

Sitka Cross Multimodal Trail Project – Phase 6 Harbor Mountain Road to Old Sitka, including connector to Sitka Rocks dock

Background:

- Sitka Trail Works, Inc. is a nonprofit organization that promotes, develops and maintains Sitka trails. Over twenty years, twenty development and maintenance projects have been completed via a partnership MOU as a part of the 2003 Sitka Trail Plan. The basis of this successful MOU has been cooperation and support moving trail project goals forward, not necessary money.
- Since 2006 STW has successfully constructed or re-constructed over five miles of Cross Trail using 2.5 million dollars which the organization raised from federal, state, foundations and local funds. The City has contributed \$159,566 mostly from Title III funds and in-kind staff time with only \$22,000 cash from the Parks and Recreation General Fund Budget for trails.
- Public scoping for National Environmental Policy Act (NEPA) regarding two proposed alignments occurred in Fall 2015 and the alignment was committed to by the STW Board in January 2016. This scoping included review by and support from SEDA of the East alignment since it “allows for future development of No Name Mountain”.
- Beginning in fall of 2015, Sitka Trail Works (STW) has worked to complete the fundraising, design, planning and permitting for the Cross Trail Phase 6 multimodal trail construction. Permitting and planning are complete and a 2016 Federal Lands Access Grant (FLAP) for \$255,553 fully expended.
- All construction funding, \$2,122,400, has been secured by STW as of the end of November 2018 when Rasmuson awarded a \$117,000 grant to STW for a portion of the 9.03% required match. CBS Administration has committed \$50,000 match in in-kind staff time and rock in lieu of this amount coming from CPET.

Current Status:

- On 1/21/19 CBS informed STW that the connector trail from Sitka Rocks dock would not be built due to potential pedestrian conflicts with a future rock quarry road and they want a re-route and re-location of the trailhead from Harbor Mountain Road (HMR).
- These changes are due to the necessity of waiting until the Master Plan for Granite Creek is developed.
- Public Works has also decided to use Harbor Mountain Road (HMR) for dump truck access to a future overburden waste site with the truck turnaround at the location for the current trailhead. This location off HMR area is not included in the Master Planning area so no feasibility study will be completed for this proposal. Since then staff has said that the trailhead area is currently considered undevelopable.
- Staff has stated that CBS is committed to an alignment through the Granite Creek quarry and industrial site even though STW has concluded that this change will cause unacceptable project delays (up to 18 months) and additional costs for re-design, stream crossing engineering/hydraulics and re-permitting.
- All the CBS proposed changes will jeopardize the entire project as it was proposed to funders. The extensive delays and increases to the current budget are unacceptable.

- **The trail can be moved if future development necessitates this.** Relocating the trail can be included in purchase agreements, as in Kramer subdivision.
- On 2/15/19 the CBS Administration approved moving forward with construction of the trail alignment from the Powder Magazine road to Starrigavan Boat Launch.

ADDENDUM for the City and Borough of Sitka Mayor and Assembly

Additional Background:

Sitka Trail Works (STW) a very small, membership-supported nonprofit has raised all the funding and completed all the permitting necessary to construct the last segment, Phase 6, of the Cross Trail. We are ready to build the trail now but have experienced delays and project changes due to CBS.

The Sitka Cross Trail is listed as a community goal in numerous plans starting in 1975 and most recently, in the last major recreation plan for Sitka which was approved by the Assembly in 2011. The alignment through Granite Creek to the Ferry Terminal was depicted in the 2002 City Non-motorized plan and the 2003 Sitka Trail Plan.

The Comprehensive Plan 2030 lists the Cross Trail as an opportunity for the future. The project is supported by a Borough Facilities Goal: Provide desirable community facilities and service in an efficient and cost-effective manner to meet the needs of Sitka residents, businesses and visitors.” For a full listing of comprehensive plan goals that the project meets, see Appendix A. Additionally, the Assembly has passed 15 resolutions of support for the project, the most recent in 2016.

In order to inform the Assembly about the project, clarify actions that need to be taken to move the project forward, and to allow the Assembly to fully understand all the aspects of the project, Sitka Trail Works has prepared a Resolution of Support for the Assembly members to consider.

- 1. The trail location, as currently permitted, is approved with the understanding that the trail location could be moved or modified at a future date, as may be required to allow for future commercial or industrial development.***

Point #1 addresses the currently fully permitted and fully funded location of the trail. See Attachment 1 for a map. As of 1/21/2019 CBS Public Works is proposing a realignment from Harbor Mountain Road to Granite Creek and abandoning the connector to the Cruise Ship Sitka Rocks dock. This change is not budgeted for and delays the project for up to two years, jeopardizing the viability of the entire project. This memo will explain the factors that are important to consider approving the current location of the trail.

On 2/15/19, CBS Administrative staff, has said that STW can complete the main alignment from the Powder Magazine Road to Old Sitka Boat Launch and that the \$50,000 project match from CPET will come instead from in-kind time and rock donations. These are positive steps forward.

Potential conflicts with future development was a primary consideration when the trail location was selected. The main north-south portion of the trail was aligned along the eastern edge of property (identified in earlier planning documents as potentially residential) to support maximum development. STW has recognized road access to No Name Mountain rock, if found to be economically viable, may occur close to the Old Sitka dock connector trail. Although not ideal, if a road is constructed, it could be designed to be screened or buffered from the trail, as in the Yaw Drive connector. One use is not exclusive of the other. Many multimodal trails run adjacent to roads. The current option for cyclists and pedestrians is

considerably less safe. Cyclists and pedestrians are immediately adjacent to Halibut Point Road where all container truck traffic, Granite Creek quarry-overburden site dump truck traffic, and cruise ship busses drive by 45 mph and there are multiple driveways and roads that intersect with the road.

When the trail alignment and trail head from Harbor Mountain Road to Granite Creek was assessed by staff and STW's engineering consultant, the conclusion was that "the area is of limited value due to high development costs of the land." These costs are due to the following factors:

- The area between Harbor Mountain Road to Granite Creek is in an area identified as alluvial fan and old slide material. Impacts to Harbor Mountain Road including slide risk potential.
- The area is identified as deep upland wetland and wetland on steep slope. Removal of excessive amounts of wetland overburden is extremely expensive and requires substantial mitigation.
- Industrial or commercial development will require the removal of excessive vegetation adjacent to Granite Creek. Any development in the Granite Creek watershed will require expensive wetlands permitting/mitigation, ADF&G fish habitat permits and complying with DEC Stormwater permitting. Granite Creek and its tributaries are part of a DEC 303(d) listed impaired waterbody and may make large scale development (land clearing activities) expensive to permit and set up long term monitoring. Potential runoff and sedimentation impacts will be of concern to and limited by ADF&G and DEC. On-going, sedimentation remediation will have to be built in to any development.
- Excessively steep motorized access to area where trail is currently sited (24% - 80% slope from the pit floor to the current trail alignment).

All these factors were considered by STW when the alignment was planned and will limit potential development in the near term and future. The trail was located where it is since in the judgement of staff and our engineer these factors limit the suitability or profitability for industrial or commercial development.

Impacts to Community:

In decision making it is important to assess the benefits versus potential risks or downsides. Whereas it seems to the City to be prudent to delay construction, STW Board asserts the following impacts:

- This 2-million-dollar construction project will contribute to the Sitka economy.
- Trails and recreation infrastructure are key elements in a vibrant community economy and to a community's livability.
- Livability is key to attracting and retaining businesses and residents and to making Sitka a desirable visitor destination.
- The Cross Trail is a low maintenance infrastructure that is intended to act as an alternative road access when a tsunami or earthquake damages Halibut Point Road.

Impacts to Sitka Trail Works:

Sitka Trail Works has an annual operating budget of \$84 ,000. The Board offers volunteer led hikes in the summer to promote trail use and healthy activity; STW implements an average of one major trail maintenance project per year and has worked to develop the Cross Trail since 2006. STW viability will be jeopardized by the changes that public works is proposing. Operating funding relies on reimbursement for direct costs and 5% for indirect costs from grants. Construction years put us in the black for operating costs and help us create a buffer for years where the organization is in the red.

Staff has started to mobilize and incur costs since the scheduled start up date was Fall 2018 since we established the schedule in 2016.

Rock is available for the project for a two-year window. Construction needs to be complete in 2021.

Our budget, schedule and methods have all been approved by Western Federal Lands and Rasmuson, our grantors. STW standing with Rasmuson, as well as the City's, will be impacted by last minute, unsubstantiated changes.

Conclusion:

The proposed last-minute changes will cause the project to die. Relocation of the trail is not an option since this change is unfunded and undesirable. The changes do not meet the goals for a multimodal pathway. The entire FLAP grant for the planning, engineering and design has been expended. The FLAP project money that is available now is for construction. But STW will move the trail from the approved alignment to the new one if the City provides the money for this.

- 2. CBS will support and facilitate immediately providing an agreement as approved by Western Federal Lands for the nonprofit STW to manage and administer the Phase 6 Cross Trail construction project in order to move forward on STW's current schedule to immediately begin Cross Trail Phase 6 construction.***

Sitka Trail Works is a nonprofit with the mission to promote, develop and maintain Sitka area trails. STW has constructed over five miles of the Cross Trail and over 20 major trail projects in the last twenty years, the majority using Federal funds. For the last Phase 4/5 project, FLAP funds, administered by Western Federal Lands, were used. Western Federal Lands, the Phase 6 FLAP grantor, has been extremely satisfied with the work and grant reporting completed by STW for submission by CBS. WFL has approved, in writing, that STW as a NONprofit, trail constructor, complete the Phase 6 work since this approach is the most efficient, highest quality and cost-effective model of completing the work. The construction budget developed by STW for the grant is based upon our nonprofit cost to construct the Cross Trail, not on putting it out to bid. STW has raised 77% of the project match. Recent bids for the Katlian Bay Road, a similar project but with more on-site rock availability, had a lineal foot (lf) estimate of \$200 to \$490 per lineal foot vs. STW estimate \$140/lf. STW's estimate rolls the cost for stream crossing structures for No Name Creek and Granite Creek into the linear foot estimate.

Accordingly, Western Federal Lands has also provided this clarification based on the Code of Federal Regulations regarding procurement:

2 CFR 200.320 Methods of procurement to be followed.(d)(5)(f) *Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:*

(3) *The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; (written authorization provided by WFL)*

Based on the above, Public Works staff is suggesting the following, which STW asserts is an **unwarranted exercise and will unnecessarily delay the project**. See Attachment 4 – CBS Meeting memo, 1/21/19 or below.

Per CBS PW:

1. “Construction contract requirements
 - a. There are other specific recommendations about how to demonstrate that the grant funds are being spent in a fair manner. Those will be part of the contract. Once the design is complete (with relocated trailhead and no connector trail), CBS is required to perform an independent cost estimate to demonstrate that the contract terms are reasonable. Otherwise, we can’t sole-source the work to STW.”

Per CBS: “The consultant we hired to help us set up the construction agreement agrees with us: A contract is the way to go. He says characterizing STW as a contractor, rather than a “partner” or other terminology, should not adversely affect your ability to recover administrative fees, mark-ups, etc.”

In the past a simple LOA was required for STW to complete the project. See Attachment 3. Now CBS is suggesting that a contract is a more appropriate legal agreement. We suggest that a MOA, as was used with SAIL for the playground project, is a more appropriate legal instrument since STW is a nonprofit not a for profit contractor. The playground project had a much higher level of risk involved.

All the work related to acquiring grant funds and match, planning, engineering and permitting for Phase 6 has been completed on schedule by STW. Since the City is getting the project for free (in fact receiving indirect fee), the budget was previously vetted and approved by CBS and WFL, STW is doing all the work at a not-for-profit with unrivaled experience with trail maintenance and construction and WFL approves of the procurement method, why is the City comparing costs now?

STW requests that the Assembly support and facilitate existing MOA partnership model as approved by Western Federal Lands for the nonprofit STW to manage and administer the Phase 6 Cross Trail construction project. But if necessary STW is willing to consider signing a simple contract. CBS must provide STW with this agreement as soon as possible so that construction may begin.

APPENDIX A

Details of STW preliminary engineer cost estimate:

1. Expenditures to Date to complete Phase 6 planning, design and permitting: **\$255,553**
2. Process - Additional Steps for a re-route with Costs:
 - a. PEAK engineering: Additional design, hydraulics, stream crossing options, fish habitat permits - \$64,575.
 - b. NEPA biological, public process, tribal consult and cultural report, wetland delineation, new collection agreement, USFS scheduling NEPA - \$8,000
 - c. ACOE wetlands permitting process - \$3,000
 - d. SWPPP - \$1,000
3. Total design and permitting: \$76,575

Construction and design/permitting estimate for re-route: \$719,679 (4,594 x \$140/lf = \$643,104) plus \$76,575 design, engineering and permitting: \$719,679).

Timeline for reroute: Two years.

Construction estimate for the fully- funded and permitted location, .41 miles: \$347,424.

Timeline for current alignment: The trail from Harbor Mountain road to Granite Creek is construction ready but the current schedule is to construct this section in mid-2021.

Consistent with City and Borough 2030 Comprehensive Plan goals and objectives:

Borough Facilities Goal: Provide desirable community facilities and services in an efficient and cost-effective manner to meet the needs of Sitka residents, businesses and visitors.

Land Use Goal: Guide orderly and efficient use of private and public land in a manner that:

Fosters economic opportunities (guided visitor walks, bicycling tours)

Enhances the quality of life for present and future generations.

Housing Goal: Maintain attractive and livable neighborhoods.

Transportation Goal: Provide for an “affordable transportation system”.

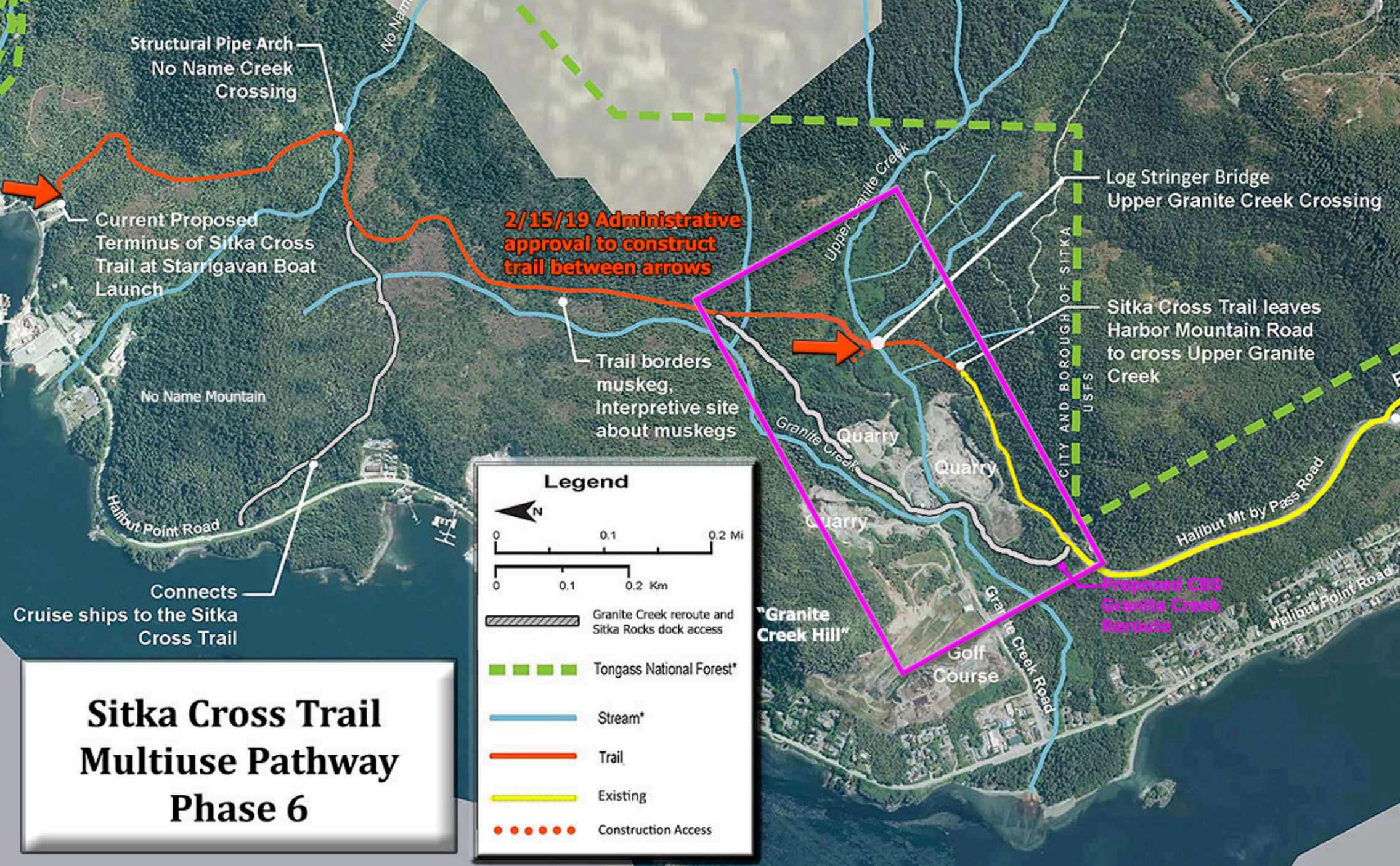
Parks, Trails and Recreation Objective: Expand and facilitate community use of parks, trails and recreation.

ATTACHMENTS:

Attachment 1: Map of Phase 6 Cross Trail

Attachment 2: LOA between STW and CBS for Phase 6.

Attachment 3: Cross Trail 6 Meeting agenda – 1/21/19



Sitka Cross Trail Multiuse Pathway Phase 6

LETTER OF AGREEMENT BETWEEN CITY AND BOROUGH OF SITKA SITKA TRAIL WORKS

Re: Cross Trail Multimodal Pathway Project Phase 6

Background and Purpose:

This Letter of Agreement (“LOA”) is entered into by and between the City and Borough of Sitka (the “City”) and Sitka Trail Works (“STW”), hereinafter collectively referred to as the “Partners”.

The purpose of this LOA is to establish and define the rights, responsibilities and obligations between the Partners with respect to the Cross Trail Multimodal Project Phase 6 (“Cross Trail Project”).

The Partners agree as follows:

Sitka Trail Works responsibilities:


- 1) Assists the City with planning, design, permitting and implementation of the Cross Trail construction project.
- 2) Works with the City to develop and execute contracts for trail planning and design or other services, as needed, to develop the Project.
- 3) Assists in acquiring all necessary construction licenses, easements, and ROW needed under the City and Borough of Sitka name.
- 4) Completes reports and invoices for work that meets Federal Highways Administration, Western Federal Lands (FHWA) requirements and submits to the City and Borough of Sitka quarterly.
- 5) Keeps CBS regularly informed of Project status.
- 6) Notifies CBS prior to commencement of construction activities.

City and Borough of Sitka responsibilities:


- 1) Ensures that the FHWA funds appropriated for the Project are expended in accordance with Federal and State laws and regulations.
- 2) Completes all necessary FHWA grant agreements.
- 3) Works with STW on planning, design, permitting and construction of the Project.
- 4) Charges staff time and expenses to the Project.
- 5) Works with STW to acquire all necessary construction licenses, easements, and R.O.W. needed under the City and Borough of Sitka’s name.
- 6) Oversee project management.

- 7) Accepts full ownership and complete responsibility for each phase or stage of the project, and all improvements thereon, upon substantial completion of each phase
- 8) Agrees to reimburse STW for expenses incurred in the planning, design and construction of the Cross Project.
- 9) Submits reports and invoices for work completed to Western Federal Lands on a quarterly basis.


Authorizing Signatures:



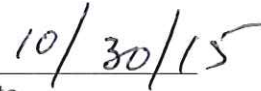
City and Borough of Sitka
Municipal Administrator
Mark Gorman



Sitka Trail Works
President
Brian Hanson



Date



Date

Cross Trail 6 Meeting Agenda
January 21, 2019 * 9:30 a.m.
City Hall Third-Floor Conference Room

Expected attendees

Cliff Richter, City and Borough of Sitka (CBS)
Dave Longtin, CBS
Lynne Brandon, Sitka Trail Works (STW)
Troy Bayne, STW

Discussion items

1. CBS wants to relocate the Harbor Mountain Road Trailhead to the first switchback.
 - a. What are the budget impacts?
 - b. What are the schedule impacts?
 - c. What are the design / construction challenges?
2. Cross Trail connector across from Old Sitka Dock will not be built until a master plan is completed for the No Name Mountain area. Planning Department is gearing up to select a consultant to complete the study. Don't expect the master plan to be finished for a year or so. We'll have to look at if this is something WFL will allow us to complete later.
3. Budget issues
 - a. \$50K of anticipated CPET funds are likely not available. This will have a ~\$600K impact on the project budget, when you consider the \$50K provided sufficient match for about \$550K of WFL budget.
 - b. Can we build a trail for the remaining budget? The project cost will be reduced due to the connector trail not being built.
 - c. CBS needs to make internal decision on whether 5% STW indirect cost will be taken from the 10% de minimis amount we collect from the grant, or from the remaining 90% of the grant funds.
4. Construction contract requirements
 - a. The consultant we hired to help us set up the construction agreement agrees with us: A contract is the way to go. He says characterizing STW as a contractor, rather than a "partner" or other terminology, should not adversely affect your ability to recover administrative fees, mark-ups, etc.
 - b. You'll need to demonstrate that construction workers are being paid Davis-Bacon wages.
 - c. There are other specific recommendations about how to demonstrate that the grant funds are being spent in a fair manner. Those will be part of the contract.
 - d. Once the design is complete (with relocated trailhead and no connector trail), CBS is required to perform an independent cost estimate to demonstrate that the contract terms are reasonable. Otherwise, we can't sole-source the work to STW.