic thinker, creative problem solver, diplomatic, and was, in addition to a large majority of the community, in favor of keeping Sitka Community Hospital local.

XIV. EXECUTIVE SESSION

- I **17-147** Continued discussion/direction on the Administrator recruitment - if necessary
Executive Session was not needed.

XV. ADJOURNMENT

A motion was made by Swanson to ADJOURN. Hearing no objections, the meeting ADJOURNED at 8:25pm.

ATTEST: _____
Sara Peterson, CMC
Municipal Clerk



CITY AND BOROUGH OF SITKA

Legislation Details

File #: RES 17-19 Version: 1 Name:

Type: Resolution Status: AGENDA READY

File created: 9/6/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Supporting the Sitka Trail Works, Inc. grant application to the State of Alaska Recreational Trails Program for repairs to the Sea Lion Cove Trail

Sponsors:

Indexes:

Code sections:

Attachments: [Memo and Resolution 2017-19.pdf](#)

Date	Ver.	Action By	Action	Result
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Should this item be pulled from the consent agenda the following motion is suggested:

POSSIBLE MOTION

I MOVE TO approve Resolution 2017-19 on first and final reading.

MEMORANDUM

To: Mayor Hunter and Assembly Members
Keith Brady, Municipal Administrator

From: Lynne Brandon, Executive Director, Sitka Trail Works

Date: September 6, 2017

Subject: Resolution of Support for Recreational Trails Grant Application

Background:

The Recreational Trails Program (RTP) offers grants up to \$50,000 for trail repair projects and is administered by Alaska State Parks. Sitka Trail Works (STW) regularly applies for RTP grants to assist with repairs to City and other Sitka area trails. As a part of the grant application is a requirement for a resolution of support from the local governing body.

For the last two years STW acquired RTP grants to affect major repairs to Alaska State Parks' Mosquito Cove trail. RTP grant funds were used in 2015 to repair the City section of Herring Cove Trail. These three projects were a result of a partnership effort between STW and US Forest Service Sitka District trail crew. In the past STW also received RTP funds for upgrades to the City's Cross Trail.

Analysis:

This year's grant is for repairs to the Sea Lion Cove trail. The last major work was completed on this trail in 2001 and the trail is currently in poor condition. The Boat Company, a small cruise ship company, has offered to help fund the project. Since the State Parks' Sea Lion Cove trail is in "passive management" due to the closure of the State Parks office here July 1, 2015, Sitka Trail Works has prioritized this trail for the RTP grant this year.

Fiscal Note:

There is no City funding requirement or obligation for CBS funds, staff time or match in association with this grant application.

Recommendation:

Approve Resolution 2017 – 19 in support of Sitka Trail Works RTP grant application.

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 2017-19

A RESOLUTION OF THE CITY AND BOROUGH OF SITKA SUPPORTING THE SITKA TRAIL WORKS, INC. GRANT APPLICATION TO THE STATE OF ALASKA RECREATIONAL TRAILS PROGRAM FOR REPAIRS TO THE SEA LION COVE TRAIL

WHEREAS, Sea Lion Cove trail is of high value trail for Sitka residents for recreation, physical fitness and for activities for small cruise ship visitors; and

WHEREAS, this project was developed according to the 2003 Sitka Trail Plan to which the City and Borough of Sitka and Alaska State Parks and Sitka Trail Works are plan partners; and

WHEREAS, Alaska State Parks relinquished management of this trail as of July 1, 2015 and has no trail maintenance planned; and

WHEREAS, damage and erosion of the trail from heavy use has occurred since the last major repair project in 1998; and

WHEREAS, Alaska State Parks, the Boat Company and Juneau Trail Mix are partnering with Sitka Trail Works to complete the repair work; and

WHEREAS, the goal is for trail repairs to make a more sustainable trail into the future that will last another 20 years; and

WHEREAS, these repairs will restore the trail to safe condition for public use; and

WHEREAS, the project match requirement will be met by Sitka Trail Works and the Boat Company.

NOW, THEREFORE, BE IT RESOLVED, that the Assembly of the City and Borough of Sitka, Alaska, by this resolution, affirms and supports the grant application from Sitka Trail Works to the State of Alaska Recreational Trails Program for \$50,000 maximum in grant funding for repairs to the Sea Lion Cove Trail.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska on this 12th day of September 2017.

Matthew Hunter, Mayor

ATTEST:

Sara Peterson, CMC
Municipal Clerk

1st and final reading 9/12/17



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-154 Version: 1 Name:
Type: Item Status: AGENDA READY
File created: 9/5/2017 In control: City and Borough Assembly
On agenda: 9/12/2017 Final action:
Title: Appoint Ken Creamer to an unexpired term on the Port and Harbors Commission
Sponsors:
Indexes:
Code sections:
Attachments: [Creamer app.pdf](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

POSSIBLE MOTION

I MOVE TO appoint Ken Creamer to an unexpired term on the Port and Harbors Commission.



**Application for Appointment to Boards, Committees, and Commissions
City and Borough of Sitka**

Board/Commission/Committee: Port & Harbors
Name: Ken Creamer Daytime Phone: 7380223
Address: 101 Sunset Drive Evening Phone: 7378903
Email Address: k.creamer@gci.net Fax Number: _____
Length of Residence in Sitka: 24 years Registered to vote in Sitka? Yes No
Employer: _____
Organizations you belong to or participate in: Masons, Elks, NRA

Explain your main reason for applying:
To help develop harbors plans

What background, experience or credentials will you bring to the board, commission, or committee membership?
Have served on P. & H. Commission previously and understand how it functions

Please disclose any potential conflicts of interest that may arise from your appointment. These may include but are not limited to:

- A substantial financial interest of \$1000 annually that could be influenced by your appointment.
- An immediate family member employed within the scope of this appointment.

Please attach a letter of interest, outline, or resume which includes your education, work, and volunteer experience that will enhance your membership.

→ (To be considered, your application must be complete AND be accompanied by one of the above supporting documents.)

Date: 9-1-17 Signature: Ken Creamer

Your complete application and resume should be returned to the Municipal Clerk's Office by noon on the Wednesday prior to an advertised Assembly meeting. Applications received after the deadline will be considered but will not be included in the Assembly packets for review prior to appointment.

Appointments are normally made during open session of an Assembly meeting, however, Assembly members may vote to discuss applicant(s) in closed executive session. In this case, do you wish to be present when your application is discussed? Yes No

Return to:
Sara Peterson, Deputy Clerk
100 Lincoln Street
Fax: 907-747-7403
Email: sara@cityofsitka.com



PORT AND HARBORS COMMISSION

NAME	CONTACT NUMBERS	TERM STARTS	EXPIRES	CATEGORY
MICHAEL NURCO PO Box 6443	738-0927 albatrossalaskacharters@gmail.com	11/11/15	7/8/17	CHAIR <i>Davis term</i>
MELISSA GREENHALGH PO Box 25	738-1320 melissarae1984@yahoo.com	2/11/15 5/24/16	3/26/16 5/24/19	VICE CHAIR
JOSH ARNOLD 106 Shotgun Alley	738-0854 747-0545 oceanlure@gmail.com	5/13/14 5/23/15	5/22/15 5/23/18	
BRENDAN JONES PO Box 6265	738-8209 brendanisaacjones@gmail.com	2/9/16 6/14/16	6/11/16 6/14/19	
DAVE GORDON 717 Lake Street	738-0515 sitkadgordon@gmail.com	12/13/16	12/13/19	
KEVIN KNOX 324 Wachusetts Street	738-4664 c kevin@bluesteel.org	12/10/13 3/24/15	4/10/15 3/24/18	CHAIR <i>Resigned 10/11/16</i>
ERIC SKOUSEN 105 Burkhart Road B12	623-8003 skousenpride@hotmail.com	10/27/15	10/27/18	<i>Resigned 11/18/16</i>
Stan Eliason Office: 617 Katlian Street	747-3439 w 738-0832 stan.eliason@cityofsitka.org			Harbormaster Non-voting
Matthew Hunter 102 Remington Way	738-6851 c assemblyhunter@cityofsitka.org			Assembly Liaison
Kristi Jones Harbor Office Manager	747-3439 w kristi.jones@cityofsitka.org			Secretary

7 members from the public, 3-year terms

Established by Resolution 88-375

Nine meetings per year, September – May, 2nd Wednesday 6:00 p.m.

Harrigan Centennial Hall, 300 Harbor Drive

Revised: December 15, 2016



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 17-29S Version: 1 Name:

Type: Ordinance Status: AGENDA READY

File created: 8/2/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Adjusting the FY18 Budget (Sitka Airport Terminal Improvements Project)

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Memo Ordinance 2017-29S.pdf](#)
[Ord 2017-29S.pdf](#)
[Spreadsheet.pdf](#)

Date	Ver.	Action By	Action	Result
8/22/2017	1	City and Borough Assembly		
8/8/2017	1	City and Borough Assembly		

POSSIBLE MOTION

I MOVE TO approve Ordinance 2017-29S on
second and final reading.

MEMORANDUM

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

From: Michael Harmon, P.E., Public Works Director *MH*
Dan Tadic, P.E., Municipal Engineer *DT*
Jay Sweeney, Chief Finance and Administrative Officer *J*
Kelli Cropper, MPM, Project Manager *KE*

Reviewed: Tori Fleming, Contract Coordinator *T*

Date: August 2, 2017

Subject: Sitka Rocky Gutierrez Airport (SIT) Terminal Improvements - Approve moving forward with the project and the budget appropriation of the existing PFC funds to project budget

Background:

The final conclusions of the most recent SIT Airport Terminal Master Plan -2011 were twofold:

- Short term- correct the most critical terminal deficiencies.
- Long term- develop a long-term financial plan in order to construct a new terminal at the Sitka Rocky Gutierrez Airport.

The estimated cost of designing and constructing a new 35,000 square foot terminal ranges from \$30 - \$40 million. Procuring this funding has proven thus far to be impracticable and is unlikely in the near future given Alaska's current fiscal crisis.

In 2016 the CBS received a design grant from the Transportation Security Administration (TSA) for the Baggage Screening Area. Stakeholder representatives from TSA, Alaska Airlines, Delta Airlines, Terminal Vendors, CBS Staff, and the Design Consultants met regarding the upcoming baggage area design and many of the other existing critical terminal inadequacies were raised and discussed. Since the alterations to the baggage screening area would impact the other critical terminal areas, it was decided that a conceptual floor plan for the full terminal needed to be developed before design for the baggage screening continued.

In March 2017 the Assembly approved preparation of new application to collect PFCs to fund SIT Terminal Improvements. As stated then, the next steps were to prepare a preferred concept plan and preliminary funding plan with stakeholder input and bring them back for Assembly approval in order to move forward with the project.

Analysis:

Over the last four months, a preferred conceptual floor and funding plan have been developed. Small Group Stakeholder meetings were held with our Consultants and concept plans and options discussed. The preferred option was presented at a public meeting July 20, 2017 where we received overall support for the preferred concept plan, and received suggestions for additional improvements.

The current planning effort addresses improvements to the terminal to address current critical issues and balance the technical, operational and passenger experience needs of the facility. Areas of focus include:

- Baggage Makeup / Outbound baggage processing
- Baggage Screening
- Departure Lounge (Holdroom) size
- Concourse Congestion and passenger flow issues
- Baggage Claim Congestion

The proposed concept plan includes critical improvements to these areas utilizing the existing terminal infrastructure to the maximum extent to reduce project costs. The project cost for the preferred concept option is estimated at \$10.7 million.

With Assembly approval of the conceptual plans the project can move forward to the 65% design milestone and the TSA Baggage Screening design work can resume before the \$158,569.25 design grant expires. At that time, the design will be sufficient to more accurately estimate projects costs and funding sources will be identified.

The project strategy is to build to the budget, once the budget is established. If the required funding to construct the full project is not secured, a portion of the project will be identified through the design and public process, for design completion and construction with the funds available. Any remaining unconstructed portions (future phases) will remain at 65% design for future 'shovel ready' projects for which we will seek funding, such as any AIP Discretionary Funds that become available.

Project Schedule:

- Assembly Approval and Budget Appropriation- August 2017
- Design Development Completion January 2018
- Construction/Bidding Document Completion June 2018
- Bidding and Award July – September 2018
- Construction – phased during winter seasons October – April 2018, 2019, 2020

Fiscal Note:

The intent of staff is to identify and obtain funding to correct critical deficiencies in the existing terminal while not burdening the local tax base. For potential funding sources identified to date see the attached AvAirPros draft funding plan memorandum, dated July 27, 2017. These and other possible funding sources will be investigated leading up to the 65% design milestone.

Existing remaining unappropriated PFC funds amount to \$280,593 and are only permitted to be used for the terminal projects and are considered part of the funding plan. Additional design scope will be required to develop and complete the design, construction, bidding documents, and funding plan. It is anticipated that the cost to get the project to the 65% design milestone will be roughly \$240,000, at which time the Assembly will see the project again to move it forward.

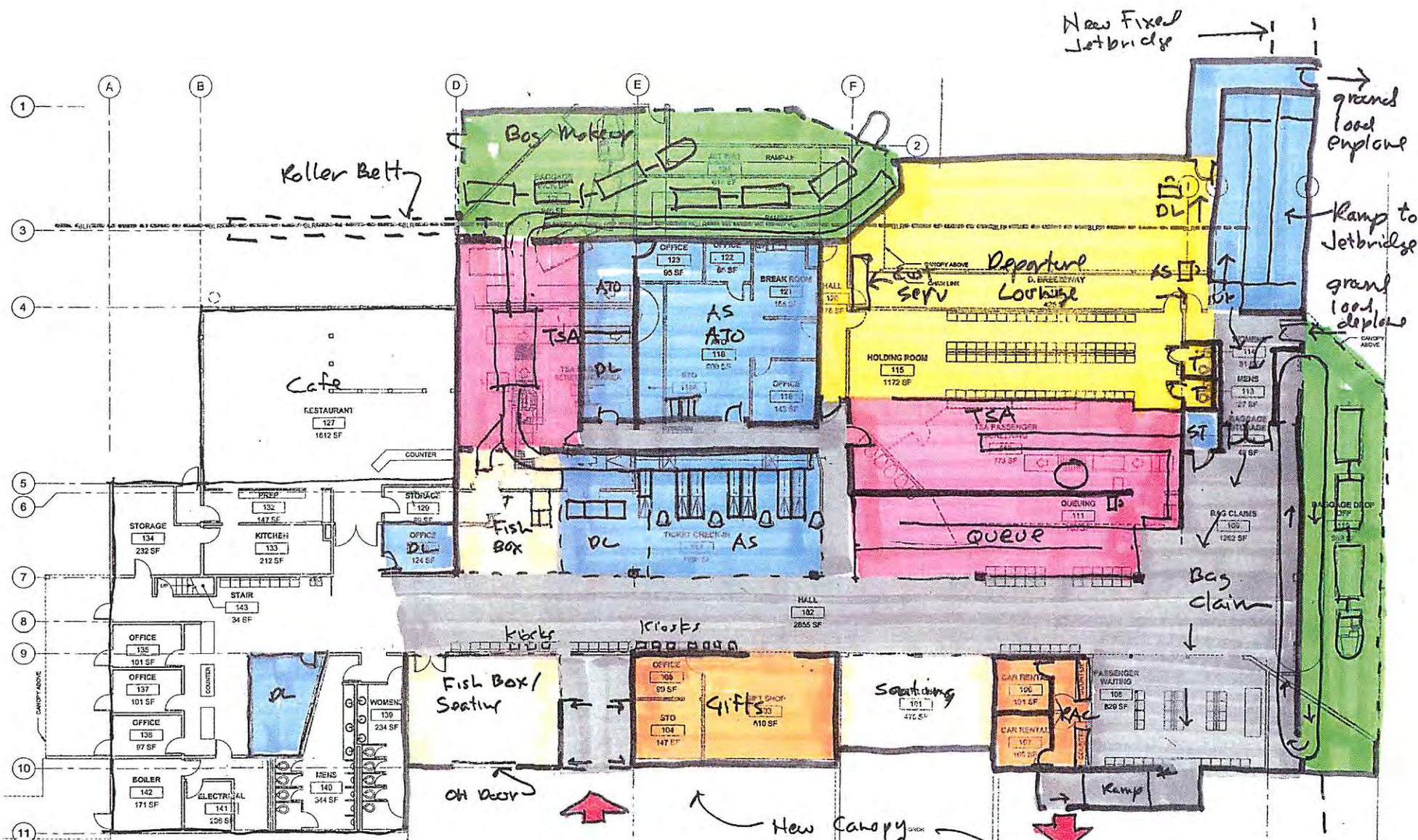
Foundational discussions concerning project financing have taken place between the Public Works Department, Finance Department, and a financial Consultant, AvAirPros. In these discussions, various options and courses of action for project financing have been discussed and analyzed.

A formal financing plan is premature at this point, as it will be dependent on the scope of the project. Central to any financing plan will be the collection of passenger facility charges (PFCs), as PFCs will be the primary mechanism for paying for construction costs, or, for paying for debt service if debt financing is ultimately approved. Securing debt financing to immediately commence construction, and, using fees and charges to pay for debt service is in the conceptual finance plan.

Potential funding sources which have been identified and discussed include PFCs, possible implementation of a surcharge on rental cars (terminal improvement fees), possible grants from Federal and State sources through discretionary Airport Improvement Program (AIP) funds, and possible grants from the TSA. Matching requirements for AIP and TSA grants are unknown at this time.

Recommendation:

Approve moving forward with SIT Terminal Improvements Project development as presented and appropriate the remaining \$280,593 of PFC funds to the project #90736.



Concept C4
 4/25/17 Phase 4
 Final

scale 1/16" = 1'-0" @ 11X17 sheet



PREFERRED CONCEPT PLAN

MEMORANDUM

Date: July 27, 2017

To: Kelli Cropper, The City and Borough of Sitka

From: Kottayam V. Natarajan Jr.

cc: Alex Fedor

Subject: Sitka Rocky Gutierrez Airport **DRAFT 7-27-2017**
SIT Airport Terminal Improvements Project Funding Plan

This memo describes the preliminary Funding Plan for the Airport Terminal Improvements Project at the Sitka Rocky Gutierrez Airport. The Funding Plan is attached as Exhibit 1.

The information below refers to the notes on the Funding Plan.

Notes on Project Cost Assumptions

1. A 20% Design Contingency has been added to all the construction cost estimates due to the preliminary nature of the estimates. This contingency can be adjusted as the cost estimates become more firm.
2. A 25% soft cost estimate has been added to the escalated construction costs to account for design, project/construction management, inspection, and administration of the project, for a total project cost estimate.

Notes on Funding Sources and the Funding Plan

3. **PFC Future Collections** **\$4,000,000**
This revenue stream is based on future Passenger Facility Charge (PFC) collections at \$4.50 per passenger. It assumes the PFCs are leveraged to pay the annual debt service on 20 year bonds with 5% interest. The FAA must approve the Airport's PFC application to impose and collect the PFCs from passengers. PFCs are common at airports and most charge the full \$4.50 amount.

The application process is underway and an application has been submitted to the FAA. See Exhibit 2 for more details on the PFC collections and projected revenue.

4. **PFC Existing** **\$333,500**
This is PFC money previously collected by the Airport. The City and Borough of Sitka Airport Terminal Fund Income Statement for the twelve-month period from July 1, 2016 to June 30, 2017 indicates the airport has \$10,330.02 in working capital in account 90736 – Airport Baggage and TSA Facility PFCs, and \$323,179.93 in Undesignated Passenger Facility Charges. It is assumed that all of these funds are available for the Terminal Improvements Project. The FAA should have no issues with using these funds for PFC eligible projects.

It is assumed no action is necessary to use these funds.

5. **Undesignated Working Capital** **\$363,000**
The City and Borough of Sitka Airport Terminal Fund Income Statement for the twelve-month period from July 1, 2016 to June 30, 2017 indicates the airport has \$541,827 available in Undesignated Working Capital. This is approximately 570 Days Cash on Hand (DCOH) or 1.5 years. This could be dropped down to 6 months DCOH which would free up 2/3 of the Undesignated Working Capital or 363,000. These funds are applied to the Terminal Improvements Project.

It is assumed these funds are available for airport projects and no action is necessary to secure this funding, apart from concurrence from the appropriate airport financial advisors.

6. **TSA Funding** **\$2,925,000**
The elements of the project that are associated with renovating and updating the TSA baggage screening area are assumed to be funded 100% by the TSA. The TSA has traditionally funded baggage screening projects.

The project team will need to secure a commitment from the TSA for the baggage screening elements of the project. Federal funding is not guaranteed and is always subject to changes in federal policy and funding availability.

7. **Airline Funding** **\$0**
The project includes some tenant improvements that are assumed to be funded by Alaska Airlines and Delta Air Lines. These are project elements that are closely related to individual airline operations. At most airports, projects cover all costs except for proprietary costs. Proprietary costs are specific to an airline and cannot be used by another airline. For example, a backwall behind a ticket counter and a ticket counter position would be project costs as these elements could be used by any airline. A sign on the backwall for “Airline X” and ticket counter processing equipment that is specific to Airline X and can only be used to process their passengers would be considered proprietary.

The airlines have voiced concerns over these costs not being funded by alternative project funds. Further discussions will be required to ensure the airlines are willing to contribute these amounts.

8. Tenant Concessions \$0

To the extent there are any project costs to improve airport concessions or to enable airport concessions, these could be funded by the airport concessionaires who will benefit. It is typical for airports to provide shell space for concessionaires and for concessionaires to pay for any build out of their space.

As the project is further developed, this may be a source of funds to pursue.

9. CBS Funding (RCTIF) \$1,400,000

This assumes the CBS institutes a Rental Car Terminal Improvement Fee (RCTIF) of 10% on all gross rental car receipts. Rental car receipts are projected to be \$1,200,000 per year based on FY2016 receipts of \$1,282,637 and FY2017 projected receipts of \$1,788,305. The projected \$120,000 per year from the RCTIF is leveraged to cover annual debt service on \$1.4 million of 20 year bonds at 5%. The current project funding plan assumes \$1,400,000 is needed for the project. See Exhibit 3 for more details on the RCTIF and revenue projections. Fees and charges to rental car transactions are very common at airports. These fees often run as high as 100% (e.g. the per day cost of a rental car is twice the advertised price). These fees include everything from stadium taxes to rental car customer facility charges to airport concession fees to city taxes.

The CBS will need to institute this new fee and work with rental car companies to collect and remit the fee. There is currently a 4% Driver Facility Charge that is collected on rental car receipts and used for general airport O&M. This would be in addition to that fee.

10. AIP Entitlement Grants \$2,400,000

SIT receives Entitlement Grants from the FAA on an annual basis for eligible projects. The 2017 AIP Entitlement Grant for SIT was \$607,027. Four of these annual grants would be \$2,400,000. However, the current funding plan assumes the Terminal Improvements Project will need 3 of the grants and that they remain approximately \$600,000 dollars. AIP Entitlement Grants are available for any eligible projects.

The project team will need to work with other jurisdictions that operate portions of the airport to ensure these grants will be available for the Terminal Improvement Project. Traditionally they have been used for the airfield, which is owned and operated by the State of Alaska.

11. Other Airport Funds \$0

These would be funds from airline rates and charges or from non-airline tenant fees.

Examples would be a new parking fee or increased terminal rental rates. They could be from existing rates and fees, increases to fees, or new fees. The current funding plan does not have any revenue from this source.

If the airport decides to use revenue from this source it will need to earmark funds or increase fees and ensure there is adequate funding for O&M expenses.

12. Discretionary AIP Grants **\$0**

Every year the FAA awards discretionary grants for eligible projects. The current funding plan does not include any resources from AIP Discretionary Grants as the Terminal Improvements Project would be fairly low on the priority list. Airfield projects are generally more likely recipients of AIP Discretionary Grants.

The Airport would need to apply for any AIP Discretionary Grants if it was determined that was a funding source worth pursuing.

Passenger Facility Charge 7/27/17

Sitka Airport Terminal Improvements Project

PFC Revenue

	Annual ENPL	X	PFC	=	Annual PFC REV	-	PFC admin FEE	=	NET REV
AS	71,000								
DL	5,000								
Other									
TOTAL	76,000		\$4.50		\$ 342,000		\$ 8,360		\$ 333,640

Debt Service Costs

Bond sizing	4,157,892	5% ¹
Term	20	
Rate	5.0%	
Payment	\$333,640	
coverage level	0%	
Coverage	\$0	
Total Debt Service costs	\$333,640	



Any assumption in a green box can be changed. If you change anything, click on the blue button and the Capital Capacity will recalculate.

Capital Capacity

\$ 3,959,897

Check

Calc \$0

NOTES


1 Assumes a rolling coverage account equal to 25% of an annual payment

Rental Car Terminal Improvement Fee 7/27/17
PFC Revenue

Sitka Airport Terminal Improvements Project

	Annual ² Sales	X	RCTIF ¹	=	Annual RCTIF REV	-	RCTIF admin FEE	=	NET REV
AVIS	1,200,000								
Other	-								
Other	-								
TOTAL	1,200,000		10%		\$ 120,000		\$ -		\$ 120,000

Debt Service Costs

Bond sizing	1,495,465	5% ³		<div style="border: 1px solid gray; padding: 5px;"> <p>Any assumption in a green box can be changed. If you change anything, click on the blue button and the Capital Capacity will recalculate.</p> </div>
Term	20			
Rate	5.0%			
Payment	\$120,000			
coverage level	0%			
Coverage	\$0			
Total Debt Service costs	\$120,000			

Capital Capacity

\$ 1,424,253

Check

Calc \$0

NOTES

- 1 Rental Car Terminal Improvement Fee
- 2 Driver Facility Charge 4% from Kelli
 - 2016 YTD total DFC \$ 51,305 *income statement*
 - 2016 YTD gross \$1,282,637 *calculated*
 - 2017 2nd QRTR \$ 35,766 *income statement*
 - 2017 projection \$1,788,305 *calculated*
- 3 Assumes a rolling coverage account equal to 25% of an annual payment

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2017-29S

AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA
ADJUSTING THE FY18 BUDGET (SITKA AIRPORT TERMINAL IMPROVEMENTS PROJECT)

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

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

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

3. PURPOSE. The purpose of this ordinance is to adjust the FY18 budgets for known changes.

4. ENACTMENT. The Assembly of the City and Borough of Sitka hereby adjusts the FY18 budget for known changes. In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period beginning July 1, 2017 and ending June 30, 2018 is hereby adjusted as follows:

<u>FISCAL YEAR 2018 EXPENDITURE BUDGETS</u>
CAPITAL PROJECTS
Fund 760 –Sitka Airport Terminal Improvements Project #90736: The Administrator requests that the existing capital appropriation for Project 90736, Sitka Airport Terminal Improvements Project, be increased from \$433,570 to \$640,789. Restricted PFC Funds, previously collected and currently retained in the Airport Terminal Fund, shall be the funding source for the increased project budget.

EXPLANATION

Necessary revisions in the FY 2018 budget were identified. These changes involve the increase of expenditure accounts and causes decreased cash flows to the fund balance of various funds. A short explanation of each budget revision is included.

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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 12th Day of September, 2017.

ATTEST:

Matthew Hunter, Mayor

Sara Peterson, CMC
Municipal Clerk

1st reading 8/8/17
1st reading substitute ordinance 8/22/17
2nd reading 9/12/17

Project 90736 - Airport Terminal Improvement Project

Project Funding Composition

Current approved Budget (Per 2018 Budget):		<u>433,570.00</u>
TSA OTA Portion:	158,569.25	
PFC Portion:	<u>275,000.70</u>	
		<u>433,569.95</u>

Project Expenditure Composition

Project Expenses Thru 6/30/2016:		<u>214,194.94</u>
Against PFC funding:	214,194.94	
Against TSA OTA Portion:	<u> -</u>	
		<u>214,194.94</u>

PFC Balance Composition:

Original Amount Available:		482,219.91
Transferred to Project to Cover Expenses:	214,194.94	
Remainder of Original Budget	<u>60,805.76</u>	
		<u>275,000.70</u>
Remaining PFCs Unallocated to Project:		<u>207,219.21</u>

Airport Project Budget:

Current approved Budget (Per 2018 Budget):		
TSA OTA Portion:	158,569.25	
PFC Portion:	<u>275,000.70</u>	
		433,569.95
Additional Unallocated PFCs (from Above)		<u>207,219.21</u>
Revised Overall project Budget:		<u>640,789.16</u>



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 17-30 Version: 1 Name:

Type: Ordinance Status: AGENDA READY

File created: 8/16/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Adjusting the FY17/FY18 Budgets (Solid Waste Fund, Harbor Fund, Management Information Systems Fund, Public Works - Recreation Department)

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Memo Ordinance 2017-30.pdf](#)
[Ord 2017-30.pdf](#)
[March 2017 Solid Waste Financial Analysis.pdf](#)
[March 2017 Harbor Financial Analysis.pdf](#)
[Public Work's Director email correspondence.pdf](#)

Date	Ver.	Action By	Action	Result
8/22/2017	1	City and Borough Assembly		

POSSIBLE MOTION

I MOVE TO approve Ordinance 2017-30 on
second and final reading.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

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

From: Jay Sweeney, Chief Finance and Administrative Officer

Cc: Stan Eliason, Harbormaster
Ron Duvall, IT Director

Date: August 15, 2017

Subject: FY 2017 Budget Execution and Supplemental Budget adjustment

Background

In FY 2017, the Solid Waste Fund, Harbor Fund, and MIS Fund each exceeded their appropriations. The reasons for appropriations being exceeded had to do with structural changes in contracts. Per the Home Rule Charter, the Assembly is to be notified, and, Administration is requesting that the Assembly pass a supplemental budget ordinance.

Fiscal Note

1. The Solid Waste Fund exceeded its overall FY 2017 operating appropriation by \$769,543. The reason for the excess was higher-than-anticipated contractual costs related to the new solid waste contract. Of note is that while the expense appropriation was exceeded, operating revenues for the Solid Waste Fund also exceeded what was budgeted by \$282,230. Factoring out depreciation (which is not budgeted), the ultimate result is a deficit of inflows over outflows of \$313,516 for FY 2017.
2. The Harbor Fund exceeded its overall FY 2017 appropriation by \$142,283. The reason for the excess was a shift in in the cost of the disposal of Municipal solid waste from being borne by citizens to being directly paid for by the Municipality. As the largest producer of Municipal solid waste, the Harbor Fund had far larger than anticipated solid waste costs.
3. The MIS Fund exceeded its overall FY 2017 appropriation by \$17,661. The reason for the excess was a shift in in the cost of Internet services from individual buildings and Departments to the MIS Fund in conjunction with the implementation of a new contract which combined separate charges (previously borne by Departments) into one amount now borne

directly by the MIS department.

4. Section 11.13 of the Home Rule Charter directs the Administrator to provide the Assembly with budget execution information. Expenditure of funds in excess of appropriations must be approved by the Assembly.

Analysis

1. In each of the cases in which appropriations were exceeded, the underlying cause was a contract for essential services, the costs of which Administration had little or no ability to control. The contracts were new business agreements for which staff did not have detailed cost history to utilize in developing appropriation recommendations to the Assembly.
2. In addition, in each of the three funds, the possibility and extent of exceeding appropriations only became certain and estimable at the very end of the fiscal year.
3. In regards to the Harbor Fund, the reason for exceeding its appropriation was directly related to a shift in collection costs for solid waste from citizens to the Municipality. Prior to the negotiation and approval of the recent solid waste contract, the costs of collection and disposal of Municipal solid waste were built into the rates paid by citizens and businesses, and, the Municipality was not charged directly for its solid waste disposal. When the solid waste contract was renegotiated last year, its terms provided for the direct billing of solid waste charges to the Municipality. This was done for two reasons: (1) it was more fair and equitable than requiring citizens to pay for these charges, and, it helped to reduce the size of the solid waste fee increase.
4. For Administration to have taken immediate action to halt expenditures in June would have had severe health and public welfare implications, as the Municipality would have needed to cease solid waste pickup and disposal. This would have been unsafe, unwise, and impracticable.

Recommendation

Administration recommends that the Assembly approve a supplemental budget ordinance which adjusts the total appropriations for the Solid Waste, Harbor, and MIS Funds to equal the final FY 2017 excess of outlays over appropriations.

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CITY AND BOROUGH OF SITKA
ORDINANCE NO. 2017-30
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA
ADJUSTING THE FY17/FY18 BUDGETS

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

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

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

3. **PURPOSE.** The purpose of this ordinance is to adjust the FY17/FY18 budgets for known changes.

4. **ENACTMENT.** The Assembly of the City and Borough of Sitka hereby adjusts the FY17/FY18 budget for known changes. In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period beginning July 1, 2016 and ending June 30, 2017 is hereby adjusted as follows:

<u>FISCAL YEAR 2017 EXPENDITURE BUDGETS</u>
ENTERPRISE AND INTERNAL SERVICE FUNDS
Solid Waste Fund – Operations: This fund has gone over budget by \$769,543 due to the higher than anticipated contractual costs related to the new solid waste contract.
Harbor Fund – Operations: This fund has gone over budget by \$142,283 due to the shift of cost of the disposal of solid waste to the Municipality.
Management Information Systems Fund – Operations: This fund has gone over budget by \$17,661 due to the shift of cost of telephone charges from individual departments to the MIS Fund.

In accordance with Section 11.10 (a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period July 1, 2017 and ending June 30, 2018 is hereby adjusted as follows:

FISCAL YEAR 2018 EXPENDITURE BUDGETS
GENERAL FUND
Public Works – Recreation Department– Operations: This is to recognize revenue from Alaska Public Entity Insurance in the amount of \$10,000 to be appropriated for the lower Moller Field East Playground. This grant is a matching grant, where the City has contributed \$20,000 coming from their FY17 Budget for the purchase and/or installation of loose fill.

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EXPLANATION

Necessary revisions in the FY 2017/ FY 2018 budgets were identified. These changes involve the increase of expenditure accounts and causes decreased cash flows to the fund balance of various funds. A short explanation of each budget revision is included.

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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 12th Day of September, 2017.

ATTEST:

Matthew Hunter, Mayor

**Sara Peterson, CMC
Municipal Clerk**

**1st reading 8/22/17
2nd reading 9/12/17**

**Solid Waste Utility
Financial Analysis
As Of, And For the Nine-Month Period Ending March, 2017**

KPI Dashboard

Indicator	Amount	Compared To Last Yr	Compared To Plan
Revenue	2,996,553	↑	↑
Earnings Before Interest	(55,405)	↑	↓
Earnings Before Interest and Depreciation	132,429	↑	↓
Net Income	(65,559)	↑	↓
Total Working Capital	249,774	↓	↓
Repair Reserve (1% of PPI)	74,026	↔	↔
Working Capital Appropriated For Projects	0	↔	↔
Undesignated Working Capital	157,718	↓	↓
Days Cash on Hand, Total Working Capital	15.66	↓	↓
Days Cash on Hand, Undesignated Working Capital	11.02	↓	↓

The Solid Waste Fund has fallen behind plan for FY2017, due to contractual costs significantly higher than plan. Cost of operations has experienced a negative variance of (\$358.2K) for the 9-month period compared to plan. Reserve working capital fell slightly, by (\$14.5K) to \$249.7K, as a result of the negative cost variance. A rate increase will be necessary in FY2018 to offset contractual CPI increases.





















City and Borough of Sitka
Solid Waste Utility
Income Statement
For The Twelve-Month Period Ending June 30, 2017
(Unaudited)

	Jul-Sep 2016	Oct-Dec 2016	Jan-Mar 2017	Apr-Jun 2017	FY2017 YTD	FY2016 YTD	Variance To FY2016 YTD	FY2017 Plan (S/L - 75.00%)	Variance To FY2017 Plan
Revenue:									
Solid Waste Disposal Services	1,069,512	938,569	886,945	-	2,895,026	2,144,181	750,845	2,651,376	243,650
Jobbing	568	963	-	-	1,531	-	1,531	-	1,531
Other Operating Revenue	14,244	48,346	37,406	-	99,996	108,565	(8,569)	148,875	(48,879)
Total Revenue:	1,084,324	987,878	924,351	-	2,996,553	2,252,746	743,807	2,800,251	196,302
Cost of Sales:									
Contract Waste Hauling	284,483	272,340	234,057	-	790,880	561,405	(229,475)	546,000	(244,880)
Transfer Station	467,800	346,520	390,335	-	1,204,655	1,094,719	(109,937)	1,075,575	(129,080)
Landfill	22,958	45,396	29,317	-	97,671	171,483	73,812	178,725	81,054
Recycling	106,999	128,066	158,668	-	393,733	420,861	27,128	352,365	(41,368)
Jobbing	-	-	-	-	-	-	-	-	-
Depreciation	51,465	73,758	62,611	-	187,834	163,161	(24,673)	125,223	(62,611)
Total Cost of Sales:	933,705	866,080	874,988	-	2,674,773	2,411,629	(263,145)	2,277,888	(396,885)
Gross Margin:	150,619 13.89%	121,798 12.33%	49,363.00 5.34%	-	321,780 10.74%	(158,883) -7.05%	480,662 17.79%	522,363 18.65%	(200,583) -0.86%
Selling and Administrative Expenses	125,243	126,412	125,530	-	377,185	206,155	(171,030)	415,855	38,670
Earnings Before Interest (EBI):	25,376 2.34%	(4,614) -0.47%	(76,167) -8.24%	-	(55,405) -1.85%	(365,038) -16.20%	309,632 14.36%	106,508 3.80%	(161,913) 10.55%
Non-operating Revenue and Expense:									
Non-operating revenue:	1,495	3,311	1,975	-	6,781	12,423	(5,642)	11,900	(5,119)
Interest Expense:	(5,645)	(5,645)	(5,645)	-	(16,935)	(18,234)	1,299	(16,935)	-
Total Non-operating Revenue & Expense:	(4,150)	(2,334)	(3,670)	-	(10,154)	(5,811)	(4,343)	(5,035)	692
Net Income:	21,226 1.96%	(6,948) -0.70%	(79,837) -8.64%	-	(65,559) -2.19%	(370,849) -16.46%	305,289 41.04%	101,473 3.62%	(167,032) -85.09%
Earnings Before Interest and Depreciation (EBIDA):	76,841 7.09%	69,144 7.00%	(13,556) -1.47%	-	132,429 4.42%	(201,877) -8.96%	334,305 13.38%	231,731 8.28%	(99,302) 5.11%

	Budget	Actual	Overrun
Collections Contract	728,000	1,055,988	(327,988)
Off-Island Shipping	1,430,000	1,839,923	(409,923)
Scrap Yard Shipping	368,500	479,000	(110,500)
Everything Else	<u>1,036,572</u>	<u>957,815</u>	<u>78,757</u>
	3,563,072	4,332,726	(769,654)
Revenue:	3,750,668	4,017,929	267,261
Cash Loss:			(502,393)

**Municipal Harbor System
Financial Analysis
As Of, And For the Nine-Month Period Ending March, 2017**

KPI Dashboard

Indicator	Amount	Compared To Last Yr	Compared To Plan
Revenue	1,875,872		
Earnings Before Interest	(569,376)		
Earnings Before Interest and Depreciation	245,431		
Net Income	399,802		
Total Working Capital	6,969,496		
Repair Reserve (1% of PPI)	324,307		
Working Capital Appropriated For Projects	147,742		
Undesignated Working Capital	6,497,447		
Days Cash on Hand, Total Working Capital	1,073.11		
Days Cash on Hand, Undesignated Working Capital	1,000.42		

The Municipal Harbor System is being adversely affected by utility costs that were not planned for. This is the reason underlying negative comparisons in costs of operations. The unanticipated cost increase is causing the Harbor System to fall slightly behind its business plan. Working capital, however, is \$34,281 ahead of the target amount for the end of FY20017 in the Harbor System Long Range Fiscal Plan (\$6,969,496 versus \$6,935,215).

City and Borough of Sitka
Harbor Fund
Income Statement
For The Twelve-Month Period Ending June 30, 2017
(Unaudited)

	Jul-Sep 2016	Oct-Dec 2016	Jan-Mar 2017	Apr-Jun 2017	FY2017 YTD	FY2016 YTD	Variance To FY2016 YTD	FY2017 Plan (S/L - 75.00%)	Variance To FY2017 Plan
Revenue:									
Permanent Moorage	498,925	412,668	395,362	-	1,306,955	1,262,113	44,842	1,343,925	(36,970)
Transient Moorage	179,282	14,477	84,015	-	277,774	289,082	(11,308)	284,250	(6,476)
Lightering Fees	20,626	-	-	-	20,626	66,460	(45,834)	52,500	(31,874)
Other Operating Revenue	39,358	162,123	69,036	-	270,517	200,485	70,032	210,975	59,542
Total Revenue:	738,191	589,268	548,413	-	1,875,872	1,818,140	57,732	1,891,650	(15,778)
Cost of Sales:									
Operations	454,397	327,822	374,427	-	1,156,646	735,471	(421,175)	931,342	(225,304)
Jobbing	-	-	-	-	-	-	-	-	-
Depreciation	271,602	271,603	271,602	-	814,807	496,044	(318,763)	814,807	-
Total Cost of Sales:	725,999	599,425	646,029	-	1,971,453	1,231,515	(739,938)	1,746,149	(225,304)
Gross Margin:	12,192 1.65%	(10,157) -1.72%	(97,616) -17.80%	-	(95,581) -5.10%	586,625 32.27%	(682,206) -37.36%	145,501 7.69%	(241,082) -45.05%
Selling and Administrative Expenses	151,753	170,211	151,831	-	473,795	576,360	102,565	586,814	113,019
Earnings Before Interest (EBI):	(139,561) -18.91%	(180,368) -30.61%	(249,447) -45.49%	-	(569,376) -30.35%	10,265 0.56%	(579,641) -30.92%	(441,312) -23.33%	(128,064) -7.59%
Non-operating Revenue and Expense:									
Raw Fish Tax	250,000	250,000	250,000	-	750,000	743,751	6,249	750,000	-
Other Non-Operating Revenue:	171,395	76,829	38,308	-	286,532	146,430	140,102	305,475	(18,943)
Grant Revenue	-	16,150	3,268	-	19,418	1,340,306	(1,320,888)	-	19,418
Bond Fund Interest Revenue:	-	-	-	-	-	-	-	-	-
Interest Expense Bonds:	(41,004)	(41,004)	-	-	(82,008)	(127,728)	45,720	(82,008)	-
Interest Expense Loans:	(2,382)	(2,382)	-	-	(4,764)	(7,146)	2,382	(4,764)	-
Total Non-operating Revenue & Expense:	378,009	299,593	291,576	-	969,178	2,095,613	(1,126,435)	968,703	475
Net Income:	238,448 32.30%	119,225 20.23%	42,129 7.68%	-	399,802 21.31%	2,105,878 115.83%	(1,706,076) -2955.17%	527,391 27.88%	(127,589) 808.65%
Earnings Before Interest and Depreciation (EBIDA):	132,041 17.89%	91,235 15.48%	22,155 4.04%	-	245,431 13.08%	506,309 27.85%	(260,878) -14.76%	373,495 19.74%	(128,064) -34.51%
Bond Covenant Ratio	6.25	4.72	6.52		5.70	6.00	(0.30)	6.36	(0.65)
Debt Principal Coverage									
Simple Cash Flow (Net Income Plus Depreciation)	510,050	390,828	313,731	-	1,214,609	2,105,878	(891,269)	1,342,198	(127,589)
Debt Principal	47,587	47,587	47,587	-	142,761	105,003	(37,758)	142,761	-
Debt Principal Coverage Surplus/Deficit	462,463	343,241	266,144	-	1,071,848	2,000,875	(929,027)	1,199,437	(127,589)
Debt Principal Coverage Percentage	1072%	821%	659%		850.80%	2005.54%	-1154.74%	940.17%	-89.37%
Simple Asset Replacement Coverage									
Debt Principal Coverage Surplus/Deficit (From Above)	462,463	343,241	266,144	-	1,071,848	2,000,875	(929,027)	1,199,437	(127,589)
Depreciation	271,602	271,603	271,602	-	814,807	1,966,864	1,152,057	814,807	-
Cash Accumulated For/(Taken From) Asset Replacement	190,861	71,638	(5,458)	-	257,041	34,011	223,030	384,630	(127,589)

Sara Peterson

From: Michael Harmon
Sent: Wednesday, August 23, 2017 11:31 AM
To: Assembly
Cc: Phillip Messina; John P. Sweeney
Subject: Solid Waste Contract Clarification
Attachments: SOLID WASTE Assembly Packet October 27, 2015.pdf

Good morning,

During the meeting last night, staff was asked to provide more information regarding the magnitude of the solid waste contracts. The following is a summary of contract expenses and how these contract changes have evolved leading up to the budget needing adjustment:

- The Assembly request Public Works to bid out the contract vs. extending in an effort to ensure complete pricing and include curbside recycling as an option. We received two bids and awarded the contract to the low bidder who was the same contractor we had in the past. The Assembly elected not to award the additional curbside recycling. The new contract provides equivalent levels of service but had higher pricing due to shipping and capital replacement needs (see attached Assembly award memo for more information).
- Looking at the FY18 budget our actual operational expenses prior to the new contracts were 3,367,238.10 (FY15).
- Under a full year of the new contract our actual operating costs were \$4,194,903 (FY17). That is a 24% increase due to the new contract.
- As presented to the assembly during the award of the contract it was estimated that the contract would be an increase of approximately 22.7% (see attached Assembly award information).
- The contract gets a CPI adjustment every year which attributes to the additional increase we are seeing from 22.7% to 24% today. This will continue to rise with the CPI.
- The expense side of the budget was not adjusted to reflect the increased contract price. Only the revenue was increased per the rate increases. It is my understanding that it is more efficient for Finance to make these adjustments at the end of the year.
- The expense side of the FY18 budget should be adjusted now to reflect the new contract in order to avoid another year of overruns.
- Mr. Sweeney has done well to predict the cost of these contracts and increase the rates to keep the revenue closely in step with the costs (FY17 Revenue \$4,012,121). However, with addition CPI adjustments to the contracts it is clear the revenue will fall further behind and will need to be adjusted.

I hope this helps clarify some of the questions from last night. Please don't hesitate to let me know if you need more information or if I can help in any way.

Thank you



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 17-31 Version: 1 Name:
Type: Ordinance Status: AGENDA READY
File created: 8/16/2017 In control: City and Borough Assembly
On agenda: 9/12/2017 Final action:
Title: Adjusting the FY18 Budget (O'Connell Lightering Facility Repair Project)
Sponsors:
Indexes:
Code sections:
Attachments: [Motion and Memo Ordinance 2017-31.pdf](#)
[Ord 2017-31.pdf](#)

Date	Ver.	Action By	Action	Result
8/22/2017	1	City and Borough Assembly		

POSSIBLE MOTION

I MOVE TO approve Ordinance 2017-31 on
second and final reading.



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

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

From: Jay Sweeney, Chief Finance and Administrative Officer

Cc: Michael Harmon, Public Works Director
Stan Eliason, Harbormaster

Date: August 15, 2017

Subject: Supplemental Budget Appropriation to Repair O'Connell Lightering Facility

Background

A recent inspection of the O'Connell Lightering Facility was completed after CBS staff observed several piling had shifted out of plumb after a storm event. Through that inspection, it was determined that the facility is not able to safely accommodate yachts and large vessels over 40 feet in length. The piling can be replaced and socketed into the rock to a greater depth to accommodate larger vessels; however, the cost of the repairs depends on whether a repair barge needs to be mobilized, and, whether such repairs are in the best economic interest of the Municipality. Administration is requesting a supplemental appropriation from the Harbor Fund to repair the facility even though not all pertinent information is available to conduct an economic analysis of the facility.

Analysis

1. CBS Harbor Staff observed several piling had shifted out of plumb after a storm event.
2. A subsequent inspection of the O'Connell Lightering Facility was completed which determined that the facility cannot safely moor yachts and larger commercial vessels.
3. The piling can be replaced and socketed into the rock to a greater depth to accommodate larger vessels; however, the cost is dependent on whether or not a repair barge must be mobilized. A repair barge will be mobilized this fall to construct the GPIP dock; if that barge is also used to repair the O'Connell facility, the cost of repair is estimated to be \$270,000. If a barge must be separately summoned at a different time, the cost of repair is estimated at \$384,000 (barge mobilization costs are estimated to be \$114,000).

4. Unless and until the O'Connell Lightering Facility is repaired, yachts and large vessels can't be safely moored at it. Some, but not all, of these vessels can be alternatively moored at Eliason Harbor instead.
5. O'Connell Lightering facility is extremely popular with yachts owners/captains due to its downtown location and exclusive accommodations. The facility had generated \$38,408.40 in revenue in summer 2017 up until it was determined that the facility could not safely accommodate yachts. 30 days of reservations were cancelled which would have generated an additional \$29,754.00 for the Harbor Fund.
6. The O'Connell Lightering facility is still functional and usable, however, by lighters and smaller vessels.
7. The costs of future repair and renovation of the O'Connell Lightering Facility have not been built into the Harbor long-term fiscal plan.
8. Not all of the facts are available to complete an economic analysis of the potential repair of the facility. Facts not readily available are potential moorage available if the facility is repaired and improved; and, net moorage revenue lost if the facility is not repaired. This information is necessary to determine if there is a net present value of future cash moorage cash flows versus repair costs; a net present value would be important to economically justify repairs.

Fiscal Note

1. As the costs of future repair and renovation of the O'Connell Lightering Facility have not been built into the Harbor long-term fiscal plan, no portion of the fund balance in the Harbor Fund can be considered to have been accumulated for the repair of the facility. The Assembly could, however, direct that some portion of the Harbor Fund balance be restricted for repair of the facility, or, direct that repairs be made utilizing the existing Harbor Fund balance that will be replenished over time by moorage fees from the facility.
2. Existing moorage fees for the O'Connell Lightering facility have been factored into the Harbor fiscal plan as a revenue stream to finance other future construction and repair costs. These existing moorage fees include \$991.80 per day for the moorage of large yachts and other commercial vessels. A representative from another yacht mooring facility in the Pacific Northwest suggested that we should be charging a minimum of \$3,000.00 per day up to \$5,000.00 for such an exclusive facility.
3. It is feasible that the \$991.80 per day moorage charge for yachts and other large vessels at the O'Connell Lightering Facility could be increased, possibly up to \$5,000 per day as stated previously, provided that exclusive access and other amenities such as water, security, and improved wireless communication are provided. Exactly how much the daily moorage could be raised up to, and the related elasticity of demand for each additional dollar of daily moorage is unknown and can't be determined without marketing research. Luxury items, at some point, tend to have demand curves which are more inelastic (sensitive to price increases) than necessities. The shape of the demand curve for exclusive moorage in Sitka, Alaska is unknown at this time but could be reasonably determined with research.
4. If daily moorage charges are increased, as some point yacht and large vessel owner will begin to demand greater exclusivity and amenities. These could conceivably include (in addition to the amenities listed above) having harbor officials complete all registration

paperwork at the O'Connell facility instead of at the harbor office, and, perhaps restricted access via key or security code to the lightering dock. Having exclusive moorage with direct access to downtown is a great selling point in and of itself; however, the higher the daily moorage fee is raised, the greater the demand will be for exclusivity and amenities.

5. Complicating research regarding price elasticity for exclusive moorage at the O'Connell Lightering Facility is the fact that some alternative less-exclusive moorage does exist at Eliason Harbor. At what price point yacht and large vessel owners are economically induced to moor at Eliason Harbor as opposed to paying higher exclusive moorage rates at the O'Connell facility is unknown but determinable with research. At today's rates, O'Connell is a preferred location as opposed to other locations within the Harbor system.
6. Once demand at different price points can be reasonably estimated, an economic analysis could be prepared to determine if the net present value of all related cash streams is positive (i.e., the project pencils out). The present value (i.e., discounted value of future cash flows measured today) of additional cash flows from increased moorage would need to exceed the cost of repairs for the project to economically "pencil out".
7. The time required to gather additional facts and conduct an economic analysis is longer than the time period available to make the decision regarding whether or not to authorize repairs now, taking advantage of lower overall repair costs by not having to mobilize an additional repair barge.
8. The decision to repair now, or wait until more information is known and repair later, will have to be made using assumptions and estimates and will, therefore, involve a degree of risk. There is a possibility that repairs will be made, moorage is increased, and the project pencils out. There is also risk that the opposite happens.

Recommendation

Administration recommends that the Assembly approve the following:

- A. A supplemental appropriation from the unrestricted balance of the Harbor Fund in the amount of \$270,000 to repair the pilings at the O'Connell Lightering Facility;
- B. A supplemental appropriation from the unrestricted balance of the Harbor Fund in the amount of \$10,000 to conduct marketing research as to possible increased daily moorage fees for the O'Connell Lightering facility and their associated market demands.

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2017-31
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA
ADJUSTING THE FY18 BUDGET

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

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

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

3. PURPOSE. The purpose of this ordinance is to adjust the FY18 budgets for known changes.

4. ENACTMENT. The Assembly of the City and Borough of Sitka hereby adjusts the FY18 budget for known changes. In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period beginning July 1, 2017 and ending June 30, 2018 is hereby adjusted as follows:

Table with 1 column and 4 rows. Row 1: FISCAL YEAR 2018 EXPENDITURE BUDGETS. Row 2: CAPITAL PROJECTS. Row 3: Fund 750 - O'Connell Lightering Facility Repair Project: Administration is requesting a supplemental appropriation in the amount of \$280,000 in which \$270,000 will be to repair the pilings at the O'Connell Lightering Facility and \$10,000 will be to conduct marketing research for possible increased daily moorage fees for the O'Connell Lightering Facility and their associated market demands. These funds will come from the unrestricted balance of the Harbor Fund. Row 4: (Empty)

EXPLANATION

Necessary revisions in the FY 2018 budget were identified. These changes involve the increase of expenditure accounts and causes decreased cash flows to the fund balance of various funds. A short explanation of each budget revision is included.

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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 12th Day of September, 2017.

ATTEST:

Matthew Hunter, Mayor

Sara Peterson, CMC
Municipal Clerk

1st reading 8/22/17
2nd reading 9/12/17



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-155 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 9/6/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Approve a 20-year purchase agreement between the City and Borough of Sitka and Eckert Fine Beverages for the export of bulk water

Sponsors:

Indexes:

Code sections:

Attachments: [Eckert Fine Beverages.pdf](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO approve a 20-year purchase agreement between the City and Borough of Sitka and Eckert Fine Beverages for the export of bulk water, as recommended by the Gary Paxton Industrial Park Board, and authorize the Municipal Administrator to execute the document.



329 Harbor Drive, Suite 212
Sitka, AK 99835
Phone: 907-747-2660

Thursday, August 31, 2017

MEMORANDUM

To: Phillip Messina, CBS Interim Administrator
From: Garry White, Director
Subject: Eckert Fine Beverages Water Purchase Agreement

Introduction

The Gary Paxton Industrial Park (GPIP) Board of Directors is recommending that the CBS enter into a water purchase agreement with Eckert Fine Beverages (Eckert) for the export of bulk water. The GPIP Board recommends approval of the following terms:

Term

- 20-Year term with four 5-year extension with consent of both parties.

Water Volume

- 100 million gallons annually.
 - Eckert must purchase and export a total of 75,000 gallons within the initial 36-month period of agreement execution or Sitka can terminate agreement.
 - Eckert must purchase and export 50,000 gallons annually after 60 months of agreement execution or Sitka can terminate agreement.
- Eckert will be allocated an addition 50 million gallon annually at the point when 75 million gallons are purchased and export within a 12-month consecutive period.

Additional water loading infrastructure

- Eckert will be responsible for design and construction of new water loading infrastructure for loading of 20' containers and IBC totes with CBS review and approval.
- Infrastructure will become property of the CBS.
- CBS will be responsible for maintenance and repair of infrastructure.
- Documented funds for design and construction by Eckert will be applied toward water export payments for first 60 months of the contract.

Water pricing

- Price will be \$0.01/gallon.
- A minimum charge of \$1,200 annually paid by Eckert at the execution of the contract and annually thereafter.
- \$1,200 annual non-refundable payment that can be used as water credits.
- \$50 minimum annual fee. (this is to cover state fees to export water)
- After 10 years, CPI adjustment added to price based off “All items” figure for Seattle, Washington.

Background

Eckert Fine Beverages is requesting to establish a water purchase agreement with the CBS to export water in containers sizes less than a 40-foot container to be bottled at a facility in the lower 48.

Brian and Michael Eckert are the principal owners of the family run business located in California. Both Brian and Michael attended the March GPIIP Board meeting and presented information on the business vision for bottling Sitka water. Additionally, the Eckerts met telephonically with the GPIIP Board at its April, June, and July meetings to negotiate terms of a raw water purchase agreement.

Recent Bulk Raw Water Export Background

The CBS has permits to export 29,235 Acre-feet (~9.5 billion gallons) of raw water annually.

The CBS has entered into multiple water purchase agreements with multiple entities for bulk export since 1996.

Most recently, the CBS had a water purchase agreement with Alaska Bulk Water Inc. (ABWI), formerly True Alaska Bottling Company, to export bulk water from 2006-2015. ABWI paid the CBS \$1.35 million dollars during that timeframe in refundable payments to secure the water purchase agreements. ABWI was unable to meet the terms of its water purchase agreement, which resulted in termination of the agreement in December 2015.

In the spring of 2016, the GPIIP Board directed the GPIIP Director to release a Request for Proposal (RFP) to solicit proposals for exporting water. The CBS received four proposals. The GPIIP Board recommended that two separate entities be awarded water purchase agreements. Both entities were unable to make the required non-refundable payment to execute the agreements. The CBS is currently not under contract with any entity to export water.

The CBS currently retains its entire 29,235 Acre-feet (~9.5 billion gallons) of raw water allocation.

If the Assembly approves both proposed water purchase contracts, the CBS will still have over 23,096 (~7.4 billion gallons) of raw water allocation.

<u>Permit</u>	<u>Acre Feet</u>	<u>Gallons</u>
LAS 19669	14,000	4,561,914,000
<u>ADL 43826</u>	<u>15,235</u>	<u>4,964,339,985</u>
Total Available	29,235	9,526,253,985
<u>Proposed Eckert Agreement</u>	<u>0.31</u>	<u>100,000,000</u>
<u>Proposed Arctic Agreement</u>	<u>6.138</u>	<u>2,000,073,438</u>
Available for other BW Contracts	23,096.69	7,426,180,547

Raw Water Bottling Background

The CBS has entered into multiple water purchase agreements with multiple entities to bottle raw water since 2000. All of the water bottling contracts have been for bottling raw water locally at the GPIIP site.

Until recently, a non-refundable payment was not required to secure a water purchase agreement as the CBS received property tax and local job creation. All entities were operating out of established facilities and could begin operations relatively soon after executing of the agreement. In 2014, the CBS required a \$15,000 non-refundable payment for an entity to secure a water bottling purchase agreement. The GPIIP Board required the payment due to the lack of an establish facility and equipment to bottle water and uncertainty of when operations would begin.

Low Volume Raw Water Export Background

The Eckert proposal is the first low volume raw water export proposal to the GPIIP Director's knowledge. The export of raw water is limited to export in a container size of a 40-foot container or less. The raw water is intended to be bottled at a location in the lower 48.

An annual non-refundable fee is being recommend to cover administrative cost to establish and monitor the water purchase agreement. The proposed terms require the Eckerts to be responsible for constructing the infrastructure necessary to facilitate the loading of low volume containers at the GPIIP site. The estimate cost for the infrastructure is between \$5-\$15k. The low volume-loading infrastructure will become property of the CBS.

Action

- Assembly approval of water purchase agreement between the CBS and Eckert Fine Beverages.

**PURCHASE AGREEMENT
FOR RAW WATER FOR EXPORT**

BETWEEN: City and Borough of Sitka
100 Lincoln Street
Sitka, Alaska 99835

AND: Biokare Inc. dba Eckert Fine Beverages
28871 El Apajo
Laguna Niguel, CA 92677

1. Term and Documents Comprising this Agreement.

1.1 The initial term of this Agreement shall commence on the effective date and shall end 240 months after effective date. The City and Borough of Sitka (hereinafter referred to as Sitka) hereby grants to Biokare Inc. dba Eckert Fine Beverages (hereinafter referred to as ECKERT), the right to purchase raw water in a container size less than a 40' a container van, to be delivered to it by Sitka from the Blue Lake reservoir, a water source within Sitka, on the terms and conditions set forth herein.

1.2 At the conclusion of the initial term of this Agreement, each of four (4) additional term of five (5) years each for extension of this Agreement may be exercised upon the consent of both parties. ECKERT must notify the Administrator in writing no earlier than one (1) year and no later than four (4) months before the end of the initial Agreement period of its desire to add an additional five-year term, and shall thereafter notify the Administrator no earlier than one (1) year and no later than four (4) months prior to the expiration of each exercised additional term of its desire to exercise the next five-year time period. If ECKERT does not timely notify the Administrator in writing, this Agreement shall terminate at the expiration of the then-current contract term. Sitka's raw water price is subject to re-negotiation before the commencement of each additional term. Said re-negotiated price not to exceed an increase of 3%. If said re-negotiated price is not agreed upon, the Agreement shall terminate at the expiration of the then-current contract term. Either party may decide to not implement any additional term for any reason, in its sole discretion.

1.3 The Agreement consists of the 23 sections in this Agreement plus Appendix A (a map) and Appendix B (the "Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property" dated April 28, 1999, including all attachments, which specifically includes "Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka [:] Management Plan for Sawmill Cove Property (Former APC Property).").

2. Definitions.

In this Agreement, the following terms shall have the definitions stated:

- a) "annually" means 12 consecutive months.
- b) "beneficial use" means the application of water, purchased by ECKERT for export or for use at the point of delivery, to a useful purpose, including domestic, commercial, agricultural, wildlife, and recreational uses.
- c) "bulk water" means untreated non-potable water sold by Sitka to ECKERT under this Agreement, and delivered by Sitka to ECKERT in the measured quantities specified in this Agreement.
- d) "deliver" or "to deliver" or "delivered" means Sitka making a specific quantity of water available to ECKERT at the point of delivery.
- e) "export" means the transportation by ECKERT of raw water to a destination outside the hydrological unit of the Blue Lake drainage.
- f) "gallon" means one US gallon or 3.785 liters.
- g) "loading" means transporting the raw water which is the subject of this Agreement from Blue Lake through pipelines and other conveyances into the ECKERT.
- h) "MGD" means millions of gallons per consecutive 24-hour period.
- i) "per day" means calendar day starting at midnight.
- j) "per week" means during a period of seven (7) consecutive days.
- k) "per year" means during a period of 12 consecutive months.
- l) "point of delivery" means that physical location at which the Sitka-owned physical facilities and equipment, employed in the transportation of Sitka's bulk water for delivery to ECKERT, terminates.
- m) "raw water" means untreated non-potable water delivered by Sitka to the point of delivery from Blue Lake via the Blue Lake penstock, a conduit which transports water from Blue Lake to the Blue Lake Powerhouse as shown on Exhibit A.
- n) "rule curve" means the relationship between the elevation of the water surface of Blue Lake and the volume of water contained in Blue Lake, which regulates the reservation of water for fish, wildlife, and habitat protection.
- o) "unforeseen" means an exceptional event, not contemplated by the parties in negotiating this Agreement. Performance made more difficult or expensive than expected

is not “unforeseen.” The burden of proving that an event is unforeseen is on the party that advances it as a reason for non-performance.

p) “water rights” means those rights to the beneficial use of water which are held by Sitka under certificates of appropriation issued by the State of Alaska pursuant to Alaska law.

3. Water Volumes Contracted by ECKERT from Sitka.

3.1 Sitka will make available to ECKERT annually a total of 100 million gallons of raw water for export in a container size less than a 40-foot container van for a period of 36 months immediately after the effective date of this Agreement (the “36-month period”). At the point when ECKERT exports 75 million gallons of raw water in an annual period during the 36-month period, Sitka will make available to ECKERT an additional 50 million gallons of raw water for export for that annual period. At the conclusion of the 36-month period, ECKERT's allocation of raw water will be governed by subsection 3.2 below, provided that ECKERT has met the minimum export volumes set out in this section. During the 36-month period, ECKERT must take delivery of and export at least 75 thousand gallons of raw water. If ECKERT does not take delivery of and export at least 75 thousand gallons of raw water from Sitka during the 36-month period, this Agreement shall, at Sitka’s election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka’s sending of the Administrator’s notice to ECKERT, in accordance with section 23 below, that ECKERT has failed to comply with this subpart, unless within said 45-day period ECKERT cures its failure to take delivery of and export at least 75 thousand gallons of raw water from Sitka.

3.2 Notwithstanding any other provision of this Agreement, if raw water delivered by Sitka to ECKERT and exported by ECKERT falls below 50 thousand gallons in any annual period of 12 consecutive months starting immediately after 60 months after the effective date of this Agreement, this Agreement shall, at Sitka’s election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after sending of the Administrator’s notice to ECKERT, in accordance with section 23 below, that ECKERT has failed to comply with this subpart, unless within said 45-day period ECKERT cures its failure to annually take delivery of and export at least 50 thousand gallons of water from Sitka.

3.3 ECKERT may not take delivery of raw water at a rate greater than 33.6 MGD.

4. The Parties’ Rights and Obligations Regarding Water Delivered for Export.

4.1. Sitka is entering into this Agreement to sell raw water pursuant to Sitka’s water export authority contained in Water Appropriation Certificates LAS 19669 and ADL 43826. Sitka’s obligation to deliver water to ECKERT in the quantities specified in this Agreement is subject to these conditions and limitations:

a) Notwithstanding any other provision of this Agreement, Sitka shall retain first right and priority to water required for its municipal drinking water supply system and its

Purchase Agreement for Raw Water in Bulk Between the City and Borough of Sitka and Eckert Fine 3 Beverages LLC.

municipal hydroelectric system, and it may suspend or limit raw water deliveries to ECKERT to meet the requirements of its municipal drinking water and hydroelectric systems. Whether there is a sufficient volume of raw water available for these purposes shall be decided in the sole discretion of the Administrator.

b) Sitka will abide by the 1992 Blue Lake Watershed Control Plan as approved by the U.S. Environmental Protection Agency and described in City and Borough of Sitka Ordinance No. 92-1091.

c) The Administrator may temporarily suspend raw water deliveries in order to perform routine maintenance on its municipal drinking water, hydroelectric and/or water delivery systems, provided that the Administrator shall give not less than 60 days prior written notice to ECKERT of any such planned suspension.

d) Sitka shall be relieved of its obligation to deliver raw water to ECKERT in the event of an interruption in water supply due to circumstances that require repair to or reconstruction of the municipal drinking water, hydroelectric systems, water delivery system, or other of Sitka's facilities. Delivery of raw water to ECKERT may be reduced to the extent necessary to make such repair(s) or reconstruction, and for so long as the Administrator in his/her sole discretion determined is required to make such repairs or reconstruction.

e) The volumes of Sitka's raw water deliveries to ECKERT for export are subject to Sitka's overriding obligation to comply with all of the conditions contained in Water Appropriation Certificates ADL 43826, LAS 19669, and LAS 20526, including compliance with the rule curve and the support of spawning, incubation, and rearing of certain species of fish in Sawmill Creek and Blue Lake. Interpretation of applicable requirements and the means used to achieve compliance with such requirements shall be in the Administrator's sole discretion.

f) In the event Sitka is relieved of its obligation to make agreed quantities of water available to ECKERT for reasons noted in this section or due to Force Majeure or due to unforeseen circumstances, then ECKERT's obligation to take delivery of and to export water shall be reduced to the volumes actually delivered by Sitka during that period of time and the time within which ECKERT is authorized to receive raw water shall be extended for a period equal to the period of time that Sitka has been so relieved of its obligation.

4.2 ECKERT agrees and warrants that the raw water delivered to it by Sitka for export shall be put to one or more beneficial uses by it or by its water purchasers. Breach of this warranty shall be a material breach of this Agreement.

5. **[This section deliberately left blank.]**

6. **No Warranty by Sitka of Water Quality or Fitness for a Particular Purpose.**

6.1 THE WATER CONTRACTED FOR DELIVERY, AND/OR ACTUALLY
*Purchase Agreement for Raw Water in Bulk Between the City and Borough of Sitka and Eckert Fine 4
Beverages LLC.*

DELIVERED, TO ECKERT UNDER THIS AGREEMENT IS NON-POTABLE. SITKA DOES NOT WARRANT THE QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY WATER CONTRACTED FOR DELIVERY, AND/OR ACTUALLY DELIVERED, TO ECKERT UNDER THIS AGREEMENT. ECKERT ACKNOWLEDGES AND AGREES THAT BEFORE ENTERING INTO THIS AGREEMENT, IT HAS EXAMINED SITKA'S WATER SOURCE, SITKA'S METHODS OF DIVERSION, AND SITKA'S MEANS OF DELIVERY TO ECKERT OF THE QUANTITIES OF WATER WHICH ARE CONTRACTED FOR UNDER THIS AGREEMENT, AND THAT IT HAS FOUND ALL SUCH ITEMS ADEQUATE AND SATISFACTORY FOR ECKERT'S PURPOSES.

6.2 ECKERT acknowledges and agrees that Sitka's routine alterations in its hydroelectric operations may produce temporary changes in water quality due to turbidity, and that the occurrence of such events shall not alter or affect ECKERT's obligations under this Agreement.

6.3 ECKERT acknowledges and agrees that the quality of raw water contracted by Sitka to be delivered to ECKERT for export may vary due to natural events over which Sitka has no control, which include, without limitation, rainfall, drought, snowfall, avalanches and landslides, and that the occurrence of such events shall not alter or affect ECKERT's contractual obligations under this Agreement, except that the quantity of water ECKERT is obligated to take delivery of and to export shall be reduced to the quantity Sitka can and does make available for delivery to ECKERT, as a consequence of an occurrence of any of such natural events.

6.4 ECKERT SHALL BE SOLELY RESPONSIBLE AND LIABLE FOR THE QUALITY AND USEFULNESS FOR ANY PARTICULAR PURPOSE, INCLUDING HUMAN CONSUMPTION, OF ALL RAW WATER DELIVERED TO, EXPORTED BY, TRANSPORTED BY, USED BY, SOLD BY, OR DELIVERED BY ECKERT.

7. Purchase Price for Raw Water.

7.1 ECKERT shall pay Sitka One Cent (\$0.01) per gallon for raw water for export from Sitka.

7.2 ECKERT shall pay Sitka a non-refundable annual fee of Fifty Dollars (\$50.00), payable on the effective date of this Agreement and, thereafter, on or before the annual anniversary date of the effective date of this Agreement.

7.3 ECKERT shall pay Sitka a non-refundable monthly fee of One Hundred Dollars (\$100.00), starting on the first of the month immediately following the effective date of this Agreement and on the first of each month thereafter. In lieu of making a payment each month, ECKERT may pay the aggregate of monthly payments on or before, but no later than, the annual anniversary date of the effective date of this Agreement. ECKERT shall receive raw water credits for these payments.

7.4 ECKERT shall pay for each volume of water loaded no later than twenty-five (25) days after the presentation of an invoice by the Administrator to ECKERT for such water. Failure by ECKERT to make timely payment shall be a material breach of this Agreement and be cause for the Administrator to suspend water delivery to ECKERT until payment is made or other action is taken under this Agreement.

7.5 Beginning July 1, 2028 and every calendar year thereafter, the prices charged by Sitka for raw water delivered to ECKERT under this Agreement shall be adjusted by the Administrator based on the "All Items" figure for Seattle, Washington as published in the "Consumer Price Index for All Urban Consumers" (CPI) published most immediately before January 1 of the calendar year for which prices are being calculated. Notwithstanding the previous sentence, in no event will the CPI adjustment described in the previous sentence exceed + 3.0% nor the adjustment be made if the result of such adjustment would be a decrease in any price charged under this Agreement.

7.6 ECKERT shall pay Sitka for the volume of water delivered to ECKERT as measured by flow meters, purchased and installed by ECKERT, and owned and tested by Sitka at or near the point of delivery.

7.7 The cost of infrastructure improvements made by ECKERT to facility raw water loading and metering in section 10.1 will be credited toward export of water payments for the first 60 months of this Agreement.

8. Conditions for Maintaining ECKERT's Purchase Right and Obligation; Termination.

8.1 Notwithstanding any other provision of this Agreement, this Agreement shall, at Sitka's Administrator's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after the Administrator sends notice to ECKERT, as required by section 23 below, that ECKERT has breached or failed to comply with one or more of the conditions or requirements of this Agreement, or become insolvent, or abandoned the project, unless within said 45-day period ECKERT cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

8.2 Upon termination, all legal rights and obligations as between Sitka and ECKERT under this Agreement shall cease, except that ECKERT's obligations to Sitka under Sections 13, 14, 15, 16, and 17 of this Agreement shall survive termination.

9. Sitka's Permitting Actions.

The Administrator shall take any and all actions which he/she determines, in the exercise of his/her sole discretion, to be reasonable, necessary, and economically feasible to maintain in good standing any permit, license, certificate, allocation, appropriation or other authorization required for Sitka to fulfill its obligations under this Agreement.

10. Delivery, Loading, and Transportation of Water in Bulk.

10.1 The parties agree that ECKERT shall be solely responsible for the costs of acquisition, construction, and installation of any structure or facility downstream of the point of delivery, which it determines to be required or convenient for the loading and transportation of raw water delivered to it by Sitka, and for initiating and completing such acquisition, construction and installation. Any structure or facility must include a metering device to measure flow of raw

water. All structures and facilities must comply with all federal, state, and local laws, regulations, and requirements, including zoning.

10.2 Any structure or facility acquired, constructed, and installed pursuant to subpart 10.1 above, shall upon acquisition, construction, and installation become the property of Sitka and shall remain on-site upon termination of this Agreement. ECKERT shall be responsible for maintaining and repairing said structures and facilities, at its own cost, during the term (including any extensions) of this Agreement.

10.3 ECKERT shall be solely responsible for arranging for the transportation of and transporting all raw water delivered to it by Sitka for export.

11. Washout Water Discharges.

ECKERT shall comply with all applicable federal, state and local laws, regulations, and requirements regarding the use and disposal of any raw water or other water delivered to ECKERT by Sitka for the purposes of washout, or any other non-export application.

12. Water Loading.

12.1 Before ECKERT loads any raw water delivered to it by Sitka, ECKERT shall submit to the Administrator a written Water Loading Plan. This Plan shall be deemed approved by the Administrator unless no later than fourteen (14) days after its submission the Administrator, in his or her sole discretion, rejects, or requires ECKERT to resubmit, any portion of the Plan. Such action by the Administrator shall be in a writing to ECKERT that states the deficiency. Sitka shall deliver no raw water to ECKERT and ECKERT shall not load any raw water delivered to it by Sitka as long as any portion of the Plan has been rejected and not approved after re-submittal. ECKERT shall submit a separate Water Loading Plan at least twenty one (21) days before initial loading of raw water under this Agreement.

12.2 APPROVAL BY SITKA'S ADMINISTRATOR OF ANY WATER LOADING PLAN SHALL NOT IMPOSE UPON SITKA THE STATUS OF GUARANTOR OF THE FEASIBILITY, PROPRIETY, OR SAFETY OF ANY ASPECT OF AN APPROVED WATER LOADING PLAN, NOR SHALL SUCH APPROVAL CREATE OR CONFER BENEFITS ON ANY THIRD PARTY.

13. Indemnification of Sitka.

13.1 Notwithstanding anything to the contrary in this Agreement, ECKERT shall defend, indemnify, and hold Sitka harmless from any liability, claim, demand, action, obligation, or proceeding of any kind or nature, based upon, arising out of, or related to:

- a. any defect or flaw in the quality of raw water supplied under this Agreement;
- b. any delays on the part of Sitka in the delivery of raw water under this Agreement as the result of the mechanical or physical breakdown of equipment or facilities owned or operated by Sitka or other unforeseen event;

- c. claims arising from the transportation or shipment of raw water after such water has left Sitka's water delivery system and the point of delivery;
- d. injuries to employees of ECKERT or any of its contractors or their employees;
- e. damages resulting from accidents involving cargo loading operations, including but not limited to claims for death, personal injury, property damage, and pollution;
- f. violations and claims of violations related to the water loading plan described in section 12.2;
- g. harm, including illness and death, to persons who consume the raw water caused by the failure of ECKERT to comply with section 6.3 of this Agreement.

13.2 ECKERT shall at all times during this Agreement maintain insurance policies providing umbrella coverage against matters including but not limited to those covered by this Agreement in an amount not less than U.S. \$1,000,000, with Sitka named as an additional insured, and with a waiver of subrogation against Sitka. ECKERT shall provide a copy of the certificate insurance ECKERT to Sitka within sixty (60) days after the effective date of this Agreement.

13.3 ECKERT shall be responsible for ensuring that each of its contractors is qualified to do business in Alaska and refrains from activities for which insurance cannot be obtained. ECKERT shall assure that any contractor for ECKERT which is to perform any task or work within the territorial jurisdiction of Sitka has insurance appropriate to any task to be performed by that contractor, and ECKERT shall deliver a certificate of such insurance to the Administrator within 30 days of such hiring.

14. Assignment.

This Agreement, which is in the nature of a personal services contract, may not be assigned by either party without the prior written consent of the other party, which shall have full discretion to grant or withhold such approval, in its sole and absolute discretion except as provided below.

Should Sitka form a Port Authority, or similar entity, this Agreement shall be completely transferable to said Port Authority. A transfer of the Agreement to any such entity shall not create any restrictions upon ECKERT to purchase water other than those restrictions set out in this Agreement.

15. Waiver and Integration.

This Agreement integrates the entire Agreement between the parties regarding the sale and purchase of raw water. This Agreement supersedes all previous agreements, discussions, and negotiations, whether written or oral. Each party specifically acknowledges and represents that it has had ample opportunity to consult with legal counsel regarding this Agreement, and that any rule that an agreement should be construed against its drafter shall not apply to this Agreement.

16. Force Majeure.

Neither party shall be in breach of this Agreement as the result of any failure or delay in performing any of the obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by storm, flood, avalanche, landslide, earthquake, tsunami, act of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, or act of God. Sitka shall not be in breach of this Agreement as the result of any failure or delay in performing any of its obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by any order of any United States court of competent jurisdiction, or by any act, rule, regulation, order or directive of any superior governmental unit or any agency thereof, or by any termination, modification, suspension, or revocation of any permit, license, allocation, appropriation, or certificate held by Sitka. In the event Sitka or ECKERT is relieved of an obligation under this Agreement due to Force Majeure, time periods under this Agreement shall be adjusted accordingly. The party asserting a Force Majeure event must demonstrate by clear and convincing evidence that the failure or delay in performance is directly and proximately caused by a Force Majeure event.

17. Applicable Law.

ECKERT shall comply with all provisions of law applicable to its obligations under this Agreement. This Agreement shall be construed in accordance with the laws and procedures of the State of Alaska.

18. Dispute Resolution.

18.1 Good Faith Efforts of the Parties. Upon notice by either party to the other party of any dispute or claim arising out of or related to this Agreement, the parties shall first make a good-faith endeavor to resolve the dispute or claim by meeting informally “face-to-face” within 15 days of such notice to mediate the dispute or claim in good faith without a third-party mediator.

18.2 Jurisdiction and Venue. Should any party hereto institute any action or proceeding to enforce any provision hereof or for damages by reason of any alleged breach of any section of this Agreement or for any other remedy, such an action shall be brought in the Superior Court for the State of Alaska. Venue for any such action or lawsuit shall lie exclusively in Sitka, Alaska. The parties specifically agree not to remove jurisdiction to federal courts on the grounds of diversity of citizenship.

18.3 Attorney’s Fees and Legal Expenses. Should any party hereto institute any action or proceeding to enforce any provision hereof or for damages by reason of any alleged breach of any section of this Agreement or for any other remedy, the party that is successful in such action shall be entitled to receive from the losing party all of its reasonable legal costs and expenses, including without limitation, reasonable attorneys’ fees and all arbitration costs.

19. Effective Date.

This Agreement is effective as of the last date signed below, which shall be deemed the “effective date” for the purpose of any time period which incorporates that term in this Agreement.

20. Authority.

The parties represent and warrant to each other that they have the full, complete, and absolute authority to enter into this Agreement; that this Agreement has been duly authorized by the governing body of each party; that the person executing this Agreement on its behalf has the full power and authority to do so; and that this Agreement is binding and enforceable against it in accordance with its terms. ECKERT acknowledges that this Agreement is only effective against Sitka if the City and Borough of Sitka Assembly votes to authorize the Administrator to execute this Agreement on behalf of Sitka. By affixing his signature to this Agreement the Administrator represents and warrants that the Assembly has so voted.

21. Amendment and Severability.

This Agreement may not be amended except by written agreement of both parties. If any provision of this Agreement or any application thereof to any person, entity, or circumstance is held invalid, the remainder of this Agreement and application thereof to any person, entity, or circumstances shall not be affected thereby.

22. Time of Essence.

Time is of the essence in this Agreement.

23. Notices.

Any notices required or authorized to be given by this Agreement shall be in writing and shall be sent by **email and** by either **commercial courier, facsimile, or by certified U.S. mail**, postage prepaid and return receipt requested, addressed to the proper party at the address stated below or such address as the party shall have designated to the other parties in accordance with this section. Such notice shall be effective three (3) days after sending through the mails or after receipt by courier or facsimile by the addressee party, except that any facsimiles received after 5:00 p.m. of the addressee's local time shall be deemed delivered the next day.

If to ECKERT:

Michael Eckert – CEO
Biokare Inc. dba Eckert Fine Beverages
28871 El Apajo
Laguna Niguel, CA 92677

If to Sitka: Administrator
City and Borough of Sitka
100 Lincoln St
Sitka, Alaska, 99835

IN WITNESS THEREOF, the parties have executed this Agreement as of the dates shown below.

**BIOKARE INC.
DBA ECKERT FINE BEVERAGES**

THE CITY AND BOROUGH OF SITKA

DATE
MICHAEL ECKERT, CEO
ECKERT FINE BEVERAGES

DATE
KEITH BRADY, ADMINISTRATOR
THE CITY AND BOROUGH OF SITKA

ATTEST:

DATE
SARA PETERSON CMC
Municipal Clerk
THE CITY AND BOROUGH OF SITKA

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss. **ACKNOWLEDGMENT**

THIS CERTIFIES that on this _____ day of _____, 2017, before me, a Notary Public in and for the State of Alaska personally appeared **MICHAEL ECKERT** to me known and known to me to be the person whose name is subscribed to the foregoing **PURCHASE AGREEMENT FOR RAW IN BULK FOR EXPORT** and after being first duly sworn according to law, he stated to me under oath that he is the **CEO of BOKARE INC. DBA ECKERT FINE BEVERAGES**, that he has been authorized by said company to execute the foregoing **PURCHASE AGREEMENT FOR BLUE LAKE RAW BULK WATER** on its behalf and he executed the same freely and voluntarily as the free act and deed of said corporation.

Notary Public
My Commission Expires:

STATE OF ALASKA

)

) ss. *MUNICIPAL ACKNOWLEDGMENT*

FIRST JUDICIAL DISTRICT

)

THIS CERTIFIES that on this ____ day of _____, 2016 before me, a Notary Public in and for the State of Alaska, personally appeared **KEITH BRADY** to me known and known to me to be the person whose name is subscribed to the foregoing **PURCHASE AGREEMENT FOR RAW IN BULK FOR EXPORT**, and after being first duly sworn according to law, he stated to me under oath that he is the **ADMINISTRATOR** of the City and Borough of Sitka, Alaska, a municipality organized under the laws of the State of Alaska, that he has been authorized by said municipality to execute the foregoing **PURCHASE AGREEMENT FOR BLUE LAKE RAW BULK WATER** on its behalf and he executed the same freely and voluntarily as the free act and deed of said corporation.

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

Notary Public for Alaska
My Commission Expires:
Residing at Sitka, Alaska



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-156 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 9/6/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Approve a 20-year purchase agreement between the City and Borough of Sitka and Arctic Blue Waters Inc. for the export of bulk water

Sponsors:

Indexes:

Code sections:

Attachments: [Arctic Blue Waters Inc..pdf](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO approve a 20-year purchase agreement between the City and Borough of Sitka and Arctic Blue Waters Inc. for the export of bulk water, as recommended by the Gary Paxton Industrial Park Board, and authorize the Municipal Administrator to execute the document.



329 Harbor Drive, Suite 212
Sitka, AK 99835
Phone: 907-747-2660

Thursday, August 31, 2017

MEMORANDUM

To: Phillip Messina, CBS Interim Administrator
From: Garry White, Director
Subject: Arctic Blue Waters Alaska Inc. Water Purchase Agreement

Introduction

The Gary Paxton Industrial Park (GPIP) Board of Directors is recommending that the CBS enter into a water purchase agreement with Arctic Blue Waters Alaska Inc. (ABWAI) for the export of bulk water. The GPIP Board recommends approval of the following terms:

Term

- 20-Year term with four 5-year extensions with consent of both parties.

Water Volume

- 6,138 Acre-feet (~2 billion gallons) annually
 - ABWAI must purchase and export a total of 50 million gallons of water within a 60-month period or Sitka can terminate agreement.
 - After 60 months, the agreement defines Stages of water volume export to retain water allocation amounts. (Section 3.2)
 - ABWAI gains more allocations by exporting more water and can lose allocation amounts by failing to export specified amounts.

Water Pricing

- The price for water has been set at \$3,258.51/Acre-feet or \$0.01/US gallon.
- ABWAI is required to make a non-refundable fee of \$100,000 that can be used as water credits.
- ABWAI will receive 50,000 gallons of water free of charge for wash-down, washout, or other non-export applications per each loading event. After the first 50,000 gallons per loading event, the price is \$.005/gallon.

Other Terms

- Ensures municipal water uses retain first right and priority to the water. (Section 4a)
- The agreement allows for hydroelectric dam and water system maintenance. (Section 4c)
- Defines requirements for ballast water discharges and water loading.

- Allows option for ABWAI to install a water based water-loading station per CBS approval. (Section 10)

Background

Arctic Blue Water Alaska Inc. (ABWAI) is requesting to establish a water purchase agreement with the CBS to export raw water in bulk.

Fred Paley is one of the principal owners of Arctic Blue Waters Alaska Inc. Fred has previously obtained water purchase agreements from the CBS in the past. Most recently in 2016, Arctic Blue Water (Canada) entered into a water purchase agreement for 6.8 billion gallons of water. The agreement required a non-refundable payment of \$871,795 to execute the agreement. Arctic Blue Water (Canada) unable to make the non-refundable payment, which resulted in the agreement not being executed.

Mr. Paley is proposing to make a non-refundable payment of \$10,000 shortly after the water agreement is approved with another \$90,000 non-refundable payment due 120 days after agreement execution. Please see the attached memo from Mr. Paley concerning fund availability.

Bulk Water Export Background

The City and Borough of Sitka (CBS) has permits to export 29,235 Acre-feet (~9.5 billion gallons) of raw water annually.

The CBS has entered into multiple water purchase agreements with multiple entities for bulk export since 1996.

Most recently, the CBS had a water purchase agreement with Alaska Bulk Water Inc. (ABWI), formerly True Alaska Bottling Company, to export bulk water from 2006-2015. ABWI paid the CBS \$1.35 million dollars during that timeframe in refundable payments to secure the water purchase agreements. ABWI was unable to meet the terms of its water purchase agreement, which resulted in termination of the agreement in December 2015.

In the spring of 2016, the GPIIP Board directed the GPIIP Director to release a Request for Proposal (RFP) to solicit proposals for exporting water. The CBS received four proposals. The GPIIP Board recommended that two separate entities be awarded water purchase agreements. Both entities were unable to make the required non-refundable payment to execute the agreements. The CBS is currently not under contract with any entity to export water.

The CBS currently retains its entire 29,235 Acre-feet (~9.5 billion gallons) of raw water allocation.

If the Assembly approves both proposed water purchase contracts, the CBS will still have over 23,096 (~7.4 billion gallons) of raw water allocation.

<u>Permit</u>	<u>Acre Feet</u>	<u>Gallons</u>
LAS 19669	14,000	4,561,914,000
<u>ADL 43826</u>	<u>15,235</u>	<u>4,964,339,985</u>
Total Available	29,235	9,526,253,985
<u>Proposed Eckert Agreement</u>	<u>0.31</u>	<u>100,000,000</u>
<u>Proposed ABWAI Agreement</u>	<u>6,138</u>	<u>2,000,073,438</u>
Available for other BW Contracts	23,096.69	7,426,180,547

Additional Information

- ABWAI has stated that it wishes to establish a tideland-loading facility similar to the one installed in the CBS tidelands by Alaska Bulk Water Inc.
 - The location of the tideland-loading station will need to be investigated due to the installation of the new multipurpose dock being install at the GPIIP.
 - Recommended that tideland-loading system be addressed via a separate permit or amendment to agreement at a later date.

Action

- Assembly approval of the water purchase agreement between the CBS and Arctic Blue Waters Alaska Inc.



'Taste the True Nature of Water'

MEMO

TO: Garry White

DATE: July 25, 2017

FROM: Fred Paley

CC: Andy Argent
Chuck Cartier

SUBJECT: Bulk Water Purchase Agreement

The following information is to provide the Sawmill Cove Board of Directors a brief summary of the current and future activities of Arctic Blue Waters (Alaska) Inc. This company has been formed by combining Arctic Blue Waters (UK) Ltd., and Alaska Fresh Water Inc., with the objective to secure pure bulk water supplies and through an aggressive marketing and sales program execute long-term foreign "Bulk Water Sales Agreements".

Arctic Blue Waters (Alaska) Inc., is comprised of entrepreneurs with a successful track record in the water bottling business and other retail ventures in Alaska and England. The company is working with professionals from the world of shipping and logistics who have over 25 years' experience in order to assist the buyers with their transportation requirements.

It is the intent of the company to raise \$22,300,000 through private equity investors, a public trading company listed on the OTC, NASDAQ Exchange and Immigration EB-5 funds. The company has entered into an MOU/Letter of Intent with the targeted public company and has been assured that the first \$20,000,000 immigration funds are available. Management have arranged for three meetings in Vancouver on August 2nd, 2017 to meet with equity investors to raise the first \$130,000. These funds will be used to provide a \$10,000 deposit to Sitka, place a deposit for the purchase of the loading facility from Terry Trapp, and conduct sales meetings in India and the Middle East. Two of these investors will seek an additional \$1.0 million from their business associates for the project. Once the public trading company has established a trading pattern on the Exchange the EB-5 funds will be released. Arctic will become an operating subsidiary to the public company.

The Board of Directors of Arctic Blue Waters (Alaska) Inc., hope that Sawmill Cove Board Members will take into consideration the numbers of years and millions spent by the shareholders of Arctic in regards to the potential shipment of bulk water from Blue Lake. We have not given up and continue to make progress in our efforts to make this project a success.

The Time For Bulk Water Is Now

Visit www.arcticbluwaters.com or email fred.paley@arcticbluwaters.com

**PURCHASE AGREEMENT
FOR RAW WATER IN BULK FOR EXPORT**

BETWEEN: City and Borough of Sitka, Alaska (“Sitka”)
100 Lincoln Street
Sitka, Alaska 99835

AND: Arctic Blue Waters Alaska, Inc. (“ABWAI”)
78 C Street
Fairbanks, Alaska 99701

1. Term and Documents Comprising this Agreement.

1.1 The initial term of this Agreement shall commence upon ABWAI making a non-refundable payment of Ten Thousand Dollars (\$10,000.00) on the total payment of One Hundred Thousand Dollars (\$100,000.00), payable upon signing this Agreement, to the Administrator of Sitka (“Administrator”), and shall end at 11:59 p.m. Alaska Standard Time on September 15, 2037. The balance owing of Ninety Thousand Dollars (\$90,000.00) is to be paid within One Hundred Twenty (120) days of the signing of this Agreement. Sitka hereby grants to ABWAI, the right to purchase raw water in bulk for export, to be delivered to it by Sitka from the Blue Lake reservoir, a water source within Sitka, on the terms and conditions set forth herein.

1.2 At the conclusion of the initial term of this Agreement, four (4) additional terms of five (5) years may be exercised upon the written consent of both parties. ABWAI must notify the Administrator in writing no earlier than one (1) year and no later than four (4) months before the end of the initial term of its desire to add an additional five-year term, and shall thereafter notify the Administrator no earlier than one (1) year and no later than four (4) months prior to the expiration of each exercised additional term of its desire to exercise the next five-year term. If ABWAI does not so timely notify the Administrator, this Agreement shall terminate at the expiration of the then-current term. If ABWAI does so timely notify the Administrator, Sitka has thirty (30) days to notify ABWAI in writing of its consent to the additional term. As initiated in writing by Sitka after notice is given by ABWAI of its desire to add an additional five-year term, Sitka's raw water price is subject to re-negotiation before the commencement of each additional term. If a price is not agreed upon in writing, this Agreement shall terminate at the expiration of the then-current term.

1.3 The Agreement consists of the 23 sections plus Appendix A (a map) and Appendix B (the “Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property” dated April 28, 1999, including all attachments, which specifically includes “Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka [:] Management Plan for Sawmill Cove Property (Former APC Property).”).

2. Definitions.

In this Agreement, the following terms shall have the definitions stated:

- a) "acre-foot" or "af" means 325,851 U.S. gallons.
- b) "annually" means 12 consecutive months.
- c) "beneficial use" means the application of water, purchased by ABWAI for export or for use at the point of delivery, to a useful purpose, including domestic, commercial, agricultural, wildlife, and recreational uses.
- d) "BG" or "bg" means billions of gallons.
- e) "bulk water" means untreated non-potable water sold by Sitka to ABWAI under this Agreement, and delivered by Sitka to ABWAI in the measured quantities specified in this Agreement.
- f) "deliver" or "to deliver" or "delivered" means Sitka making a specific quantity of water available to ABWAI at the point of delivery.
- g) "export" means the transportation by ABWAI of bulk water to a destination outside the hydrological unit of the Blue Lake drainage.
- h) "gallon" means one US gallon or 3.785 liters.
- i) "loading" means transporting the raw water which is the subject of this Agreement from Blue Lake through pipelines and other conveyances into the ABWAI-chartered ship for export outside Alaskan waters.
- j) "MG" or "mg" means millions of gallons.
- k) "MGD" means millions of gallons per consecutive 24-hour period.
- l) "per day" means calendar day starting at midnight.
- m) "per week" means during a period of seven (7) consecutive days.
- n) "per year" means during a period of 12 consecutive months.
- o) "point of delivery" means that physical location at which the Sitka-owned physical facilities and equipment, employed in the transportation of Sitka's bulk water for delivery to ABWAI, terminates.
- p) "raw water" means untreated non-potable water delivered by Sitka to the point of delivery from Blue Lake via the Blue Lake penstock, a conduit which transports water from Blue Lake to the Blue Lake Powerhouse as shown on Exhibit A.

q) “rule curve” means the relationship between the elevation of the water surface of Blue Lake and the volume of water contained in Blue Lake, which regulates the reservation of water for fish, wildlife, and habitat protection.

r) “Stage” means a time period in this Agreement that starts 12 months after the effective date of this Agreement; a Stage is composed of one or more 12-month periods, with each 12-month period starting on the anniversary of the day the Stage begins.

s) “Stage Anniversary Date” means the day starting a 12-month period in a Stage.

t) "ton" means one US short ton or 2,000 pounds.

u) “unforeseen” means an exceptional event, not contemplated by the parties in negotiating this Agreement. Performance made more difficult or expensive than expected is not “unforeseen.” The burden of proving that an event is unforeseen is on the party that advances it as a reason for non-performance.

v) “water rights” means those rights to the beneficial use of water which are held by Sitka under certificates of appropriation issued by the State of Alaska pursuant to Alaska law.

3. Water Volumes Contracted by ABWAI from Sitka.

3.1 Sitka will make available to ABWAI a total of 6,138 acre-feet of raw water for a period of 60 months after the effective date of this Agreement (the “60-month period”). At the conclusion of the 60-month period, ABWAI's access to such water will be governed by the stages set out in subsection 3.2 below, provided that ABWAI has met the minimum export volumes set out in this section. During the 60-month period, ABWAI must take delivery of and export at least 50 million gallons of raw water. If ABWAI does not take delivery of and export at least 50 million gallons of raw water from Sitka during the 60-month period, this Agreement shall, at Sitka’s election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka’s sending of the Administrator’s notice to ABWAI, in accordance with section 23 below, that ABWAI has failed to comply with this subsection, unless within said 45-day period ABWAI cures its failure to take delivery of and export at least 50 million gallons of raw water from Sitka.

3.2 The Stages described in this subsection start 60 months after the effective date of this Agreement. The maximum quantity of raw water in bulk available for export by ABWAI from Sitka under this Agreement and the minimum export requirements are set forth below as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Foot Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	230.2 af (75mg)	153.4 af (50mg)	12-month period

Stage 2	33.6 MG	2,000 af	306.9 af (100mg)	230.2 af (75mg)	12-month period
Stage 3	33.6 MG	4,000 af	920.7 af (300mg)	306.9 af (100mg)	12-month period
Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	() ¹	N/A	3,068.9 af (1bg)	12-month period

Stage 1: Stage 1 begins 60 months after the effective date of this Agreement. Sitka will make available to ABWAI not less than 1,000 acre-feet (325.8 MG) of raw water in a 12-month period in Stage 1. To remain at Stage 1 for a 12 month-period starting on the Stage Anniversary Date of Stage 1, ABWAI must have taken delivery of and exported from Sitka a minimum of 153.4 af (50 MG) of raw water within the 12-month period immediately preceding the most recent Stage Anniversary Date of Stage 1. If ABWAI does not take delivery and export the said minimum, this Agreement shall, at Sitka’s election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka’s sending of the Administrator’s notice to ABWAI, in accordance with section 23 below, that ABWAI has failed to meet such requirement, unless within said 45-day period ABWAI cures such failure, as determined by Sitka in its sole discretion.

Stage 2: ABWAI shall take delivery and pay for a minimum of 230.2 acre feet of raw water within a 12-month period during this Stage. If ABWAI takes delivery of and exports a total of at least 230.2 acre-feet (75 MG) of bulk water in a 12-month period, then the amount of raw water Sitka will make available for delivery to ABWAI will be increased to 2,000 acre-feet of water in a 12-month period, provided at that time that the Administrator has determined in his/her sole discretion that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 2 for the next 12 months ABWAI must have taken delivery of and exported from Sitka at least 230.2 af (75 MG) within the 12-month period immediately preceding the most recent Stage 2 Anniversary Date. If ABWAI does not meet the requirement to remain at Stage 2 set out in the previous sentence, ABWAI shall revert to Stage 1 thereby establishing a new Stage 1 Anniversary Date.

Stage 3: ABWAI shall take delivery and pay for a minimum of 306.9 acre feet of raw water in a 12-month period during this Stage. If ABWAI takes delivery of and exports a total of at least 306.9 acre-feet (100 MG) of raw water per 12-month period, then the amount of water Sitka will make available for delivery to ABWAI will be increased to 4,000 acre-feet per year, provided at that time that the Administrator has determined in his/her sole discretion that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 3 for the next 12 months ABWAI must have taken delivery of and exported from Sitka at least 306.9 af (100 MG) within the 12-month period preceding the most recent Stage 3 Anniversary Date. If ABWAI does not meet the requirement set out in the previous sentence to remain at Stage 3, ABWAI shall revert to Stage 2 thereby establishing a new Stage 2 Anniversary Date.

¹ Annual acre-feet available and the minimum amount of water available for export per 12-month period will be determined solely by Sitka at that time based on availability.

Stage 4: ABWAI shall take delivery and pay for a minimum of 920.7 acre feet of raw water in a 12-month period during this Stage. If ABWAI takes delivery of and exports a total of at least 920.7 acre-feet (300 MG) per 12-month period, then the amount of raw water Sitka will make available for delivery to ABWAI will be increased to 10,000 acre-feet per 12-month period, provided at that time that Sitka's Administrator has determined in his/her sole discretion that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 4 for the next 12 months ABWAI must have taken delivery of and exported from Sitka at least 920.7 af (300 MG) within the 12-month period immediately preceding the most recent Stage 4 Anniversary Date. If ABWAI does not meet the requirement set out in the previous sentence to remain at Stage 4, ABWAI shall revert to Stage 3 thereby establishing a new Stage 3 Anniversary Date.

Stage 5: ABWAI shall take delivery and pay for a minimum of 3,068.9 acre feet of raw water in a 12-month period during this Stage. If ABWAI takes delivery of and exports a total of 3,068.9 acre feet (1 billion gallons) of raw water per 12-month period, then ABWAI may request from Sitka additional raw water in a volume to be determined by the Administrator in his/her sole discretion at that time, provided that the Administrator has determined in his/her sole discretion that Sitka still has adequate water quantities available and uncommitted. To remain at Stage 5 for the next 12 months ABWAI must have taken delivery of and exported from Sitka at least 3,068.9 af (1 BG) within the 12-month period immediately preceding the most recent Stage 5 Anniversary Date. If ABWAI does not meet the requirement set out in the previous sentence to remain at Stage 5, ABWAI shall revert to Stage 4 thereby establishing a new Stage 4 Anniversary Date.

3.3 If ABWAI fails to take delivery of and export the required minimum volume specified in Stages 2 through 5 within the time periods specified for those Stages as set out in Subsection 3.2, the respective obligations of Sitka to make raw water available, and of ABWAI to take delivery of and accept and export such volume shall be reduced to the next lower Stage for the next 12-month period. If ABWAI meets the minimum performance requirement of that lower Stage within the time period specified, then the next higher Stage shall again be in effect during the next 12-month period. The date upon which Sitka moves ABWAI either up or down from stage to stage will start the 12-month time period anew and create a new Stage Anniversary Date, provided at that time that Sitka still has adequate raw water quantities available and uncommitted for export.

3.4 Notwithstanding any other provision of this Agreement, if raw water delivered by Sitka to ABWAI and exported by ABWAI falls below 50 million gallons during any period of 12 consecutive months after the first 36 months after the effective date of this Agreement, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka's sending of the Administrator's notice to ABWAI, in accordance with section 23 below, that ABWAI has failed to comply with this subpart, unless within said 45-day period ABWAI cures its failure to take delivery of and export at least 50 million gallons of water from Sitka.

3.5 At no time may ABWAI take delivery of raw water at a rate greater than 33.6 MGD.

4. The Parties' Rights and Obligations Regarding Water Delivered for Export.

4.1. Sitka is entering into this Agreement to sell raw water in bulk pursuant to water to Sitka's water export authority contained in Water Appropriation Certificates LAS 19669 and ADL 43826. Sitka's obligation to deliver water to ABWAI in the quantities specified in this Agreement is subject to these conditions and limitations:

a) Notwithstanding any other provision of this Agreement, Sitka shall retain first right and priority to water required for its municipal drinking water supply system and its municipal hydroelectric system, and it may suspend or limit raw water deliveries in bulk to ABWAI to meet the requirements of its municipal drinking water and hydroelectric systems. Whether there is a sufficient volume of raw water available for these purposes shall be decided in the sole discretion of the Administrator.

b) Sitka will abide by the 1992 Blue Lake Watershed Control Plan as approved by the U.S. Environmental Protection Agency and described in City and Borough of Sitka Ordinance No. 92-1091.

c) The Administrator may temporarily suspend raw water deliveries in bulk in order to perform routine maintenance on its municipal drinking water, hydroelectric and/or water delivery systems, provided that the Administrator shall give not less than 60 days prior notice to ABWAI of any such planned suspension.

d) Sitka shall be relieved of its obligation to deliver raw water in bulk to ABWAI in the event of an interruption in water supply due to circumstances that require repair to or reconstruction of the municipal drinking water, hydroelectric systems, water delivery system, or other of Sitka's facilities. Delivery of raw water in bulk to ABWAI may be reduced to the extent necessary to make such repair(s) or reconstruction, and for so long as the Administrator in his/her sole discretion determined is required to make such repairs or reconstruction.

e) The volumes of Sitka's raw water deliveries in bulk to ABWAI for export are subject to Sitka's overriding obligation to comply with all of the conditions contained in Water Appropriation Certificates ADL 43826, LAS 19669, and LAS 20526, including compliance with the rule curve and the support of spawning, incubation, and rearing of certain species of fish in Sawmill Creek and Blue Lake. Interpretation of applicable requirements and the means used to achieve compliance with such requirements shall be in the Administrator's sole discretion.

f) In the event Sitka is relieved of its obligation to make agreed quantities of water available to ABWAI for reasons noted in this paragraph or due to Force Majeure or due to unforeseen circumstances, then ABWAI's obligation to take delivery of and to export water shall be reduced to the volumes actually delivered by Sitka during that period of time and the time within which ABWAI is authorized to receive raw water shall be extended for a period equal to the period of time that Sitka has been so relieved of its obligation.

4.2 ABWAI agrees and warrants that the raw bulk water delivered to it by Sitka for export shall be put to one or more beneficial uses by it or by its water purchasers. Breach of this warranty shall be a material breach of this Agreement.

4.3 For that portion of the raw bulk water which is made available for human consumption ABWAI shall, at ABWAI's sole cost, promptly comply with all Government Regulations relating to the condition, use or quality of such water for human consumption. ABWAI shall establish staff and maintain an on-site Water Quality laboratory to perform ABWAI's obligations under Paragraph 13.3.

5. **[This section deliberately left blank.]**

6. **No Warranty by Sitka of Water Quality or Fitness for a Particular Purpose.**

6.1 THE WATER CONTRACTED FOR DELIVERY, AND/OR ACTUALLY DELIVERED, TO ABWAI UNDER THIS AGREEMENT IS NON-POTABLE. SITKA DOES NOT WARRANT THE QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY WATER CONTRACTED FOR DELIVERY, AND/OR ACTUALLY DELIVERED, TO ABWAI UNDER THIS AGREEMENT. ABWAI ACKNOWLEDGES AND AGREES THAT BEFORE ENTERING INTO THIS AGREEMENT, IT HAS EXAMINED SITKA'S WATER SOURCE, SITKA'S METHODS OF DIVERSION, AND SITKA'S MEANS OF DELIVERY TO ABWAI OF THE QUANTITIES OF WATER WHICH ARE CONTRACTED FOR UNDER THIS AGREEMENT, AND THAT IT HAS FOUND ALL SUCH ITEMS ADEQUATE AND SATISFACTORY FOR ECKERT'S PURPOSES.

6.2 ABWAI acknowledges and agrees that Sitka's routine alterations in its hydroelectric operations may produce temporary changes in water quality due to turbidity, and that the occurrence of such events shall not alter or affect ABWAI's obligations under this Agreement.

6.3 ABWAI acknowledges and agrees that the quality of raw water contracted by Sitka to be delivered in bulk to ABWAI for export may vary due to natural events over which Sitka has no control, which include, without limitation, rainfall, drought, snowfall, avalanches and landslides, and that the occurrence of such events shall not alter or affect ABWAI's contractual obligations under this Agreement, except that the quantity of water ABWAI is obligated to take delivery of and to export shall be reduced to the quantity Sitka can and does make available for delivery to ABWAI, as a consequence of an occurrence of any of such natural events.

6.4 ABWAI SHALL BE SOLELY RESPONSIBLE AND LIABLE FOR THE QUALITY AND USEFULNESS FOR ANY PARTICULAR PURPOSE, INCLUDING HUMAN CONSUMPTION, OF ALL WATER EXPORTED BY, TRANSPORTED BY, USED BY, OR SOLD BY, OR DELIVERED BY ABWAI.

7. **Purchase Price for Raw Water.**

7.1 ABWAI shall pay the following prices for raw bulk water for export from Sitka:

*Purchase Agreement for Raw Water in Bulk
Between the City and Borough of Sitka and Artic Blue Waters, Inc.*

a. Raw water delivered in bulk to ABWAI for export shall be priced at U.S. \$0.01 (one cent) per gallon.

b. Raw water delivered by Sitka to ABWAI for vessel wash-down, washout and any other non-export application shall be priced at no charge for the first 50,000 gallons per each loading event and US \$0.005 (one-half of a cent) per gallon above 50,000 gallons per each loading event. Such quantities shall be separately metered, and shall not be included in the total quantities of raw water delivered to ABWAI for export.

7.2 ABWAI shall pay for each volume of water loaded no later than twenty-five (25) days after the presentation of an invoice by the Administrator to ABWAI for such water. Failure by ABWAI to make timely payment shall be a material breach of this Agreement and be cause for the Administrator to suspend water delivery to ABWAI until payment is made or other action is taken under this Agreement.

7.3 Beginning July 1, 2021 and every calendar year thereafter, the prices charged by Sitka for raw water delivered to ABWAI under this Agreement shall be adjusted by the Administrator based on the "All Items" figure for Seattle, Washington as published in the "Consumer Price Index for All Urban Consumers" ("CPI) published the most immediately before January 1 of the calendar year for which prices are being calculated. Notwithstanding the previous sentence, in no event will the CPI adjustment described in the previous sentence exceed + 3.0% nor the adjustment be made if the result of such adjustment would be a decrease in any price charged under this Agreement.

7.4 ABWAI shall pay Sitka for the volume of water delivered to ABWAI as measured by flow meters owned, operated, and documented by Sitka at or near the point of delivery. One year after the first delivery of water, the Administrator shall arrange for an independent third party to calibrate the flow meters after which they will calibrated every other year during the term of this Agreement.

7.5 The non-refundable payment of \$100,000 made by ABWAI to commence this Agreement will be credited toward export of water payments over the term of this Agreement.

8. Conditions for Maintaining ABWAI's Purchase Right and Obligation; Termination.

8.1 Notwithstanding any other provision of this Agreement, this Agreement shall, at Sitka's Administrator's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after the Administrator mails notice to ABWAI by certified mail that ABWAI has breached or failed to comply with one or more of the conditions or requirements of this Agreement, or become insolvent, or abandoned the project unless within said 45-day period, ABWAI cures the specified default or defaults to Sitka's satisfaction, as determined by Sitka in its sole discretion.

8.2 Upon termination, all legal rights and obligations as between Sitka and ABWAI under this Agreement shall cease, except that ABWAI's obligations to Sitka under Sections 13, 14, 15, 16, and 17 of this Agreement shall survive termination.

9. Sitka's Permitting Actions.

The Administrator shall take any and all actions which she/he determines, in the exercise of her/his sole discretion, to be reasonable, necessary, and economically feasible to maintain in good standing any permit, license, certificate, allocation, appropriation or other authorization required for Sitka to fulfill its obligations under this Agreement.

10. Delivery, Loading, and Transportation of Water in Bulk.

10.1 The parties agree that ABWAI shall be solely responsible for the costs of acquisition, construction and installation, maintenance and repair of any structure, facility or vessel downstream of the point of delivery which it determines to be required or convenient for the loading and transportation of bulk water delivered to it by Sitka, and for initiating and completing such acquisition, construction and installation. All structures and facilities must comply with all Federal, State, and local law, including zoning requirements.

10.2 Sitka shall retain the right to own, and operate a raw bulk water delivery pipeline that serves the Gary Paxton Industrial Park. In such event, Sitka may require ABWAI to use Sitka's facilities and may change the point of delivery to the point at which Sitka's facilities end. Unless and until Sitka provides such new facilities, ABWAI shall be fully responsible, at its own cost and expense, for arranging and accomplishing transport of raw bulk water from the point of delivery established by Sitka.

10.3 ABWAI shall pay such port vessel dockage fees established by Sitka. SITKA DOES NOT WARRANT THE QUALITY OR FITNESS FOR A PARTICULAR PURPOSE OF ANY DOCK OR WHARF AT SUCH WATERFRONT, AND ABWAI MUST ASSURE THE ADMINISTRATOR OF THE FEASIBILITY OF A PARTICULAR USE BEFORE ENGAGING IN SUCH USE.

10.4 ABWAI shall be solely responsible for arranging the transportation of all water delivered to it by Sitka for export.

10.5 No later than 30 days before the first delivery of water takes place under this Agreement, ABWAI will designate in a writing to the Administrator a local representative as ABWAI's continuing personal contact with the Administrator and its subordinate departments, agencies and authorities.

10.6 Sitka's flow meter which is used to calculate the quantities of water delivered to ABWAI shall be located near the point of delivery.

11. Ballast Water and Wash Water Discharges.

11.1 ABWAI shall comply with all applicable international, federal, state, and local requirements regarding the discharge of any ballast water (including bilge water) or any wastes at all times and as to all vessels traveling to and from Silver Bay and/or Sawmill Cove for the purpose of receiving any raw bulk water from Sitka under this Agreement. Such requirements described in this Section include, but are not limited to, those in Section IV of the Sawmill Cove Management Plan, which is included in Appendix B.

11.2 ABWAI shall comply with all applicable federal, state and local requirements regarding the use and disposal of any raw or treated water delivered to ABWAI by Sitka for the purposes of vessel wash-down or washout, or any other non-export application.

12. Water Loading Plan Requirements.

12.1 Before ABWAI loads any bulk water delivered to it by Sitka, ABWAI shall submit to the Administrator a written Water Loading Plan. This Plan shall be deemed approved by the Administrator unless no later than fourteen days after its submission the Administrator in his or her sole discretion rejects—or requires ABWAI to resubmit—any portion of the Plan. Such action by the Administrator shall be in a writing to ABWAI that states the deficiency. Sitka shall deliver no bulk water to ABWAI and ABWAI shall not load any bulk water delivered to it by Sitka as long as any portion of the Plan has been rejected and not approved after re-submittal. ABWAI shall submit a separate Water Loading Plan at least ten (10) days before each loading of bulk water under this Agreement.

12.2 The Water Loading Plans required by this section shall address administrative, environmental, and logistical matters related to the loading of water. The issues and items to be addressed in each Water Loading Plan shall include, without limitation, each of the following:

- a) identify and provide information requested by the Administrator regarding any vessel to be used by ABWAI in the loading or transport of raw bulk water;
- b) steps to be taken to insure the safety of persons in any way involved in the loading of bulk water;
- c) certification that ABWAI has a Contingency Plan that meets all of the requirements of State law applicable to the vessel that is being loaded;
- d) steps to be taken to insure the safety of the public before, during, and after loading of raw bulk water;
- e) steps to be taken to address the effects of wind and tidal conditions on the loading;
- f) steps to be taken concerning moorage and access to vessels during loading;
- g) steps to assure communication before, during, and after loading between those loading and the Administrator or his/her designee;

- h) details about the precise location and proposed use of any structure, facility, pipe, pipeline, or other infrastructure to be used in the loading of raw bulk water and details describing how ABWAI intends to address the risks associated with a catastrophic event arising from ABWAI's loading activities or ABWAI's failure to adhere to the proposed Water Loading Plan;
- i) steps to be taken to avoid conflicts with other vessel traffic and industrial park users;
- j) details on proposed handling of any ballast water in any vessel to be used in the loading of raw bulk water, including plans to respond to the unauthorized discharge of such water;
- k) details on proposed handling of any residual and/or wash water, or other materials in the tanks of any vessel to be used in the loading;
- l) the days and the periods of time within each day that raw bulk water is proposed to be loaded; and,
- m) details describing how the proposed Water Loading Plan shall be made consistent with Appendix B, which includes the "Prospective Purchaser Agreement Between the State of Alaska and the City-Borough of Sitka for the Former Alaska Pulp Corporation Pulp Mill Property" dated April 28, 1999, including all attachments, which specifically includes "Memorandum of Understanding between the State of Alaska and the City and Borough of Sitka [:] Management Plan for Sawmill Cove Property (Former APC Property)." The details describing such consistency must include any and all specific steps to be taken to avoid anchoring in prohibited areas and in any way disturbing the sea bottom in the "No Disturbance" zone described in the last-referenced documents.

12.3 ABWAI shall comply with all provisions of each Water Loading Plan after all of such provisions have been approved either upon submittal or re-submittal under Subsection 12.1 above, as to the water loading operation for which the Water Loading Plan was submitted.

12.4 APPROVAL BY SITKA'S ADMINISTRATOR OF ANY WATER LOADING PLAN SHALL NOT IMPOSE UPON SITKA THE STATUS OF GUARANTOR OF THE FEASIBILITY, PROPRIETY, OR SAFETY OF ANY ASPECT OF AN APPROVED WATER LOADING PLAN, NOR SHALL SUCH APPROVAL CREATE OR CONFER BENEFITS ON ANY THIRD PARTY.

13. Indemnification of Sitka.

13.1 Notwithstanding anything to the contrary in this Agreement, ABWAI shall defend, indemnify, and hold Sitka harmless from any liability, claim, demand, action, obligation, or proceeding of any kind or nature, based upon, arising out of, or related to:

- a) any defect or flaw in the quality of raw bulk water supplied under this Agreement;

- b) any delays on the part of Sitka in the delivery of raw bulk water under this Agreement as the result of the mechanical or physical breakdown of equipment or facilities owned or operated by the Sitka or other unforeseen event;
- c) claims arising from the transportation or shipment of raw bulk water after such water has left Sitka's water delivery system and the point of delivery;
- d) injuries to employees of ABWAI or any of its contractors or their employees;
- e) damages resulting from accidents involving mooring, unmooring, navigation of vessels, or cargo loading operations, including but not limited to claims for personal injury, property damage, and pollution;
- f) violations and claims of violations related to the water loading plan described in section 12.2; and,
- g) harm, including illness and death, to persons who consume the raw bulk water caused by the failure of ABWAI to comply with section 6.3 of this Agreement.

13.2 ABWAI shall at all times during this Agreement maintain insurance policies providing umbrella coverage against matters including but not limited to those covered by this Agreement in an amount not less than U.S. \$5,000,000, with Sitka named as an additional insured, and with a waiver of subrogation against Sitka. ABWAI shall provide a copy of the certificate insurance ABWAI to Sitka within sixty (60) days after the effective date of this Agreement.

13.3 ABWAI shall be responsible for ensuring that each of its contractors is qualified to do business in Alaska and refrains from activities for which insurance cannot be obtained. ABWAI shall assure that any contractor for ABWAI which is to perform any task or work within the territorial jurisdiction of Sitka has insurance appropriate to any task to be performed by that contractor, and ABWAI shall deliver a certificate of such insurance to the Administrator within 30 days of such hiring.

14. Assignment.

This Agreement, which is in the nature of a personal services contract, may not be assigned by either party without the prior written consent of the other party, which shall have full discretion to grant or withhold such approval, in its sole and absolute discretion except as provided below.

Should Sitka form a Port Authority, or similar entity, this Agreement shall be completely transferable to said Port Authority. A transfer of the Agreement to any such entity shall not create any restrictions upon ABWAI to purchase water other than those restrictions set out in this Agreement.

15. Waiver and Integration.

This Agreement integrates the entire Agreement between the parties regarding the sale and purchase of raw water. This Agreement supersedes all previous agreements, discussions, and negotiations, whether written or oral. Each party specifically acknowledges and represents that it has had ample opportunity to consult with legal counsel regarding this Agreement, and that any rule that an agreement should be construed against its drafter shall not apply to this Agreement.

16. Force Majeure.

Neither party shall be in breach of this Agreement as the result of any failure or delay in performing any of the obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by storm, flood, avalanche, landslide, earthquake, tsunami, act of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, or act of God. Sitka shall not be in breach of this Agreement as the result of any failure or delay in performing any of its obligations in this Agreement if such failure to perform or delay in performing is directly and proximately caused by any order of any United States court of competent jurisdiction, or by any act, rule, regulation, order or directive of any superior governmental unit or any agency thereof, or by any termination, modification, suspension, or revocation of any permit, license, allocation, appropriation, or certificate held by Sitka. In the event Sitka or ABWAI is relieved of an obligation under this Agreement due to Force Majeure, time periods under this Agreement shall be adjusted accordingly. The party asserting a Force Majeure event must demonstrate by clear and convincing evidence that the failure or delay in performance is directly and proximately caused by a Force Majeure event.

17. Applicable Law.

ABWAI shall comply with all provisions of law applicable to its obligations under this Agreement. This Agreement shall be construed in accordance with the laws and procedures of the State of Alaska.

18. Dispute Resolution.

18.1 Good Faith Efforts of the Parties. Upon notice by either party to the other party of any dispute or claim arising out of or related to this Agreement the parties shall first make a good-faith endeavor to resolve the dispute or claim by meeting informally “face-to-face” within 15 days of such notice to mediate the dispute or claim in good faith without a third-party mediator.

18.2 Jurisdiction and Venue. Should any party hereto institute any action or proceeding to enforce any provision hereof or for damages by reason of any alleged breach of any section of this Agreement or for any other remedy, such an action shall be brought in the Superior Court for the State of Alaska. Venue for any such action or lawsuit shall lie exclusively in Sitka, Alaska. The parties specifically agree not to remove jurisdiction to federal courts on the grounds of diversity of citizenship.

18.3 Attorney's Fees and Legal Expenses. Should any party hereto institute any action or proceeding to enforce any provision hereof or for damages by reason of any alleged breach of any section of this Agreement or for any other remedy, the party that is successful in such action shall be entitled to receive from the losing party all of its reasonable legal costs and expenses, including without limitation, reasonable attorneys' fees and all arbitration costs.

19. Effective Date.

This Agreement shall become effective upon ABWAI making a non-refundable deposit of \$10,000 to Sitka, no later than September 19, 2017. The date on which ABWAI makes such a payment will be the "effective date" for the purpose of any time period which incorporates that term in this Agreement. Should ABWAI fail to make such a payment by September 15, 2017 this Agreement is null and void.

20. Authority.

The parties represent and warrant to each other that they have the full, complete, and absolute authority to enter into this Agreement; that this Agreement has been duly authorized by the governing body of each party; that the person executing this Agreement on its behalf has the full power and authority to do so; and that this Agreement is binding and enforceable against it in accordance with its terms. ABWAI acknowledges that this Agreement is only effective against Sitka if the City and Borough of Sitka Assembly votes to authorize the Administrator to execute this Agreement on behalf of Sitka. By affixing his signature to this Agreement, the Administrator represents and warrants that the Assembly has so voted.

21. Amendment and Severability.

This Agreement may not be amended except by written agreement of both parties. If any provision of this Agreement or any application thereof to any person, entity, or circumstance is held invalid, the remainder of this Agreement and application thereof to any person, entity, or circumstances shall not be affected thereby.

22. Time of Essence.

Time is of the essence in this Agreement.

23. Notices.

Any notices required or authorized to be given by this Agreement shall be in writing and shall be sent by **email and** by either **commercial courier, facsimile, or by certified U.S. mail**, postage prepaid and return receipt requested, addressed to the proper party at the address stated below or such address as the party shall have designated to the other parties in accordance with this section. Such notice shall be effective three (3) days after sending through the mails or after receipt by courier or facsimile by the addressee party, except that any facsimiles received after 5:00 p.m. of the addressee's local time shall be deemed delivered the next day.

If to ABWAI: Charles Cartier
Arctic Blue Waters Alaska, Inc.
78 C Street
Fairbanks, Alaska 99701

If to Sitka: Administrator
City and Borough of Sitka, Alaska
100 Lincoln Street
Sitka, Alaska 99835

IN WITNESS THEREOF, the parties have executed this Agreement as of the dates shown below.

ARCTIC BLUE WATERS ALASKA INC.

THE CITY AND BOROUGH OF SITKA

DATE _____
CHARLES CARTIER, PRESIDENT
ARCTIC BLUE WATER ALASKA INC.

DATE _____
KEITH BRADY, ADMINISTRATOR
THE CITY AND BOROUGH OF SITKA

ATTEST:

DATE _____
SARA PETERSON CMC
Municipal Clerk
THE CITY AND BOROUGH OF SITKA

STATE OF ALASKA)
) ss. **ACKNOWLEDGMENT**
FIRST JUDICIAL DISTRICT)

THIS CERTIFIES that on this _____ day of _____, 2016, before me, a Notary Public in and for the State of Alaska personally appeared **CHARLES CARTIER** to me known and known to me to be the person whose name is subscribed to the foregoing **PURCHASE AGREEMENT FOR RAW WATER IN BULK FOR EXPORT** and after being first duly sworn according to law, he stated to me under oath that he is the **PRESIDENT of ARCTIC BLUE WATERS ALASKA INC.**, that he has been authorized by said company to execute the foregoing **PURCHASE AGREEMENT FOR BLUE LAKE RAW BULK WATER** on its behalf and he executed the same freely and voluntarily as the free act and deed of said corporation.

Notary Public
My Commission Expires:

STATE OF ALASKA)
) ss. **MUNICIPAL ACKNOWLEDGMENT**
FIRST JUDICIAL DISTRICT)

THIS CERTIFIES that on this ____ day of _____, 2016 before me, a Notary Public in and for the State of Alaska, personally appeared **KEITH BRADY** to me known and known to me to be the person whose name is subscribed to the foregoing **PURCHASE AGREEMENT FOR RAW WATER IN BULK FOR EXPORT**, and after being first duly sworn according to law, he stated to me under oath that he is the **ADMINISTRATOR** of the City and Borough of Sitka, Alaska, a municipality organized under the laws of the State of Alaska, that he has been authorized by said municipality to execute the foregoing **PURCHASE AGREEMENT FOR BLUE LAKE RAW BULK WATER** on its behalf and he executed the same freely and voluntarily as the free act and deed of said corporation.

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

Notary Public for Alaska
My Commission Expires:
Residing at Sitka, Alaska



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-157 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 9/6/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Presentation by Alaska Department of Transportation and Public Facilities of the Sawmill Creek Road Resurfacing and Pedestrian Improvements Project followed by approval of Option 1 or Option 2 (Project website: http://dot.alaska.gov/sereg/projects/sitka_sawmill_rd/index.shtml)

Sponsors:

Indexes:

Code sections:

Attachments: [Steps and Motion Sawmill Creek Road Project.pdf](#)
[Sawmill Creek Road Resurfacing and Pedestrian Improvements Project.pdf](#)
[Public Works Memo.pdf](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE STEPS

Step 1

**Presentation by AKDOT&PF of the
Sawmill Creek Road Resurfacing and
Pedestrian Improvements Project**

Project website:

http://dot.alaska.gov/sereg/projects/sitka_sawmill_rd/index.shtml

Step 2

Assembly discussion of Options 1 and 2

Step 3

POSSIBLE MOTION

I MOVE TO approve Option _____ of the Sitka Sawmill Creek Road Resurfacing and Pedestrian Improvements Project with consideration of the City and Borough of Sitka's recommendations.



**Sitka Sawmill Creek Road
Resurfacing and Pedestrian
Improvements
Project # Z681000000**

**DOT&PF Presenting to the City and
Borough of Sitka Assembly Meeting
September 12, 2017**

Assembly Packet

**For more information Project web site:
(http://dot.alaska.gov/sereg/projects/sitka_sawmill_rd/index.shtml)**

City and Borough of Sitka

Assembly Meeting- September 12

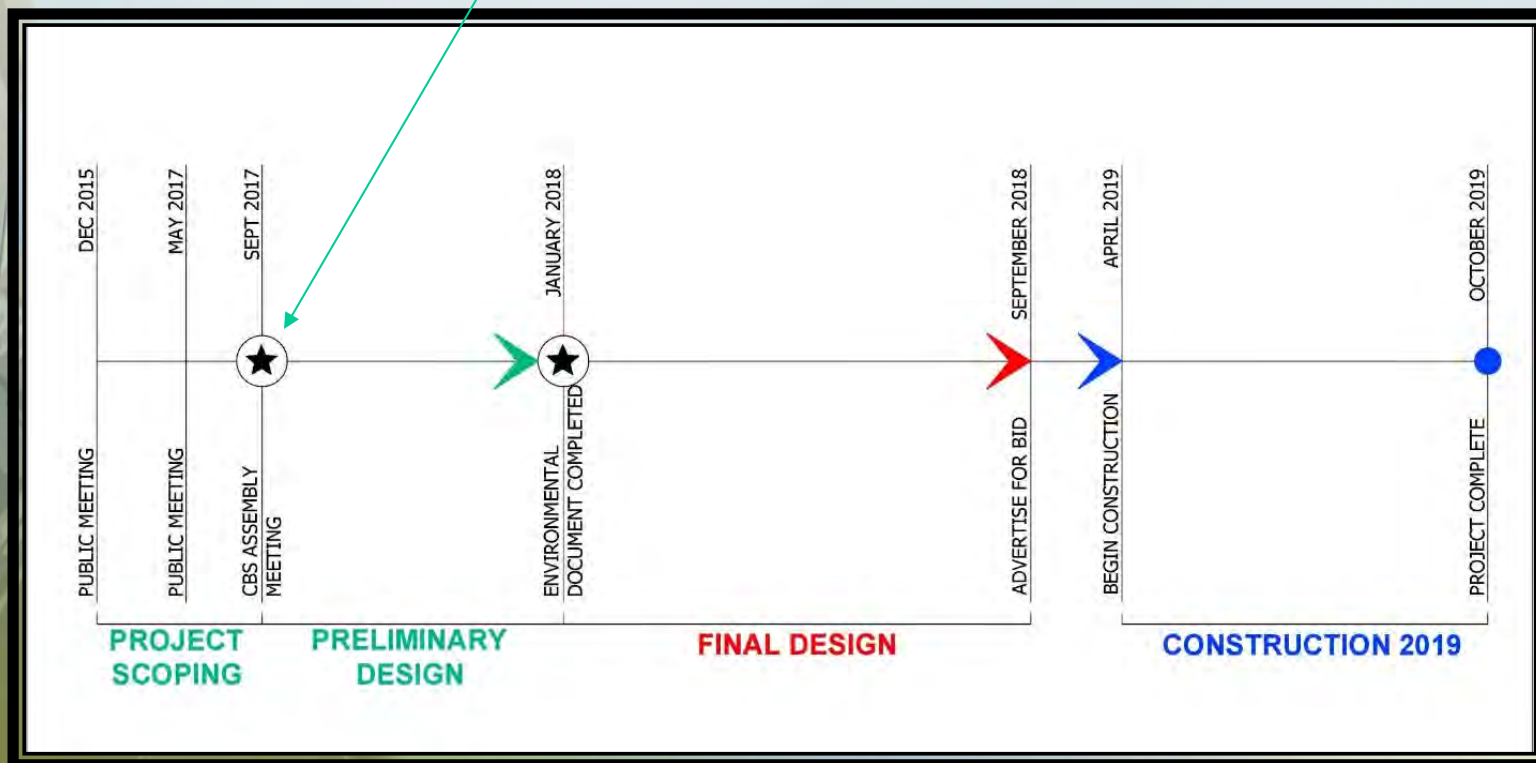


- DOT&PF will present two proposed options for this project. DOT&PF's objective for this meeting is to obtain a vote from the Assembly in favor of Option 1 or Option 2. The Assembly's selection will become the preferred alternative. This vote will finalize the preliminary scoping of alternatives and allow the project to move toward final design.

Project Timeline



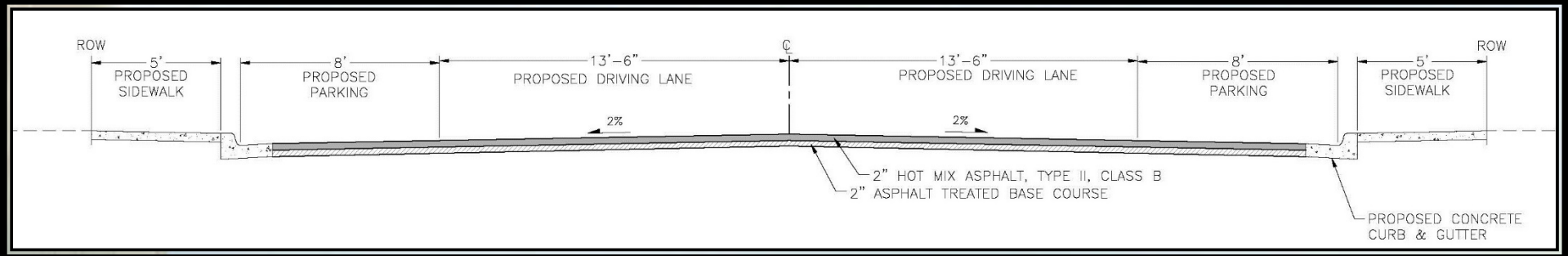
Sept. 12, 2017: Assembly Meeting
Selection of Preferred Alternative



Tentative Project Development Schedule

Option 1- Summary

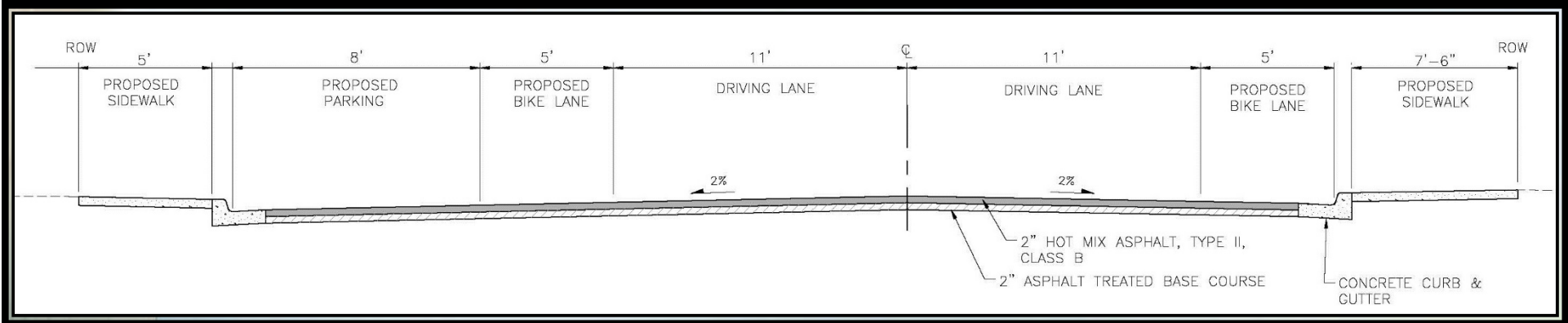
Proposed Typical Section



- Work will remain within the limits of the existing ROW
- Relocate power poles out of the ROW
- 13.5' driving lanes : widened for vehicle & bicycle use
- 8' parking lanes would remain on both sides of SMC
- ADA upgrades to the sidewalk and curb ramps

Option 2 - Summary

Proposed Typical Section



- Work would remain within the limits of the existing ROW
- Relocate power poles out of the ROW
- Eliminate parking from the south side of SMC
- 5' wide bike lanes on each side of SMC
- 7.5' wide sidewalk on the south side of SMC
- Driving lane widths would be reduced from 12' to 11'
- ADA upgrades to the sidewalk and curb ramps

Public Involvement



- December 10th, 2015: DOT & PF public open house at Sealing Cove Business Center
- May 15, 2017: DOT & PF public meeting at Harrigan Centennial Hall
- May 15, 2017-July 15, 2017: Public comments were received.
 - ❖ Comments & comment summary can be read on the project web site.
 - ❖ Comments regarding Option 1 or Option 2 were roughly 4:1 in favor of Option 2.
- June 13, 2017: DOT&PF presented to the City and Borough of Sitka Parks and Rec. Committee Meeting.
 - ❖ Committee voted in favor of Option 2.
- September 12, 2017: DOT&PF scheduled to present project to the City and Borough of Sitka Assembly Meeting.
 - ❖ Vote in favor of Option 1 or Option 2 Pending

Contact information



Project Manager: Loren.gehring@alaska.gov 465-8189

Lead Designer: Colleen.ivaniszek@alaska.gov 465-4436

Design Group Chief: Christopher.goins@alaska.gov 465-4443

Environmental Analyst: Chris.Schelb@alaska.gov 465-4447



City and Borough of Sitka

100 Lincoln Street • Sitka, Alaska 99835

MEMORANDUM

To: Mayor Hunter and Assembly Members
Keith Brady, Municipal Administrator

From: Michael Harmon, P.E., Public Works Director
David Longtin, P.E., Senior Engineer

Cc: Dan Tadic, P.E., Municipal Engineer

Date: September 5, 2017

Subject: Public Works Department recommendations on Alaska Department of Transportation plans for Sawmill Creek Road improvements

Background

The City and Borough of Sitka (CBS) Public Works Department is excited about the upcoming Alaska Department of Transportation and Public Facilities (ADOT) project to reconstruct Sawmill Creek Road (SMC) from the roundabout to Jeff Davis Street. This is the last portion of a multi-phase effort to improve this heavily used road. This project will also resurface SMC from Jeff Davis to Smith Street without significant changes to the lane alignment.

ADOT has prepared two alternative typical sections for the roundabout-to-Jeff Davis part of the project. ADOT is the entity responsible for designing, constructing and maintaining the project improvements. The project is slated for Summer 2019 construction. This memo provides the CBS Public Works Department's recommendations for Assembly consideration.

Analysis

Option 1 would reconstruct this segment of SMC Road essentially as it is today: two 13.5-foot-wide driving lanes with on-street parking and 5-foot-wide sidewalks on either side of the road. Option 2 would establish two 5-foot-wide bike lanes between the curbs and provide a wider sidewalk on the water (south) side of the road by narrowing the driving lanes to 11 feet wide and by eliminating the parking lane on the water side of the road. Both options will comply with relevant design standards. However, Option 2 is more consistent with the alignment of the rest of SMC, extending from Jeff Davis to the Gary Paxton Industrial Park, in that it better accommodates cyclists and provides a wide

pedestrian pathway. It is our understanding that Option 2 has received significant public support, including a vote in support from the Parks and Recreation Committee.

Recommendation

Public Works recommends the following features be included in the project:

1. The installation of Rectangular Rapid-Flashing Beacons (RRFBs) at the school crossings at Monastery and Baranof Streets. CBS installed RRFBs on Edgcumbe Drive at the Kashevaroff and Kostrometinoff intersections in the Spring of 2016, and worked with community volunteers and the ADOT to install a pair at the Halibut Point Road (HPR) and Peterson Street intersection in the Spring of 2017. RRFBs have been shown to increase driver yielding to pedestrians in the crosswalks where they are installed, and Public Works has received positive feedback on the RRFBs installed in Sitka to date. CBS has recently built sidewalks on Monastery and Baranof streets to direct students to these SMC crosswalks, and adding the RRFBs would make the crossings safer.
2. Public Works would like to see driveway cuts similar to the Edgcumbe Drive multi-use path installed on this project if Option 2 is selected. These partial-width cuts would allow half of the pathway to maintain the same grade across the driveways, which would eliminate dips in the “wide sidewalk.”
3. The use of asphalt pavement for the Option 2 “wide sidewalk.” This would eliminate the control joints that have to be installed across a concrete sidewalk, and would also produce a smoother ride for wheelchairs, strollers, skateboards, etc., and would be consistent with the pedestrian pathway paralleling the rest of SMC.
4. Improvements to the transition from the separated pathway east of Jeff Davis and the proposed sidewalk west of Jeff Davis, in particular if Option 1 is selected. There are two issues here. First, if Option 1 is selected, the separated pedestrian pathway will essentially end at Jeff Davis. Inbound cyclists using the pathway would have to cross to the mountain (north) side of SMC to legally use the road, and without a crosswalk across SMC Road, this could be unsafe.



Partial-width concrete driveway cuts are shown in the asphalt-paved Edgcumbe Drive multi-use path. Public Works recommends partial-width cuts and asphalt surfacing if the Assembly chooses ADOT’s Option 2 alignment.

Second, the Jeff Davis crosswalk is located such that drivers stopped at Jeff Davis Street pull into the crosswalk to see traffic approaching on SMC. The alignment of the crosswalk at this intersection should be carefully designed to allow stopped drivers to see oncoming traffic while allowing pedestrians a safe crossing.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: RES 17-18 Version: 1 Name:

Type: Resolution Status: AGENDA READY

File created: 8/31/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Urging the US Government to utilize any and all powers under the Boundary Waters Treaty to ensure that Alaska resources are not harmed by upstream development in the Alaska/British Columbia (BC) Transboundary Region (first and final reading)

Sponsors:

Indexes:

Code sections:

Attachments: [Motion and Resolution 2017-18.pdf](#)
[Email Correspondence from Trout Unlimited.pdf](#)
[2014 CBS Resolution.pdf](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO approve Resolution 2017-18 on
first and final reading.

Note: Jill Weitz, campaign manager for Salmon Beyond Borders, will provide a 5 minute presentation.

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 2017-18

A RESOLUTION OF THE CITY AND BOROUGH OF SITKA URGING THE US GOVERNMENT TO UTILIZE ANY AND ALL POWERS UNDER THE BOUNDARY WATERS TREATY TO ENSURE THAT ALASKA RESOURCES ARE NOT HARMED BY UPSTREAM DEVELOPMENT IN THE ALASKA/BRITISH COLUMBIA (BC) TRANSBOUNDARY REGION

WHEREAS, The transboundary rivers of the Northwest British Columbia/Southeast Alaska region, including the Taku, Stikine, and Unuk rivers, are of tremendous and unique economic, ecological, cultural, and recreational value. The clean water and intact habitat of these rivers systems make them some of the most productive wild salmon rivers on the entire west coast of North America; and

WHEREAS, this large-scale mining district with several open-pit mine projects in known acid-generating ore bodies, along with associated waste rock storage facilities and tailings dams, roads and other infrastructure, will threaten the productivity and health of watersheds and fish and wildlife habitat through cumulative impacts and contamination or possible catastrophic failures; and

WHEREAS, The proposed mines include Tulsequah Chief in the Taku watershed; Galore Creek, Red Chris, and Schaft Creek in the Stikine watershed; and the Kerr-Sulphurets-Mitchell (KSM) project and Brucejack Mine in the Unuk watershed; and

WHEREAS, Some of these mines would require an unprecedented level of water treatment that could pose the threat of acid mine drainage for centuries, if not in perpetuity; and

WHEREAS, the Statement of Cooperation on Protection of Transboundary Waters, signed by Lieutenant Governor Byron Mallott, Bill Bennett, British Columbia Minister of Energy and Mines, and Mary Polak, British Columbia Minister of the Environment, on October 6, 2016, is important, but cannot provide binding, enforceable protections for the residents, rivers, and watersheds of the state; and

WHEREAS, environmental laws and permitting processes in BC and Canada have been weakened over the past decade. The ongoing acid mine drainage from the Tulsequah Chief mine and the tailings dam failure at the Mt. Polley mine demonstrate weaknesses in monitoring and enforcement; and

WHEREAS, Commercial fishermen, subsistence and recreational users, local communities, elected leaders, and Tribes and First Nations on both sides of the Canadian/U.S. border have raised concerns about the pace and scope of the proposed industrial development in British Columbia and the potential for harm to water quality, fish and wildlife, and local economies; and

WHEREAS, A major part of Sitka's economic base is commercial and sport charter ocean fishing with 566 resident commercial permits and 569 crew license holders, that deliver salmon, halibut, and black cod to three major processing plants employing 1,102 processing jobs in 2016; and

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WHEREAS, Maintaining and protecting healthy wild salmon populations throughout these river systems must be a priority. The concerns of local communities, individuals, and user groups downstream from these projects must be integral to any transboundary watershed development and decision making; and

WHEREAS, The Canadian and BC permitting processes have not been adequate to address our concerns; and

WHEREAS, the Boundary Waters Treaty of 1909 between the United States and Canada states in Article IV, "It is further agreed that the waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other," and provides a mechanism to address transboundary water concerns through the International Joint Commission.

THEREFORE, BE IT RESOLVED, that the Assembly of the City and Borough of Sitka strongly urge the government of the United States to utilize any and all powers under the Boundary Waters Treaty and develop binding and enforceable protections to ensure Alaska and British Columbia interests and ways of life are not negatively impacted by Canadian development in the shared transboundary watersheds of Southeast Alaska and Northwest British Columbia.

BE IT FURTHER RESOLVED, that affected communities and governments be consulted with and represented in any policy discussion related to impacts to these watersheds.

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska on this 12th day of September 2017.

Matthew Hunter, Mayor

ATTEST:

Sara Peterson, CMC
Municipal Clerk

1st and final reading 9/12/17

Sara Peterson

From: Erin Heist <EHeist@tu.org>
Sent: Wednesday, July 19, 2017 8:53 AM
To: Sara Peterson
Cc: Jill Weitz
Subject: Update to Transboundary Resolution
Attachments: 273429668-sitka-res-2014-16-transboundary-mines.pdf; Transboundary River Resolution - Sitka.rtf; Transboundary River Resolution Contacts.rtf

Follow Up Flag: Follow up
Due By: Tuesday, August 15, 2017 4:00 PM
Flag Status: Flagged

Hello Sara,

Thank you for your assistance.

I've attached the proposed updated resolution language, a copy of the resolution previously passed, and a list of contacts which we would recommend sending the resolution to, should it be passed.

Jill Weitz, campaign manager for Salmon Beyond Borders, and myself will be in Sitka September 12-14 and we are requesting the assembly consider the attached updated resolution to be included on the Sept. 12th agenda. I've attached the original resolution passed by the Sitka Assembly in October, 2014 as well. The primary updates to the language include minor clarifications, additional mining operations, and acknowledgement of the State of Alaska and Province of British Columbia's drafting of a Statement of Cooperation.

We would appreciate the opportunity to speak with assembly members and believe that an updated resolution passed by the Sitka Assembly would send a powerful message to the state and federal administrations.

Please let us know if Mayor Hunter or any assembly members have any questions regarding the resolution or the transboundary issue. And please pass on our thanks to them for considering this issue.

For a comprehensive list of resolutions passed by other communities, please visit <http://www.salmonbeyondborders.org/resolutions--letters-of-support.html>.

Salmon Beyond Borders is a campaign comprised of sport and commercial fishermen, community leaders, business owners, tour operators, and concerned citizens. In collaboration with Tribal and First Nations members, we are united across the Alaska/British Columbia (B.C.) border to defend our transboundary salmon rivers and the businesses and way of life they support. Currently, there are at least ten major Canadian mine projects either operating or under development in the Canadian portions of the watersheds of our most important transboundary rivers, including the Taku, the Stikine, and Unuk.

On August 4th, 2014, the tailings pond dam at the Mount Polley mine in central B.C. breached and released 6.6 billion gallons of toxic waste into the Fraser River watershed just as their sockeye were returning. In 2016, the B.C. Auditor General conducted an independent audit of the compliance and enforcement of the B.C. mining sector and determined the B.C. Ministry of Energy and Mines and Ministry of the Environment's "compliance and enforcement activities of the mining sector are inadequate to protect the province from significant environmental risks."

In order to ensure Alaska's interests and way of life are not negatively impacted by upstream large-scale mining activity in B.C., enforceable protections are needed. Such binding protections can only be achieved by action taken by the U.S. and Canadian federal governments under the Boundary Waters Treaty of 1909.

Again, thank you for your time and please let us know once the Sept. 12th agenda is confirmed.

Thank you,
Erin



Erin Heist / Southeast Alaska Outreach Coordinator
erin.heist@tu.org / 907.957.1728
<http://www.salmonbeyondborders.org>
<http://www.americansalmonforest.org>

****Mailing and email addresses to which to send transboundary river resolution:**

The Honorable Rex Tillerson
Secretary
U.S. Department of State
2201 C Street NW
Washington, DC.20520
Kierschtca2@state.gov

CC (via email):

The Honorable Ryan Zinke
Secretary
U.S. Department of Interior
scott_hommel@ios.doi.gov

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
nishida.jane@epa.gov

The Honorable Lisa Murkowski
U.S. Senator
Ephraim_froehlich@murkowski.senate.gov

The Honorable Dan Sullivan
U.S. Senator
Erik_elam@sullivan.senate.gov

The Honorable Don Young
U.S. Congressman
Michael.defilippis@mail.house.gov

The Honorable Bill Walker
Governor of the State of Alaska
<http://aws.state.ak.us/CrmForms/Home/Feedback>

The Honorable Byron Mallott
Lieutenant Governor of the State of Alaska
barbara.blake@alaska.gov

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 2014-16

A RESOLUTION OF THE CITY AND BOROUGH OF SITKA URGING THE US GOVERNMENT TO WORK WITH THE INTERNATIONAL JOINT COMMISSION (IJC) AND THE ALASKA/BRITISH COLUMBIA (BC) TRANSBOUNDARY REGION AND TO UTILIZE ANY AND ALL POWERS UNDER THE BOUNDARY WATERS TREATY TO ENSURE THAT ALASKA RESOURCES ARE NOT HARMED BY UPSTREAM DEVELOPMENT IN BC

WHEREAS, The transboundary rivers of the Northwest British Columbia/Southeast Alaska region, including the Taku, Stikine and Unuk rivers, are of tremendous and unique economic, ecological, cultural and recreational value. The clean water and intact habitat of these river systems make them some of the most productive wild salmon rivers on the entire west coast of North America; and

WHEREAS, With the BC Northwest Power Line bringing in power, these rivers and their tributaries are facing a significant increase in new, large-scale development and industrialization that will transform the area and impact these rivers. Several open-pit mine projects, in known acid-generating ore bodies, along with associated waste rock piles, tailings dams, energy projects, and roads, all threaten the productivity of the rivers and health of the region. Major threats to water quality, salmon and wildlife include accidents and spills, tailings dam breaches, long-term acid mine drainage, and habitat fragmentation; and

WHEREAS, the proposed mines include Tulsequah Chief in the Taku watershed; Galore Creek, Red Chris and Schaft Creek in the Stikine watershed; and the Kerr-Sulphurets-Mitchell (KSM) project in the headwaters of the Unuk River; and

WHEREAS, Some of these mines would require an unprecedented level of water treatment and could pose the threat of acid mine drainage for centuries, if not in perpetuity; and

WHEREAS, There has been little transparent dialogue between the Canadian and U.S. governments regarding the proposed projects and specific ways to ensure our interests are protected; and

WHEREAS environmental laws and permitting processes in BC and Canada have been weakened over the past decade. The ongoing acid mine drainage from the Tulsequah Chief mine and the tailings dam failure at the Mt. Polley mine demonstrate weaknesses in monitoring and enforcement; and

WHEREAS Commercial fishermen, subsistence and recreational users, local communities, elected leaders and native tribes on both sides of the Canadian/U.S. border have all raised concerns about the pace and scope of the proposed industrial development in British Columbia and the potential for harm to water quality, fish and wildlife, and local economies; and

WHEREAS A major part of Sitka's economic base is commercial and sport charter ocean fishing with 570 resident commercial permit and 536 crew license holders, that deliver salmon, halibut, and black cod to three major processing plants employing 769 processing jobs, with a first wholesale value of \$167 million in 2012, and

WHEREAS maintaining and protecting healthy wild salmon populations throughout these river systems must be a priority. The concerns of local communities, individuals and user groups downstream from these projects must be integral to any transboundary watershed development decisions making; and

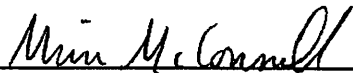
WHEREAS The Canadian and BC permitting processes have not been adequate to address our concerns; and

WHEREAS the Boundary Waters Treaty states "waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other" and provides a mechanism to address transboundary river concerns known as the International Joint Commission.


THEREFORE, BE IT RESOLVED, that the Assembly of the City and Borough of Sitka strongly urge the government of the United States to work with the government of Canada to refer the issue of transboundary development in the BC and Alaska region to the International Joint Commission and to utilize any and all powers under the Boundary Waters Treaty to ensure that Alaska resources are not harmed by upstream development in BC; and

BE IT FURTHER REOLVED, that affected communities and governments be consulted with and represented in any policy discussion related to impacts to these watersheds.

PASSED, APPROVED AND ADOPTED by the assembly of the City and Borough of Sitka, Alaska on this 14th day of October 2014.


Mim McConnell, Mayor

ATTEST:


Colleen Ingman, MMC
Municipal Clerk



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-158 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 9/6/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Decision on whether to allow sales tax free day(s) following the Thanksgiving holiday and set date(s)

Sponsors:

Indexes:

Code sections:

Attachments: [Memo sales tax free days.pdf](#)

Date	Ver.	Action By	Action	Result
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Potential Sales Tax Free Days for 2017

Friday, November 24

Saturday, November 25



I **MOVE** to authorize _____ as Sales Tax Free day(s) for 2017 noting the sales tax free day(s) will not be applicable to any sale of fuel, nor affect any sale which is part of a continuing obligation of the buyer to pay the seller over time.

4.09.020 Collection of tax.

A. The tax described in Section [4.09.010\(A\)](#) is imposed on the purchaser and must be collected by the seller and paid to the city and borough of Sitka by the seller as provided in Section [4.09.270](#). The seller holds all taxes collected in trust for the city and borough of Sitka. The tax must be applied to the sales price.

B. The assembly at their first meeting of September each year shall consider whether to authorize any sales tax free day(s) that have historically followed Thanksgiving. If authorized the

sales tax free day(s) will not be applicable to any sale of fuel, nor affect any sale which is part of a continuing obligation of the buyer to pay the seller over time.

4.09.010 Levy of sales tax.

A. There is levied a consumer's sales tax on sales, rents, and leases made in the city and borough of Sitka. This tax applies to sales, rentals, and leases of tangible personal property; sales of services sold within the city and borough of Sitka; sales of services performed wholly or partially within the city and borough of Sitka when the provision of such services originates or terminates within the city and borough of Sitka; and rentals and leases of real property located within the city and borough of Sitka. Notwithstanding any provision of law, air or sea charter services, provided a person or entity in the business of providing such charter services, are exempt from sales tax by the city and borough of Sitka if the charter does not commence and end within the city and borough of Sitka.

B. The rate of levy of the sales tax levied under subsection A of this section is five percent on sales made during the months of October, November, December, January, February, and March. The rate of levy of the sales tax levied under subsection A of this section is six percent on sales made during the months of April, May, June, July, August, and September.¹

C. A flat rate of ten dollars per fish box shall be levied on the packaged fish and/or seafood caught or taken and retained by fish charter customers as part of the fish charter. This tax shall be paid by the fish charter customer, collected by whoever packages the fish and/or seafood caught or taken by the fish charter customer, and is in addition to any sales tax paid based on the cost of the charter. This tax is effective January 1, 2007. For purposes of this subsection, a "fish box" means any packaging by a fish charter operator or processor of fish and/or seafood caught or taken as part of the charter by a fish charter customer. The sales tax collected from this levy on fish boxes shall be deposited by the finance director in the following funds in the following ratios:

1. Thirty percent in the harbor fund;
2. Thirty percent in a fisheries enhancement fund, available to be used for any fisheries enhancement proposal upon approval of the proposal by the assembly; and
3. Forty percent in the general fund.

D. Except as provided in subsection C of this section, all moneys accumulated under the terms of this chapter shall be deposited by the finance director in the general fund of the city and borough of Sitka and shall be used for the general operating expenses of the city and borough of Sitka in such a proportion as deemed advisable from time to time by the assembly.

Memo

Through: Keith Brady, Administrator
To: Mayor Hunter and Assembly Members
From: Jay Sweeney, Chief Finance and Administrative Officer
Date: September 6, 2017
Re: FY2018 Tax Free Shopping Days

Issue:

The Assembly is being asked to determine if any sales tax free days will be authorized for 2017.

Facts:

1. The Sitka General Code, in Section 4.09.020 B, specifies that at their first meeting in September each year, the Assembly shall consider whether to authorize any sales tax free days that have historically fallen on the Thanksgiving holiday weekend.
2. The Assembly has traditionally authorized the Friday and Saturday following Thanksgiving as sales tax free days.
3. The amount of sales tax foregone is estimated to be approximately \$50,000.

Discussion:

1. Sales tax free days have been popular with both local merchants and citizens. Local merchants report a significant uptick in sales during such days.
2. The Sitka General Code was amended previously to move the authorization of sales tax free days to September in order to give merchants significant lead time to be able to order inventory and plan sales promotions for sales tax free days.
3. Administration of sales tax free days does not present any significant administrative burden of to Finance staff.

Recommendation:

Administration recommends that the Assembly authorize November 24 and 25, 2017 as sales tax free days.



CITY AND BOROUGH OF SITKA

Legislation Details

File #: ORD 17-32 Version: 1 Name:
Type: Ordinance Status: AGENDA READY
File created: 9/6/2017 In control: City and Borough Assembly
On agenda: 9/12/2017 Final action:
Title: Adjusting the FY18 Budget (Solid Waste Fund - Operations) 1st reading
Sponsors:
Indexes:
Code sections:
Attachments: [Motion and Memo Ordinance 2017-32.pdf](#)
[Ordinance 2017-32.pdf](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTION

I MOVE TO approve Ordinance 2017-32 on
first reading.

Memo

Through: Phil Messina, Interim Administrator
Michael Harmon, Public Works Director

To: Assembly of the City and Borough of Sitka

From: Jay Sweeney, Chief Finance and Administrative Officer

Date: August 29, 2017

Re: Supplemental Budget Appropriation Solid Waste Fund

A budgeting error in the FY2018 Solid Waste Fund operating appropriation has been identified and needs to be corrected through passage of a supplemental appropriations ordinance. Correction of the error will have no impact on actual solid waste collection costs or revenue.

Discussion:

1. The operating expenses in the FY18 Budget were not adjusted to recognize the increased costs associated with the new solid waste contracts. Much like the FY17 Budget, if this is not adjusted it will reflect a significant overrun at year end. The actual operating expenses is projected to be approximately \$928,800 higher than the current budget.
2. It is very important to point out that the error identified is a budgeting error. The error is not an accounting error and no public funds were improperly spent. The increased cost of the new contracts was outlined when they were adopted by the Assembly. Likewise, when the contract was awarded the rate increases included the new contract cost.
3. Administration also believes the anticipated revenue is underestimated by \$431,000. Adjusting the revenue projections will more accurately estimate the working capital.

Recommendation:

Administration recommends that the Assembly approve an ordinance increasing the operating appropriation for FY2018 for the Solid Waste Fund by \$928,800, and increase budgeted revenue estimates by \$431,000.

**City and Borough of Sitka
Solid Waste Disposal Fund
FY2018 Projected Budget Shortfall Analysis**

	FY2017 <u>Actual</u>	FY2018 <u>Budget</u>	FY2018 Projected <u>Actual</u>	Excess (Shortfall)
Revenue				
User Fees	\$ 3,500,257	\$ 3,264,370	\$ 3,640,538	\$ 376,168
Transfer Station Tipping Fees	\$ 365,573	\$ 418,000	\$ 406,702	\$ (11,298)
Recycling Commodity Revenue	\$ 118,677	\$ 84,100	\$ 150,000	\$ 65,900
Other	<u>\$ 27,491</u>	<u>\$ 35,625</u>	<u>\$ 35,625</u>	<u>\$ -</u>
	\$ 4,011,998	\$ 3,802,095	\$ 4,232,865	\$ 430,770
Costs				
Collection Costs	1,055,988.00	707,723.00	1,056,000.00	(348,277.00)
Waste Shipping	1,695,148.00	1,472,900.00	1,695,200.00	(222,300.00)
Transfer Station Operation	181,215.00	3,600.00	353,050.00	(349,450.00)
Scrap Shipping	479,000.00	375,000.00	479,000.00	(104,000.00)
Recycling Shipping	64,869.00	-	64,869.00	(64,869.00)
All Other	<u>870,116.00</u>	<u>1,062,843.00</u>	<u>902,760.00</u>	<u>160,083.00</u>
Totals:	<u>4,346,336.00</u>	<u>3,622,066.00</u>	<u>4,550,879.00</u>	<u>(928,813.00)</u>
Additional Appropriation Needed:				\$ 928,813
Additional Revenue Which Can Be Budgeted For:				\$ 430,770
FY2018 Projected Cash Surplus (Deficit)				
		Revenues:	\$ 4,232,865.00	
		Cash Outlays:	<u>\$ 4,550,879.00</u>	
				\$ (318,014.00)
Working Capital as of 6/30/2017				<u>\$ 125,600.00</u>

CITY AND BOROUGH OF SITKA

ORDINANCE NO. 2017-32
AN ORDINANCE OF THE CITY AND BOROUGH OF SITKA
ADJUSTING THE FY18 BUDGET

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

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

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

3. PURPOSE. The purpose of this ordinance is to adjust the FY18 budgets for known changes.

4. ENACTMENT. The Assembly of the City and Borough of Sitka hereby adjusts the FY18 budget for known changes. In accordance with Section 11.10(a) of the Charter of the City and Borough of Sitka, Alaska, the budget for the fiscal period beginning July 1, 2017 and ending June 30, 2018 is hereby adjusted as follows:

Table with 2 main sections: FISCAL YEAR 2018 EXPENDITURE BUDGETS and CAPITAL PROJECTS. The table contains a detailed text entry regarding a budgeting error in the Solid Waste Fund and the necessary adjustments to the FY18 budget.

EXPLANATION

Necessary revisions in the FY 2018 budget were identified. These changes involve the increase of expenditure accounts and causes decreased cash flows to the fund balance of various funds. A short explanation of each budget revision is included.

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

PASSED, APPROVED, AND ADOPTED by the Assembly of the City and Borough of Sitka, Alaska this 26th Day of September, 2017.

ATTEST:

Matthew Hunter, Mayor

Sara Peterson, CMC
Municipal Clerk

1st reading 9/12/17
2nd reading 9/26/17



CITY AND BOROUGH OF SITKA

Legislation Details

File #: 17-150 Version: 1 Name:

Type: Item Status: AGENDA READY

File created: 8/30/2017 In control: City and Borough Assembly

On agenda: 9/12/2017 Final action:

Title: Update from legal counsel regarding the defense of the litigation arising out of the August 18, 2015 landslide events

Sponsors:

Indexes:

Code sections:

Attachments: [Motion Executive Session.pdf](#)

Date	Ver.	Action By	Action	Result
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POSSIBLE MOTIONS

Step 1:

I MOVE to go into Executive Session to receive and discuss an update from legal counsel, David Bruce*, regarding the defense of the litigation arising out of the August 18, 2015 landslide events.

**Note: David Bruce will attend telephonically.*

Step 2:

I MOVE to reconvene as the Assembly in regular session.