



BOARD OF DIRECTOR'S MEETING

THURSDAY, NOVEMBER 7TH, 2024 - AGENDA

3:00 PM

Room 3 Harrigan Centennial Hall

Regular Meeting

3:00 PM

<u>Item</u>	<u>Action</u>
A. Call to Order	Acknowledge
B. Roll Call	Acknowledge
C. Review of Minutes - N/A	Motion to Approve
JULY 18, 2024	
D. Correspondence & Other Information	Acknowledge/Questions
E. Changes/Additions/Deletions to Agenda	Change/Add/Delete
F. Reports	
G. Persons To Be Heard	
H. Unfinished Business	
1. GPIP Haul Out Project Update	Discussion/Recommendations
I. New Business	
1. GPIP Haul Out Operations RFQ <i>(Executive Session Anticipated)</i>	Discussion/Recommendations
2. Arctic Blue Waters Alaska Inc. Proposed Water Loading System	Discussion/Recommendations
Adjournment	

The Mission

It is the mission of the Gary Paxton Industrial Park Board and management, by direction of the Sitka Assembly, to strategically develop the park in a fiscally responsible manner that maximizes its economic benefit to the community through creation of meaningful jobs in conformance with established community plans and policies.

**Gary Paxton Industrial Park – Board of Directors Meeting
July 18, 2024 3:00 pm
Room 6, Centennial Hall**

A. CALL TO ORDER: The Chair, Scott Wagner, called the meeting to order at 3:00 pm

B. ROLL CALL

Members Present: Scott Wagner, Chad Goeden, Casey Campbell, Lauren Mitchell

Members Absent: Mike Johnson

Staff Present: Garry White

City Representatives: John Leach, Michael Harmon, Thor Christenson

Others Present: Members of the public

C. Review of Minutes – April 22, 2024

Motion: M/S Mitchell/Goeden to approve the minutes of April 22, 2024

Action: Motion Passed 4/0 on a voice vote

D. Correspondence & Other Information- None

E. Changes/Additions/ Deletions to Agenda- None

F. Reports – None

G. Persons to Be Heard- None

H. Unfinished Business –

1. GPIIP Haul Out Project Update

Mr. Harmon, Municipal Engineer, discussed a status update. He reviewed the project cover sheet and discussed the construction completion has been moved to the end of March, to ensure weather for concrete pouring. He also mentioned October 15th is still the target date for permitting to be completed. He explained, a firm fixed bid with Western Marine has been agreed to with a fixed lumped sum of \$6,248,364. Construction costs came in roughly \$1,055,000 above estimated costs. Permanent concrete wash down pad is removed from scope until more funding can be identified. Additional cuts were made in upland yard grading and

other basic construction related costs. Most cost increases were a 15% increase from local subcontractors of civil and electrical work which reflects inflation costs post-covid.

It was mentioned by Thor Christenson that the board should investigate if the money set aside for this project that has been earning interest can also be added to the overall budget. By his predictions at a 4% interest rate that would be an additional \$650,000. Mr. White & Mr. Harmon will work with CBS to see if this is something we can tap into.

Mr. Harmon stated, PND suggested a 5% contingency, we honestly only have enough for \$100,000 but will continue to try and free up more money from other GPIIP projects that have been closed out.

Mr. White stated he was concerned that public comment on environmental concerns are what could hold this comment up.

2. GPIIP Haul Out Operation Discussion

Mr. White discussed that we have had conversations around whether this haul out would be publicly or privately operated in the past. He then introduced Mr. Harmon to further discuss the process they would like to roll out.

Mr. Harmon walked through a draft Request for Qualifications (RFQ) to request qualifications from experienced firms or individuals to operate a marine vessel haul out and shipyard at the GPIIP. The RFQ requests individuals or firms that have qualifications in the following operations to submit their credentials on:

- Vessel Lift Operations
- Vessel Wash-down Systems
- Vessel Movements
- Permits and Licenses

The goal is to find qualified operators and work with them to develop a detailed scope of work to be incorporated into a Request for Proposals (RFP) for operations of the haul out. Mr. White suggested the board vote if they'd like to move forward with this draft RFQ.

Motion: M/S Mitchell/Goeden motion to move forward with the RFQ for the GPIIP haul out operations.

Action: Passed (4/0) on a voice vote.

I. New Business-

1. Global Hydration, LLC Water Purchase Agreement

Mr. White explained The City and Borough of Sitka (CBS) has permits to export 29,235 Acre-feet (~9.5 billion gallons) of raw water annually. *(This volume represents just under 9% of the average annual rain fall into the Blue Lake Watershed)*. The CBS has entered into multiple water purchase agreements with multiple entities for bulk export since 1996.

The CBS is currently in a water purchase agreement with Arctic Blue Waters Alaska, LLC (Arctic) & Eckert. Global Hydration would also like a purchase agreement. The board discussed that there is no reason why there cannot be more than one purchase agreement as none of it is exclusive, it is just who cracks the nut on if & how to move the water.

Mr. White explained the details of the very extensive contract, noting it is very similar to our other contracts. Normally the water would belong to the state, but we got the pulp mills rights to the water. Having contracts is not bad because it shows we're "using" the water, if we don't have contracts we lose the rights after 5 years. There is also definitely untapped money in this industry.

Motion: M/S Goeden/Mitchell motion to bring the bulk water agreement to the assembly for consideration as written for Global Hydration, LLC.

Action: Passed (4/0) on a roll call vote.

J. Adjournment

Motion: M/S Wagner/Mitchell move to adjourn the meeting at 4:19 pm

Action: Passed (4/0) on a voice vote



329 Harbor Drive, Suite 202
Sitka, AK 99835
Phone: 907-747-2660

Friday, October 11, 2024

MEMORANDUM

To: Gary Paxton Industrial Park (GPIP) Board of Directors
From: Garry White, GPIP Director
Subject: GPIP Haul Out Development Discussion/Direction

Introduction

The GPIP Board and CBS are in the process of developing a vessel haul out and shipyard at the Gary Paxton Industrial Park. The CBS has been working on vessel haul out development concepts since the GPIP properties were acquired in 2000. The CBS obtained funding for the development of the haul out facility and shipyard via a public vote on October 4th, 2022 in the amount of ~\$8.18 million dollars. Further funding was obtained via a Denali Commission grant in July 2023 for \$1 million dollars for the purchase of equipment to lift vessels.

The Board held multiple public meetings since the October 2022 vote to discuss and develop a Project Charter that outlines the project goals and scope of work for Phase 1 of the haul out development. Phase 1 of the Project Charter scope (attached) addresses the steps needed for the waterfront development to allow vessels to be haul out of the water.

The design includes a 150-ton vessel lift and other various components for the haul out to operate. The design includes an ability to expand the haul out facility to a 300-ton vessel lift in the future.

More information about the GPIP Vessel Haul Out Development Project can be found at the following link:

<https://www.cityofsitka.com/departments/PublicWorks/GPIPHaulOut>

Background

The CBS has repeatedly included marine haul out infrastructure requests in both its Federal and State Legislative Priorities. The CBS recently applied for a USDOT Grant in 2020, 2021, 2022 and plans to apply for future grant opportunities.

The CBS has released multiple Request for Proposals (RFP) for private sector development of a haul out at the GPIP since 2009. None of the private sector development proposals moved forward due to multiple reasons, including cost of construction.

On October 4th, 2022, the citizens of Sitka voted to appropriate ~\$8.18 million dollars from the Sitka Permanent Fund for the development of a haul out and shipyard at the Gary Paxton Industrial Park (GPIP).

Fiscal Note

Total funding allocated for this project is \$9,281,040 (\$8,181,040 from the proceeds of the sale of the Sitka Community Hospital property, \$100,000 appropriated towards the development in 2021, and \$1 million dollar grant from Denali Commission). The Assembly approved an appropriation for Phase I estimated costs of the based bid items in the amount of \$8,187,000 at its July meeting.

To complete the additive alternative items remaining in phase 1 an estimated ~\$6 million will be needed based off a past estimates. New cost estimates are being research due to increased cost of construction. With no readily available municipal source of working capital to fund the additive, alternate items of Phase 1, grant-funding opportunities are the most likely funding source. It is important to note that if the funding source is federal, there may be some added cost related to federal funding restrictions. Cost estimates for Phase 2 of the project have not been fully developed, but estimated to be in the \$18 million dollar range.

Development Updates

Project Construction

The attached Project Cover Sheet outlines project scope of work, budget and key milestones.

Recent developments includes the following:

1. Potential additional funding.

The CBS was notified that they would be receiving \$336,475 in funds from Fisheries Disaster Relief Payment from ADF&G as part of the 2020/21 Statewide Salmon disaster. The CBS Assembly will be meeting November 12th to discuss accepting the funds and hopefully adding the funds to the haul out project.

2. Additional funding needed to keep the waterfront development functional

- **Contingency Funds - \$350,000**

The project currently does not have any funds identified for any contingencies outside of the firm fix bid that might arise during construction.

- **Permanent Concrete Wash Down Pad - \$500,000**

Currently the budget for the project does not include a permanent or temporary wash down pad. Funding for a permanent wash down pad is preferred. (*Note: further price reductions can be achieved with reduced pad size and removing hydronic heating.*)

Total Additional funding needed is **\$850,000**.

Supplemental funds needed break down

New Funds (Fisheries Disaster)	\$336,475
<u>Additional Costs</u>	<u>\$850,000</u>
Total funds needed	\$513,525

Suggested Funding Sources for Concrete Wash Down Pad – Budget \$500,000

Fisheries Disaster Funds -	\$336,475
<u>Proposed CBS General Fund -</u>	<u>\$163,525</u>
Total	\$500,000

Suggested Funding Source for Contingency Funds - \$350,000

GPIP Undesignated Working Capital - \$350,000

Total GPIP Undesignated Working Capital (6/30/23) = \$572,910

**Note this amount includes interest earned from ~\$8.2 million in project funds approved by voters in 2022*

GPIP Haul Out Operations

A Request for Qualifications (RFQ) for GPIP haul out operations was approved by the GPIP Board at its July meeting and released to the public. The RFQ requested individuals or firms that have qualifications in the following operations to submit their credentials.

- Vessel Lift Operations
- Vessel Wash-down Systems
- Vessel Movements
- Permits and Licenses

Two responses to the RFQ were received on September 17th. GPIP and CBS staff reviewed both submittals and determined that one firm, Highmark Marine Fabrication, presented qualifications to meet the requirements of the RFQ.

The CBS will work with Highmark to develop a detailed scope of work and prices for haul out services for operations of the haul out.

Grant Opportunities

The CBS applied for another Denali Commission grant this year. The GPIP Board and CBS Assembly approved to apply for funding to add electrical infrastructure to the yard. An outside consultant provided a conceptual design and cost estimate for electrical work. Total electrical infrastructure is estimated at \$3,061,838. The electrical estimate was broken down into three separate locations: South, North, and West yards.

The grant requested was for \$510,251.50 to use as a 50/50 leverage/match for the North Boat Yard and to allow the opportunity to apply for a FY 2023 EDA Public Works and Economic Adjustment Assistance grant for utility power service including area lighting and power pedestals to the North Boat Yard. The North Boat Yard cost estimate is \$1,020,503.

The CBS was not successful in being awarded a grant this year.

Action

- GPIP Board discussion and direction on vessel haul out development updates.
- GPIP Board recommendation on requesting \$163,525 from the CBS General Fund to fund a permanent wash down pad.

PROJECT COVER SHEET – Updated September 16, 2024

Project Title/ Number: GPIP Vessel Haul-Out Development – Phase 1

Project Manager: Michael Harmon Project Sponsor: Garry White

Project Description: Planning, Environmental Permitting, Engineering Design, and CMAR Construction of Phase 1 Improvements including a 150-ton haul-out pier, wash-down pad, water treatment, and 150-ton boat hoist at Gary Paxton Industrial Park, Sitka, Alaska.

Design
 Construction
 Other

Project Charter Available? Yes No

Project Status: *(highlight green, yellow, red)*

Scope	Schedule	Budget
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Milestones:

<u>Recently Completed</u>	<u>Upcoming</u>
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 04.26.23 Site No. 2 Selected by GPIP BOD <input checked="" type="checkbox"/> 07.25.23 Assembly Adopted Concept 4 <input checked="" type="checkbox"/> 01.15.24 Environmental Permit Applications <input checked="" type="checkbox"/> 03.01.24 35% Design Complete <input checked="" type="checkbox"/> 03.27.24 Award to WMC <input checked="" type="checkbox"/> 04.16.24 Travel Lift Bid (10-month delivery) <input checked="" type="checkbox"/> 04.18.24 WMC CMAR Contract Executed <input checked="" type="checkbox"/> 05.24.24 65% Design Complete <input checked="" type="checkbox"/> 06.03.24 WMC GMP Pricing submitted <input checked="" type="checkbox"/> 07.02.24 Final Design & Fixed Construction Price 	<ul style="list-style-type: none"> <input type="checkbox"/> GPIP Board Meeting to discuss budget increase for concrete washdown <input type="checkbox"/> Q 3 '24: Final Regulatory Review <input type="checkbox"/> Q2-4 '24: Material Procurement <input type="checkbox"/> Q4 '24 – Q1 '25: On Site Construction <input type="checkbox"/> Q1 '25 Boat Hoist Delivery <input type="checkbox"/> Boatyard Operational: Q1 '25

Project Budget:

Phase 1 - Estimated Total Project Cost	\$9,281,040
Working Capital	\$8,281,040.00
Loans	\$0.00
Grants	\$1,000,000.00
Other	\$0.00
Total Funded	\$9,281,040
Phase 2 Funding Gap	\$23,894,117

Contract Management: (list all contracts anticipated on the project)

<u>Contractor/Function*</u>	<u>Type**</u>	<u>Amount</u>	<u>% of Project</u>
PND –Preconstruction, Permitting, Design & Const. Services	T&M/LS	\$1,415,967	15%
Western Marine Construction (WMC) & Project Contingency	CMAR	\$6,179,362	67%
Travel Hoist Purchase	LS	\$1,377,800	15%
Specialty Inspection Services (Future Procurement)	T&M	\$126,538	0.3%
CBS Indirect Cost & CBS Permits (\$71k spent thru Aug.)	Payroll	\$150,000	1.6%
Electrical Dept. Power Service (Future Procurement)	T&M	\$31,373	0.3%
Current Construction Contingency Remaining	-	\$0	0%

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General Comments:
 The scope had to be reduced due to unexpected pile depths and the budget remains short for the full scope. Shipyard operations is not part of this project charter and are a separate development process.

Key Milestones: June 4, 2024 UPDATE

Key Tasks & Milestones	Start Date	End Date
1. Project Charter Approval: The Project Charter is brought to GPIB Board for approval.		11/21/22
2. Project Budget Appropriation Assembly	11/8/22	11/22/22
3. Prepare RFQ for PM services Port Planner SME	11/17/22	12/8/22
4. Advertise PM/Port Planner RFQ	12/12/22	2/1/23
5. Selection of PM/Port Planner/Engineer- PND	2/2/23	3/6/23
6. Contract Execution/NTP for PM/Port Planner/Engineer	3/7/23	3/29/23
7. Planning, Surveying, Public Involvement Process, Concepts, Costs, Preferred Alternative, Final Basis of Design & Charter Scope	4/3/23	7/31/23
8. Geotechnical Invest. - Work Plan, Driller Contract, Drilling Permits, Fieldwork, Analyses & Geo Report	5/22/23	01/31/24
9. Concept Rescoping due to Geotech Findings	10/1/23	11/15/23
10. Biological Assessment, IHA & Environmental Permit Applications	5/22/23	01/15/24
11. Regulatory Consultations, Permit Reviews and Authorizations	7/15/23	10/15/24*
12. 35% Preliminary Design	11/15/23	3/1/24
13. Prepare CMAR RFP	11/15/23	2/06/24
14. CMAR Solicitation & Contract Execution	1/15/24	4/18/24
15. PND 65% Design Develop w/ WMC, CBS & GPIB	4/01/24	5/24/24*
16. WMC GMP Development	4/01/24	6/3/24
17. Ph 1 Scope Refinement, Finalize GMP & WMC CO	6/04/24	6/18/24
18. PND Final Design & Stamped Construction Docs	6/18/24	7/16/24
19. Material Procurement	6/18/24	12/1/24
20. On Site Construction	10/15/24	3/15/25*
21. Secure Operator for 2025 Season	3/15/24	3/15/25*
22. Procure 150T Boat Hoist	12/1/23	2/15/25*
23. Haul Out is Operational		3/15/25
* Critical Path Items		
Milestones for Phase 2 TBD once funding is secured:		
Need to masterplan uplands during the development of Phase 1 to apply for grants and position this phase to proceed.		
Environmental permitting will likely need to be redone once this phase is better defined through a masterplan and funding is available.		



329 Harbor Drive, Suite 202
Sitka, AK 99835
Phone: 907-747-2660

Friday, November 1, 2024

MEMORANDUM

To: Gary Paxton Industrial Park (GPIP) Board of Directors
From: Garry White, GPIP Director
Subject: GPIP Haul Out Operations RFQ

Introduction

The GPIP Board met on July 18th and approved the attached Request for Qualifications for a Marine Vessel Haul Out and Shipyard Operations at the Gary Paxton Industrial Park.

The Request for Qualifications (RFQ) requested qualifications from experienced firms or individuals to operate a marine vessel haul out and shipyard at the GPIP.

The RFQ requested individuals or firms that have qualifications in the following operations to submit their credentials.

- Vessel Lift Operations
- Vessel Wash-down Systems
- Vessel Movements
- Permits and Licenses

The goal was to find qualified operators and work with them to develop a detailed scope of work to be incorporated into a Request for Proposals (RFP) for operations of the haul out.

The RFQ was released on July 25, 2024 with a submittal deadline by 2pm on September 17, 2024. A non-mandatory pre-proposal conference was held on August 7, 2024. The CBS received two responses to the RFQ. CBS and GPIP staff met on September 20, 2024 to evaluate the responses and determine if Minimum Qualifications of Services was provided in each proposal. One proposal was determined to have provided the Minimum Qualifications of Services. Letters were sent to both entities, inviting one firm to continue with the process of providing input in the development of a detailed scope of work to be incorporated into a Request for Proposals.

Page 3 of the attached RFQ outline the process moving forward in the Selection and Award Stages.

Members of the GPIP Board have requested to discuss the RFQ process and selection.

An Executive Session is anticipated during this discussion as the RFQ states “All proposal information will be treated by CBS in a confidential manner during the evaluation and award

activities and will not be disclosed to any person or entity not involved in the evaluation and award process until after contract award.”

Background

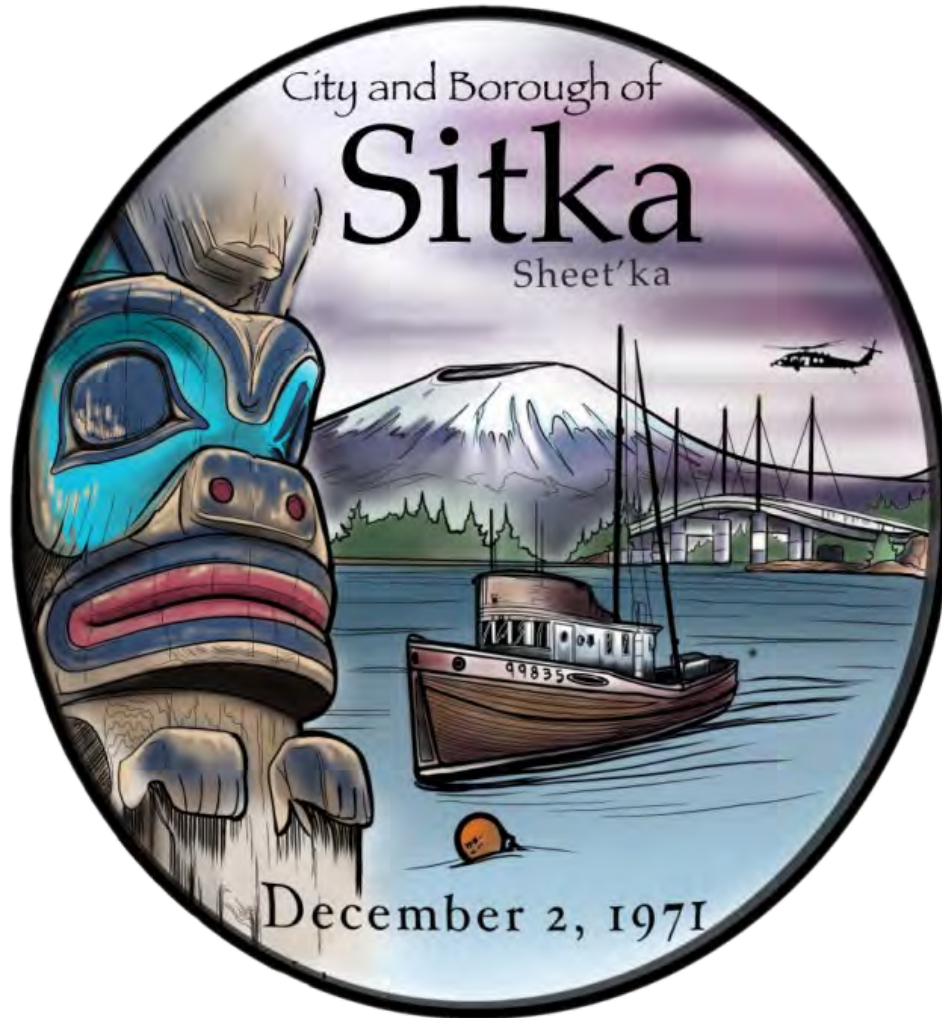
The GPIP Board and CBS have been working on vessel haul out development concepts since the GPIP properties were acquired. The CBS has repeatedly included marine haul out infrastructure requests in both its Federal and State Legislative Priorities. The CBS applied for a USDOT Grant in 2020, 2021, 2022 and plan to apply for future grant opportunities. The CBS was awarded a Denali Commission Grant in 2023.

The CBS has released multiple Request for Proposals (RFP) for private sector development of a haul out at the GPIP since 2009. None of the private sector development proposals moved forward due to multiple reasons, including cost of construction.

On October 4th, 2022, the citizens of Sitka voted to appropriate ~\$8.18 million dollars from the Sitka Permanent Fund for the development of a haul out and shipyard at the Gary Paxton Industrial Park (GPIP).

Action

- GPIP Board discussion on the RFQ for Marine Vessel Haul Out and Shipyard Operations at the Gary Paxton Industrial Park.



REQUEST FOR QUALIFICATIONS

MARINE VESSEL HAUL OUT AND SHIPYARD OPERATIONS AT THE GARY PAXTON INDUSTRIAL PARK (GPIP)

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Introduction

The City and Borough of Sitka (CBS) is seeking qualifications from experienced firms or individuals to operate a newly constructed marine vessel haul out and shipyard at the Gary Paxton Industrial Park (GPIP). This facility is a key component of Sitka's maritime infrastructure, located in the scenic panhandle of southeast Alaska.

Sitka, encompassing an area of 2,870 square miles, is a unique and remote community accessible only by airplane or boat, with a population of approximately 8,500 residents. The local climate, characterized by an average annual precipitation of 131 inches and frequent overcast conditions, is a testament to the region's rich coastal environment.

The GPIP, situated around the 4500 block of Sawmill Creek Road, approximately 6 miles south of the town center, includes a deep-water dock and upland land available for lease, positioning it as a strategic location for maritime and industrial activities. As part of its commitment to enhancing the maritime capabilities of the region, the CBS is constructing a state-of-the-art vessel haul out and shipyard facility within the park, poised to significantly bolster Sitka's maritime services by incorporating a 150-ton vessel hoist, a pile-supported pier for the lift vehicle, a wash-down pad, and a graded gravel vessel laydown area.

Selection and Award Stages:

The CBS invites qualified firms or individuals to submit their Statement of Qualifications (SOQ) to operate the haul out and shipyard. This solicitation will be awarded through a multistage development and selection process. CBS will review the proposer's SOQ and shortlist those who meet the minimum qualifications to move forward to the next stage in providing input in the development of a detailed scope of work to be incorporated into a Request for Proposals (RFP). Each prequalified proposer will then be invited to submit a price-based proposal that meets the minimum scope of the RFP and the proposer with the best value or low bid may be considered for a final award of the work. If parties cannot come to terms on such an award, the RFP may be solicited to the general public or awarded to other proposers based on best value or low bid.

Anticipated Schedule:

- **RFQ Advertised by City and Borough of Sitka:** July 25, 2024
- **RFQ Prebid Meeting:** Meeting to clarify the process and answer questions from potential bidders, August 7, 2024 @ Harrigan Centennial Hall, 330 Harbor Drive, Sitka, AK 99835
- **RFQ Response Deadline:** September 17, 2024
- **Prequalification Invitation to Participate in the RFP Development Process:** Formally invite RFQ Proposers who met the Minimum Qualified to participate in the development of RFP October 4, 2024
- **RFP Development based on input from Prequalified Proposers:** January 4, 2025
- **Invitation to Bid (ITB) to Prequalified Proposer Only :** January 14, 2025

- **ITB Deadline:** Responses Received from Prequalified Proposers: February 14, 2025
- **Completion of Evaluations and Issue Notice of Intent (NOI) to Award:** March 15, 2025
- **Recommendation for Approval of Operator Contract/Lease by GPIP Board:** March 25, 2025
- **Approval of Operator Contract/Lease by City and Borough of Sitka Assembly:** April 4, 2025

The CBS invites firms or individuals to submit their SOQ to demonstrate their ability to fulfill the operational requirements of this critical infrastructure, contributing to the growth and success of the maritime sector in Sitka and the broader region. Further details, including the haul out and shipyard designs and proposed vessel lift specifications, are available on the City and Borough of Sitka's official website: <https://www.cityofsitka.com/departments/PublicWorks/GPIPHaulOut>.

Minimum Qualifications of Services

Qualified Operators shall demonstrate their capacity to manage a comprehensive range of services essential for the effective operation of a marine vessel haul out and shipyard. Proposers are to focus on their resume of past experience running boat yards only and do not need to provide any specific information as to how they would run a yard in the future or any specifics about the Sitka Boat Yard. The purpose of the Statement of Qualifications (SOQ) is to determine if a proposer meets the minimum qualifications for past experience to be invited to participate in the development and bidding stages. Proposer's SOQ will not be ranked or scored relative to other proposers. It is a "pass or fail" determination to be considered prequalified to move forward. To meet the minimum qualifications proposers must demonstrate competency in services in the following areas:

1. ****Vessel Lift Operations:**** Demonstrated experience ensuring boat hoists of 100 tons or larger are operated safely, efficiently, and effectively and maintained to high standards for lifting and moving vessels within the shipyard.
2. ****Vessel Wash-Down System:**** Proven competencies in managing wash-down and drainage systems for cleaning vessels during haul-out including environmental permit administration and monitoring.
3. ****Vessel Movement:**** Proven competency and positive references in scheduling vessel and moving them to designated areas.
4. ****Permits and Licenses:**** Demonstrated ability to acquire all necessary permits and licenses to operate within local, state, and federal regulations.

The facility must operate as an 'open yard,' where the Operator does not have exclusive rights to provide vessel repair and maintenance services, except for those related to the vessel lift manufacturer.

Submission of Statement of Qualifications (SOQ)

Applicants are required to submit their qualifications in a structured format that includes:

1. ****Company Profile:**** Including name, address, and contact information (2 pages maximum).
2. ****Past Experience:**** Detailing experience in similar projects (8 pages maximum).

3. **Financial Stability:** Including financial statements and business history.
4. **Relevant Certifications:** Any licenses or certifications pertinent to maritime operations.

General Information

This section provides general guidelines and requirements for firms or individuals interested in submitting their qualifications for the Marine Vessel Haul Out and Shipyard Operations at the Gary Paxton Industrial Park. It outlines the submission process, key dates, contact information for inquiries, and other essential details.

The City and Borough of Sitka reserves the right to modify this Request for Qualifications (RFQ) at any time. The City and Borough further reserves the right to evaluate the SOQs in any manner the City and Borough deems appropriate.

The City and Borough of Sitka reserves the right to accept or reject any and/or all SOQs, to waive irregularities or informalities in the SOQs, and to negotiate a contract with the respondent that best meets the selection criteria.

All Proposals received by the CBS in response to this RFQ are deemed property of the CBS and are subject to the Public Records Act. CBS, or any of its agents, representatives, employees, or consultants shall not be liable to the Proposer or individual participating in a Proposal, as a result of the disclosure of all or a portion of a Proposal under this RFQ. Any information contained in a Proposal that the Proposer believes constitutes proprietary or confidential, exempting the information from any Public Record disclosure shall be clearly designated. Blanket designations shall not be accepted.

All proposal information will be treated by CBS in a confidential manner during the evaluation and award activities and will not be disclosed to any person or entity not involved in the evaluation and award process until after contract award.

Contact: For questions or requests for additional information regarding this RFQ, please direct all inquiries in writing to: GPIPHaulOut@cityofsitka.org

Deadline for Receipt of Qualifications: Qualifications shall be submitted via BidExpress.com, which is located on the CBS website at: www.cityofsitka.com (click on **Bids and RFP** link, then **Bid Express**).

Qualifications must be received no later than 2:00:00 PM local time on **September 17, 2024**. It is the responsibility of the firm or individual to ensure timely delivery of the qualifications. Late submissions may not be considered.



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

Friday, November 1, 2024

MEMORANDUM

To: Gary Paxton Industrial Park (GPIP) Board of Directors
From: Garry White, Director
Subject: Arctic Blue Waters Alaska Inc. Proposed Water Loading System

Introduction

Arctic Blue Waters (Alaska) Inc. (Arctic) entered into a water purchase agreement (attached) with the City and Borough of Sitka on April 13th, 2021. Per section 10.2 of the agreement, Arctic is required to submit to Sitka all designs and construction documents for the loading of bulk water within 48 months form effective date of the agreement.

Arctic has submitted the attached conceptual design for water loading in the tidelands of Silver Bay in front of the GPIP properties. The GPIP Director suggested that Arctic submit a conceptual drawing to gauge GPIP Board interest before submitting the entire loading plan.

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. *(This volume represents just under 9% of the average annual rain fall into the Blue Lake Watershed)*

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

The CBS currently has one raw water export agreements outside of the Arctic agreement:

The CBS entered into a 20 year water purchase agreement with Eckert Fine Beverages in the October of 2017 for 100 million gallons of water annually. This agreement was renewed for another 3 years in the fall of 2020. Eckert is required to export at least 75 thousand gallons of water within 36 months from the execution of the agreement or the agreement terminates. The price of water is set at \$0.01/gallon. The point of delivery for the water is from the Blue Lake penstock. Eckert is required to make a non-refundable payment of \$1,250 annual to the CBS to keep the agreement in good standing.

<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>Eckert Agreement</u>	<u>0.31</u>	<u>100,000,000</u>
<u>Phase 1 Arctic Proposal</u>	<u>6,138</u>	<u>2,000,073,438</u>
<u>Phase 2 Arctic Proposal</u>	<u>20,869</u>	<u>6,800,257,957</u>
Available for water bottling Contracts	2,227.69	725,895,0142

Note: The GPIIP Director recommends the CBS retain between 700-750 million gallons of annual water allocation to accommodate a potential future bottling operation and other low volume uses.

Water Purchase Agreement

The attached Purchase Agreement for Raw Water in Bulk for Export has been developed over many years. The agreement has been reviewed and modified by multiple CBS Attorneys and outside council to ensure that the CBS water assets are protected and to allow private entities the ability to market and sell Sitka's water. Below is a brief description of some of the more material sections of the contract.

Terms (Section 1)

The term of the contract is 20 years with four 5-year extensions with consent of both parties.

Arctic is asking for a 20 year term to allow it to have an opportunity to receive a return on the major capital investment to complete the water export venture. Arctic will need to complete the necessary infrastructure it will need to load water to a ship from the Blue Lake Power House after bay, acquire ships to transporting the water, and to off-load and storage the water at final destination.

The agreement includes performance bench marks at 48 months and 60 months after contract execution that allow the CBS to terminate the contract for non-performance.

- 48 months – submittal of design and construction documents for loading of water (Section 10.2)
- 60 month – requirement for Arctic to export 50 million gallons. (Section 3.1)

Water Volume and nonrefundable fees

Arctic is asking for an initial volume of water to market and then an increased amount of water if/when it enters into a guaranteed third part contract.

Phase 1

- 6,138 Acre-feet (~2 billion gallons) annually (Section 1.1)

- Arctic must pay a non-refundable fee of \$10,000 to execute agreement within 15 days of Sitka Administrator signature.
- Arctic must purchase and export a total of 50 million gallons of water within a 60-month period or Sitka can terminate agreement. (Section 3.1)

Phase 2

- Arctic has the first right of refusal acquire an additional 20,869 Acre-feet (~6.8 billion gallons) annually. (Section 1.1)
 - Arctic must pay a \$100,000 non-refundable fee to acquire additional rights.
 - Arctic must pay an additional \$250,000 non-refundable fee at intervals of \$50,000 per year to be prorated based on when first right of refusal is executed.
 - Arctic has 60 months to execute its first right of refusal from execution of the agreement. (Section 3.1)

Post 60 months (Section 3.2)

After 60 months, Arctic no longer has a guaranteed volume of water. The agreement defines Stages of water volume export to retain water allocation amounts. Arctic gains more allocations by exporting more water and can lose allocation amounts by failing to export specified amounts.

Example: If Arctic exports 150 million gallons of water in the 12 month period following 60 months from contract execution. Arctic's available water allocation would be 4,000 acre feet or ~1.3 billion gallons of water (Stage 4).

The CBS is free to enter into multiple water purchase agreements at any time during the contract, but has much more latitude after 60 months. Per the contract water allocations after the 60 month period are at the Administrator's sole discretion.

Water Export Limitations (Section 3.5)

Arctic is only allowed to remove 33.6 million gallons of water per day from the CBS Power House After Bay.

CBS Rights and Protections (Section 4)

Different sections of the agreement contains language to ensure that the CBS water asset is protected for municipal uses and other environmental factors.

- Ensures municipal drinking and hydroelectric water uses retain first right and priority to the water. (Section 4.1 (a))
- Allows for hydroelectric dam and water system maintenance. (Section 4.1 (c))
- Ensure water levels do not drop below critical levels to support the local biological environment. (Sections 4.1 (b) (e) (f)) *(These sections would protect the CBS if climate change affects historic rainfall amounts.)*
- Protection to the CBS against water quality issues due to routine hydroelectric alternations and environmental events. (Section 4.1 (f), Section 6.2 & 6.3)
- Arctic is responsible to follow all regulations in regards to ballast water discharge. (Section 11)

Water Pricing (Section 7)

- The price for water from the CBS power house after bay will be \$1,629.26/Acre-feet or \$0.005/US gallon.
- Arctic 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 \$.001/gallon.
- After 60 month, the price will be adjusted by a CPI Adjustment, not to exceed 3%. (Please see attached sheet showing price adjustments over time.)
- Arctic is allocated water credits for non-refundable fees paid during the 60 month period.

Point of Water Delivery (Section 10.1)

The point of delivery for water delivered by Sitka will be water in the Blue Lake Power House After Bay. The after bay is the preferred point of delivery for water as the CBS has already produce electricity from the water.

Water Loading and Transportation (Section 10)

The CBS currently **cannot** deliver raw water in bulk from Blue Lake. Investigations into the CBS raw water pipeline post the Blue Lake Expansion project has determined that the system no longer operates due to new water pressures on the system.

- Arctic is solely responsible for designing and construction of any infrastructure it deems necessary to load and transport water for export. Arctic is required to acquire bonding to perform work.
 - Arctic has 48 months from the execution of the agreement to submit documentation for loading and transportation or the agreement can be terminated. Arctic has stated that it expects it will take 8-12 months to construct the water loading infrastructure.
- Arctic is solely responsible for arranging transportation of water for export at its own expense, including installing a water based water-loading station.
 - Arctic 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.
 - Recommended that tideland-loading system be addressed via a separate permit or amendment to agreement at a later date.


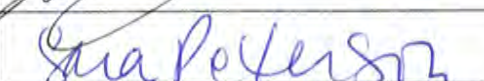
Action

- GPIP Board discussion and recommendations regarding the proposed water loading system.

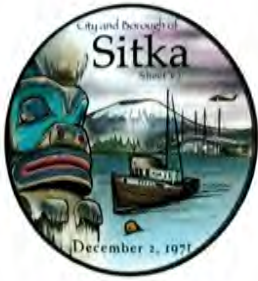
Lease Checklist (including renewal/extension) on Assembly agenda

6001

- All parties except the clerk must signoff prior to adding to the agenda.
- Clerk signs off and distributes final once the Assembly has approved the terms presented
- After assembly approval, all parties sign off again (at bottom) before lease signing is scheduled.

Type:	<input checked="" type="checkbox"/> New <input type="checkbox"/> Renewal <input type="checkbox"/> Extension <input type="checkbox"/> Other		
Assembly agenda deadline /proposed effective date:	March 9, 2021	payment received w/in 15 days of signing	
Responsible department:	GPIP		
Designated lease manager/ position:	GPIP Director, Garry White, 329 Harbor Drive, Suite 202, Sitka AK 99835, (907)747-2660		
Proposed lease number and title:	Purchase Agreement for Raw Water in Bulk for Export		
Location:	GPIP, Blue Lake Dam Power House After Bay		
Lessee and Lessee point of contact (mailing address, phone, and email required):	Charles Cartier, ABWAI, 78C Street, Fairbanks Alaska, 99701		
Lessee requirements (insurance/bond, etc...):	Indemnify and hold Sitka harmless for liability. Provide design and construction documents.		
Proposed lease terms including # of optional renewals:	End date February 28, 2041, four additional five year terms with written consent both parties (notice to Admin. 1yr- 4months prior to end date). Less then 50 million gallons exported in 60mo., Admin notice to ABWAI, contract cxl w/in 45 days (section 1.2).		
Future rent/CPI adjustments (include source, date, frequency):	No CPI, payment on water rights and collection. \$10,000 initial payment w/in 15 days of signing contract. Upon signing addendum (first right of refusal), \$100,000. Exclusive rights \$250,00 payable in five \$50,000 annual payments (section 1.1)		
Unusual circumstances:	Purchase agreement dependent on amount of water exported and ABWAI exercising first rights of refusal.		
Signoff by responsible department head:			
Legal signoff:	<input checked="" type="checkbox"/> Applicable AK business registration <i>N/A</i> <input checked="" type="checkbox"/> Confirm ability to obtain requisite insurance <i>N/A</i> <input checked="" type="checkbox"/> Business in good standing		
Finance signoff:	FINANCE COMPLIANCE <input type="checkbox"/> Sales tax compliance <i>N/A</i> <input checked="" type="checkbox"/> Utilities <i>N/A</i> <input type="checkbox"/> Property tax compliance <i>see memo on taxability</i> <input checked="" type="checkbox"/> Collections <i>N/A</i> <input checked="" type="checkbox"/> Municipal billing <i>N/A</i> <input checked="" type="checkbox"/> Moorage <i>N/A</i>		
Other departments:	If lease terms may impact other municipal departments (please initial): <input type="checkbox"/> Assessing <input type="checkbox"/> Public Works <input type="checkbox"/> Electric <input type="checkbox"/> Other		
Administrator signoff (after all others complete) prior to assembly presentation:	 4/14/21		
Clerk (signature indicates Assembly approval):	 4/17/2021		

Final signoff (after lease review prior to lease signing):	Responsible Dept.	Legal: Confirm COI present with required coverage	Finance	Other (if checked above)



City and Borough of Sitka

PROVIDING FOR TODAY...PREPARING FOR TOMORROW

Coast Guard City, USA

MEMORANDUM

From: Melissa Haley, Finance Director

Date: April 7, 2021

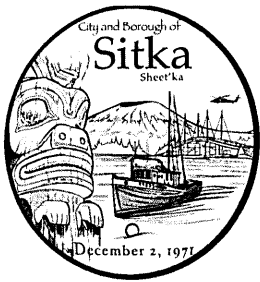
Subject: Applicability of sales tax to Arctic Blue contract water purchases

While sales of water are, at this point, a distant future possibility, I wanted to bring up now that, per SGC, sales of bulk water to Arctic Blue would be taxable (probably maxing out at the cap of \$12,000 or (\$600 winter/\$720 summer). As the company both substantially transforms the water and very little if any would ultimately be sold (and taxed) in Sitka, it would not be eligible for a resale exemption. In addition, the point of delivery would be onto the ship, which would be within the jurisdiction.

The rationale for taxability flows directly from Title 4 of the Sitka General Code. Per SGC 4.09.030, all sales in Sitka are presumed to be taxable, unless either the economic activity does not meet the definition of a sale or the transaction is exempted from taxation.

No exemptions apply to sales of bulk water. Below are the reasons two possible exemptions are not applicable.

- RESALE-Per SCC 4.09.100 P, a sale for further resale is only exempted from sales tax if the final resale transaction is subject to Sitka sales tax.
- OUTSIDE OF THE MUNICIPALITY-A sale for resale outside the City and Borough does not apply. Per SGC 4.09.100, a sale based on an order originating from outside the City and Borough is only exempt if the good or service is delivered outside the city and borough. Loading of bulk water onto a vessel is considered delivery which takes place within the City and Borough.



City and Borough of Sitka

PROVIDING FOR TODAY...PREPARING FOR TOMORROW

Coast Guard City, USA

ARCTIC BLUE WATERS, INC.
78 C STREET

FAIRBANKS, AK 99701

CUSTOMER #: 6001
INVOICE DATE: 04/05/2021
INVOICE #: 2021-00000002
DUE DATE: 04/19/2021
TOTAL DUE: \$10,000.00

Please detach and return with payment

Bulk Water Fee

Fee must be paid within 14 days after signing of Water Purchase Agreement

		Invoice Detail		TOTAL DUE: \$10,000.00	
Type	Description	Quantity	Amount		
Bulk Water		10000	\$10,000.00		
			TOTAL DUE:	\$10,000.00	

Fees are due and payable by the invoice due date as recorded above. Please make checks payable to the City of Borough of Sitka.

For questions concerning this invoice please contact Finance at (907) 747-1843

**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), payable upon signing this Agreement (the “effective date”), to the Administrator of Sitka (“Administrator”), and shall end at 11:59 p.m. Alaska Standard Time on February 28th, 2041. 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. Subject to ABWAI executing a Bulk Water Sales Agreement with a creditable purchaser for a minimum of 100 million gallons of bulk water, Sitka shall grant to ABWAI the first right of refusal to purchase an additional 20,869 Acre-feet of raw water held under “Certificates of Appropriation” issued by the State of Alaska to Sitka. Upon exercising its first right of refusal for additional volumes of bulk water, ABWAI will provide to Sitka, a one-time payment of \$100,000, upon signing an addendum to this Agreement for the additional volumes of bulk water. In order to maintain exclusive rights to the additional volumes of raw water, Arctic will pay to Sitka an additional \$250,000 payment, payable in Five (5) \$50,000 annual payments to be prorated from the date Arctic exercised its first right of refusal for additional volumes of bulk water in the initial 60 month term.

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"). 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. 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.

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	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.

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 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.

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

Purchase Agreement for Raw Water in Bulk Between Sitka and ABWAI.

consecutive months after the first 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 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.

3.2 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.

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 ABWAI'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.

Purchase Agreement for Raw Water in Bulk Between Sitka and ABWAI.

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:

a. Raw water delivered in bulk to ABWAI for export shall be priced at U.S. \$0.005 (one-half of a 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 \$0.001 (one-tenth 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 February 28, 2026 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, purchased and installed by ABWAI at or near the point of delivery. ABWAI will provide Sitka with an independent third party report confirming the calibration of the flow meters. Flow meters will be calibrated every other year during the term of this Agreement.

7.5 The non-refundable payment of \$10,000 made by ABWAI to commence this Agreement will be credited toward export of water payments over the term of this Agreement. The additional non-refundable payments of \$100,000 and \$250,000 will also be credited toward export of water payments over the term of the 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 the Point of Delivery for water will be water in the Blue Lake Dam Power House After Bay.

10.2 The parties agree that ABWAI shall be solely responsible for the costs of acquisition, construction and installation, maintenance and repair, operational costs 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, installation, and operation. All structures and facilities must comply with all Federal, State, and local law, including zoning requirements. All design and construction of any structure or pumping system will require CBS approval.

ABWAI is required to submit to Sitka all design and construction documents ABWAI deems necessary for the loading of bulk water from the Point of Delivery within 48 months from the effective date of this Agreement. If ABWAI does not timely submit the documents, this Agreement shall, at Sitka's election, terminate and expire without further action by Sitka on the forty-fifth (45th) day after Sitka's giving 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 submit the documents.

10.3 The construction and maintenance of an approved facility shall not impede, during construction or operation, the generation of electrical power. In the event of a disruption in generation due to the bulk water delivery system, ABWAI shall assume any financial losses incurred to CBS.

10.4 ABWAI shall obtain the insurance and Bonding required by CBS prior to any construction.

10.5 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.

10.6 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.

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

10.8 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.

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

Purchase Agreement for Raw Water in Bulk Between Sitka and ABWAI.

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 the flow rate of expected delivery;
- b) 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;
- c) steps to be taken to insure the safety of persons in any way involved in the loading of bulk water;
- d) certification that ABWAI has a Contingency Plan that meets all of the requirements of State law applicable to the vessel that is being loaded;
- e) steps to be taken to insure the safety of the public before, during, and after loading of raw bulk water;
- f) steps to be taken to address the effects of wind and tidal conditions on the loading;
- g) steps to be taken concerning moorage and access to vessels during loading;
- h) steps to assure communication before, during, and after loading between those loading and the Administrator or his/her designee;
- i) 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;
- j) steps to be taken to avoid conflicts with other vessel traffic and industrial park users;
- k) 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;
- l) 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;
- m) the days and the periods of time within each day that raw bulk water is proposed to be loaded; and,

n) 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.

Purchase Agreement for Raw Water in Bulk Between Sitka and ABWAI.

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.

Purchase Agreement for Raw Water in Bulk Between Sitka and ABWAI.

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 fifteen (15) days of signing this agreement by the CBS Administrator. The date on which Sitka receives 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 timely make such a payment, 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

[SIGNATURES AND ACKNOWLEDGMENTS ON NEXT PAGE]

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

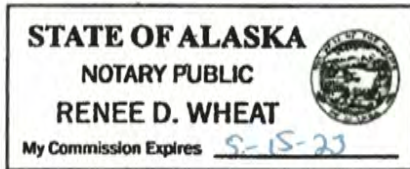
3/30/2021
Date

CITY AND BOROUGH OF SITKA, ALASKA

[Signature]
By: John Leach
Its: Municipal Administrator

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 30th day of March, 2021, by JOHN LEACH, Municipal Administrator of the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, on behalf of the municipality.



[Signature]
Notary Public in and for the State of Alaska
My commission expires: 5-15-23

4/13/21
Date

ARCTIC BLUE WATERS ALASKA, INC.
[Signature]
By: Charles Cartier
Its: President

STATE OF ALASKA)
FOURTH) ss.
~~SECOND~~ JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on this 13 day of April, 2021, by CHARLES CARTIER, President of ARCTIC BLUE WATERS ALASKA Inc., an Alaska corporation, on behalf of the corporation.



[Signature]
Notary Public in and for the State of Alaska
My commission expires: 11/19/23

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

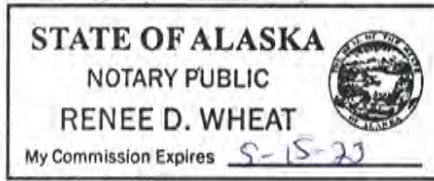
3/30/2021
Date

CITY AND BOROUGH OF SITKA, ALASKA

[Signature]
By: John Leach
Its: Municipal Administrator

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 30th day of March, 2021, by JOHN LEACH, Municipal Administrator of the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, on behalf of the municipality.



[Signature]
Notary Public in and for the State of Alaska
My commission expires: 5-15-23

ARCTIC BLUE WATERS ALASKA, INC.

Date

By: Charles Cartier
Its: President

STATE OF ALASKA)
) ss.
SECOND JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2021, by CHARLES CARTIER, President of ARCTIC BLUE WATERS ALASKA Inc., an Alaska corporation, on behalf of the corporation.

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

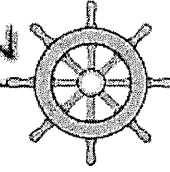
POSSIBLE MOTION

I MOVE TO approve a Purchase Agreement for Raw Water in Bulk for Export between the City and Borough of Sitka and Arctic Blue Waters Alaska Inc. as recommended by the Gary Paxton Industrial Park Board and authorize the Municipal Administrator to execute the document.

Note – this item was postponed at the February 23 meeting.

GARY PAXTON


INDUSTRIAL PARK



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

Tuesday, March 2, 2021

MEMORANDUM

To: John Leach, CBS Administrator 

From: Garry White, Director

Subject: Arctic Blue Waters Alaska Inc. Water Purchase Agreement

Introduction

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

The Gary Paxton Industrial Park (GPIP) Board met on October 29th, 2020 and recommended that the Assembly approve the water purchase agreement between the CBS and Arctic Blue as presented.

The CBS Assembly met on February 23rd to discuss the water purchase agreement. The Assembly had some concerns about the water purchase agreement including; the length of the water contract and the effects of climate change and the ability for the CBS to have sufficient water to meet contractual obligations. Additionally, the Assembly had questions regarding the CBS's water export permits and the ability of the CBS to keep the permits in good standing with the State of Alaska. The Assembly asked that the contract be brought back to the GPIP Board for additional review and discussion.

The GPIP Board met on March 1st and discussed the Assembly's concerns and recommended approval of the water purchase as previously present with the addition of an additional performance bench mark requiring Arctic to provide design and construction documents within 48 months of execution of the agreement.

The GPIP Board discussed the Assembly's concerns with the following justifications to recommend the water purchase agreement:

1. 20 year agreement term length. (more detail below)
 - The inclusions of performance benchmarks in the agreement require Arctic to perform or the agreement can be terminated in 48 months or 60 months.
 - Section 10.2 – Requires Arctic to submit design and construction documents within 48 months.
 - Section 3.1 – Requires Arctic to export at least 50 million gallons within 60 months.

- o Additionally, the stages 2-5 in Section 3.2 give the CBS Administrator sole discretion to allocate water volumes. This allows the CBS to enter into multiple water purchase agreements.
2. Effects of Climate Change on water levels. (more detail below)
 - Sections 4 and 6 of the agreement contain language to protect the CBS for low water years, natural disasters, and turbidity issues.
 - The permits and water availability are tied to the “Rule Curve”, which are related to historic Blue Lake water levels.
 3. CBS Water permits
 - Alaska Statute 46.15.140 (attached) outlines the ability of the State of revoke or amend water certificates.
 - The CBS has demonstrated beneficial use with their water export permits.
 - The CBS has petitioned the State for dual use of the water permits for hydroelectric and public industrial water uses, which further demonstrates beneficial uses.

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. *(This volume represents just under 9% of the average annual rain fall into the Blue Lake Watershed)*

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

The CBS currently has one raw water export agreements:

The CBS entered into a 20 year water purchase agreement with Eckert Fine Beverages in the October of 2017 for 100 million gallons of water annually. This agreement was renewed for another 3 years in the fall of 2020. Eckert is required to export at least 75 thousand gallons of water within 36 months from the execution of the agreement or the agreement terminates. The price of water is set at \$0.01/gallon. The point of delivery for the water is from the Blue Lake penstock. Eckert is required to make a non-refundable payment of \$1,250 annual to the CBS to keep the agreement in good standing.

<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>Eckert Agreement</u>	<u>0.31</u>	<u>100,000,000</u>
<u>Phase 1 Arctic Proposal</u>	<u>6,138</u>	<u>2,000,073,438</u>

<u>Phase 2 Arctic Proposal</u>	<u>20,869</u>	<u>6,800,257,957</u>
Available for water bottling Contracts	2,227.69	725,895,0142

Note: The GPIIP Director recommends the CBS retain between 700-750 million gallons of annual water allocation to accommodate a potential future bottling operation and other low volume uses.

Water Purchase Agreement

The attached Purchase Agreement for Raw Water in Bulk for Export has been developed over many years. The agreement has been reviewed and modified by multiple CBS Attorneys and outside council to ensure that the CBS water assets are protected and to allow private entities the ability to market and sell Sitka's water. Below is a brief description of some of the more material sections of the contract.

Terms (Section 1)

The term of the contract is 20 years with four 5-year extensions with consent of both parties.

Arctic is asking for a 20 year term to allow it to have an opportunity to receive a return on the major capital investment to complete the water export venture. Arctic will need to complete the necessary infrastructure it will need to load water to a ship from the Blue Lake Power House after bay, acquire ships to transporting the water, and to off-load and storage the water at final destination.

The agreement includes performance bench marks at 48 months and 60 months after contract execution that allow the CBS to terminate the contract for non-performance.

- 48 months – submittal of design and construction documents for loading of water (Section 10.2)
- 60 month – requirement for Arctic to export 50 million gallons. (Section 3.1)

Water Volume and nonrefundable fees

Arctic is asking for an initial volume of water to market and then an increased amount of water if/when it enters into a guaranteed third part contract.

Phase 1

- 6,138 Acre-feet (~2 billion gallons) annually (Section 1.1)
 - Arctic must pay a non-refundable fee of \$10,000 to execute agreement within 15 days of Sitka Administrator signature.
 - Arctic must purchase and export a total of 50 million gallons of water within a 60-month period or Sitka can terminate agreement. (Section 3.1)

Phase 2

- Arctic has the first right of refusal acquire an additional 20,869 Acre-feet (~6.8 billion gallons) annually. (Section 1.1)

- Arctic must pay a \$100,000 non-refundable fee to acquire additional rights.
- Arctic must pay an additional \$250,000 non-refundable fee at intervals of \$50,000 per year to be prorated based on when first right of refusal is executed.
- Arctic has 60 months to execute its first right of refusal from execution of the agreement. (Section 3.1)

Post 60 months (Section 3.2)

After 60 months, Arctic no longer has a guaranteed volume of water. The agreement defines Stages of water volume export to retain water allocation amounts. Arctic gains more allocations by exporting more water and can lose allocation amounts by failing to export specified amounts.

Example: If Arctic exports 150 million gallons of water in the 12 month period following 60 months from contract execution. Arctic's available water allocation would be 4,000 acre feet or ~1.3 billion gallons of water (Stage 4).

The CBS is free to enter into multiple water purchase agreements at any time during the contract, but has much more latitude after 60 months. Per the contract water allocations after the 60 month period are at the Administrator's sole discretion.

Water Export Limitations (Section 3.5)

Arctic is only allowed to remove 33.6 million gallons of water per day from the CBS Power House After Bay.

CBS Rights and Protections (Section 4)

Different sections of the agreement contains language to ensure that the CBS water asset is protected for municipal uses and other environmental factors.

- Ensures municipal drinking and hydroelectric water uses retain first right and priority to the water. (Section 4.1 (a))
- Allows for hydroelectric dam and water system maintenance. (Section 4.1 (c))
- Ensure water levels do not drop below critical levels to support the local biological environment. (Sections 4.1 (b) (e) (f)) *(These sections would protect the CBS if climate change affects historic rainfall amounts.)*
- Protection to the CBS against water quality issues due to routine hydroelectric alternations and environmental events. (Section 4.1 (f), Section 6.2 & 6.3)
- Arctic is responsible to follow all regulations in regards to ballast water discharge. (Section 11)

Water Pricing (Section 7)

- The price for water from the CBS power house after bay will be \$1,629.26/Acre-foot or \$0.005/US gallon.
- Arctic 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 \$.001/gallon.
- After 60 month, the price will be adjusted by a CPI Adjustment, not to exceed 3%. (Please see attached sheet showing price adjustments over time.)

- Arctic is allocated water credits for non-refundable fees paid during the 60 month period.

Point of Water Delivery (Section 10.1)

The point of delivery for water delivered by Sitka will be water in the Blue Lake Power House After Bay. The after bay is the preferred point of delivery for water as the CBS has already produce electricity from the water.

Water Loading and Transportation (Section 10)

The CBS currently **cannot** deliver raw water in bulk from Blue Lake. Investigations into the CBS raw water pipeline post the Blue Lake Expansion project has determined that the system no longer operates due to new water pressures on the system.

- Arctic is solely responsible for designing and construction of any infrastructure it deems necessary to load and transport water for export. Arctic is required to acquire bonding to perform work.
 - Arctic has 48 months from the execution of the agreement to submit documentation for loading and transportation or the agreement can be terminated. Arctic has stated that it expects it will take 8-12 months to construct the water loading infrastructure.
- Arctic is solely responsible for arranging transportation of water for export at its own expense, including installing a water based water-loading station.
 - Arctic 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.
 - Recommended that tideland-loading system be addressed via a separate permit or amendment to agreement at a later date.

Action

- Assembly approval of a water purchase agreement between the CBS and Arctic Blue.



'Taste the True Nature of Water'

February 25, 2021

Board of Directors
Gary Paxton Industrial Park
329 Harbor Drive, Suite 212
Sitka, Alaska 99835

Attention: Mr Garry White, Managing Director

Dear Gary / Board Members

Our Company, was disappointed to learn that members of the Assembly, did not approve the "Water Purchase Agreement" between "Arctic Blue Waters Alaska, Inc.", and the City and Borough of Sitka at their meeting on February 23, 2021.

In reviewing a video of the meeting I was distressed to learn of that some members of the Assembly had an unfavorable opinion of myself and previous efforts made by companies I managed to ship bulk water from Sitka. Since 1995 I and my shareholders had one goal in mind, "To obtain a Bulk Water Sales Agreement with a foreign buyer to purchase bulk water from Blue Lake". In 1996 my previous company "Global H2O Resources Inc., paid for an engineering report that was used to assist the City and Borough of Sitka to have the first bulk water export permit issued to the City by the State of Alaska. Global negotiated an exclusive long-term Water Purchase Agreement with the City, which contained several milestones, monthly payments to the City and dates for development completion. Most milestones were met at a great expense.

Brief History:

- Over a 12 year period Global H2O Resources spent in excess of \$6.6 million, with over \$450,000 in payments to the City, hiring of local engineer, surveys, payments for water leases, purchases of two barges, and numerous foreign sales trips;
- True Alaska Bottling spent over \$10.0 million on local bottling plant operations;
- Alaska Bulk Water Inc., spent in excess of \$1.8 million in payments to the City and purchase and installation of a pipe/manifold loading system;
- Alaska Fresh Water Inc., spent \$1.4 million in payments to the City and marketing efforts to sell bulk water from Blue Lake.

The above history has been over a 24 year period by the principals involved who still continue to believe in the concept to harvest and transport bulk water from Sitka to regions of the world where drinking water is becoming depleted and polluted. These principals and companies have now come together under Arctic Blue Waters Alaska Inc., with a combined experience of over 50 years in the bottled and bulk water business. Arctic Blue Waters Alaska, Inc.'s, major shareholder is Mr. Charles Cartier, Fairbanks, Alaska, other shareholders include **Fred Paley, with less than 12% of the Company**. Senior management of the Company asked me to act as a spokesperson due to my many years of experience in the industry.

Arctic proposed a 20 year "Water Purchase Agreement" with the City as the level of funds required to bring this project to a success is very large, with a minimum of \$1.5 million for infrastructure to load a bulk water tanker. Add to this number is the cost of ship charter, infrastructure for off-loading in the host country, bulk water storage tanks, bottling facilities, and sales and marketing. Initial estimates of these costs show that they could reach \$20.0 million.

The "Water Purchase Agreement" is based on performance by Arctic. In the first five (5) years Arctic must purchase and ship 50.0 million gallons, in order to maintain the Agreement. **ONLY IF**, Arctic secures a major sales Agreement with a foreign buyer, together with additional payments to Sitka, do we have the right to additional volumes of bulk water.

Under Section (4) (e) of the "Purchase Agreement For Raw Water In Bulk For Export" the volumes of Sitka's raw water deliveries in bulk to Arctic Blue Waters Alaska, Inc., 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 (outlined on the Certificates) 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 City Administrator's sole discretion.**

I feel it would be helpful, if this letter is shared with Assembly Board Members, to provide additional history of the strenuous efforts that have been made to obtain Sales Agreements with foreign purchasers to ship bulk water from Sitka.

I would be pleased to provide additional information or answer any questions, if requested.

Yours truly,

"Original Signed"

Fred Paley
Arctic Blue Waters Alaska Inc.

c.c. City Administrator & Assembly Members
Chuck Cartier
Andrew Argent

The Time for Bulk Water Is Now

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

Estimate CBS Water Revenues

The table below shows the estimate water revenues from the sale of 8.8 billion gallons of water annually at a price of \$0.005 with an annual 3% CPI increase after 5 years.

Years	Water Price	Export Amount	Sitka Revenues
0-5	\$0.005	8,800,000,000	\$44,000,000
6	0.00515	8,800,000,000	\$45,320,000
7	0.00530	8,800,000,000	\$46,679,600
8	0.00546	8,800,000,000	\$48,079,988
9	0.00563	8,800,000,000	\$49,522,388
10	0.00580	8,800,000,000	\$51,008,059
11	0.00597	8,800,000,000	\$52,538,301
12	0.00615	8,800,000,000	\$54,114,450
13	0.00633	8,800,000,000	\$55,737,884
14	0.00652	8,800,000,000	\$57,410,020
15	0.00672	8,800,000,000	\$59,132,321
16	0.00692	8,800,000,000	\$60,906,290
17	0.00713	8,800,000,000	\$62,733,479
18	0.00734	8,800,000,000	\$64,615,483
19	0.00756	8,800,000,000	\$66,553,948
20	0.00779	8,800,000,000	\$68,550,566

AS 46.15.140. Abandonment, Forfeiture, and Reversion of Appropriations.

(a) The commissioner may declare an appropriation to be wholly or partially abandoned and revoke or amend the certificate of appropriation as to the unused quantity of water if an appropriator, with intention to abandon, does not make beneficial use of all or a part of the appropriated water.

(b) The commissioner may declare that an appropriator has wholly or partially forfeited an appropriation, and shall revoke the certificate of appropriation in whole or in part if the appropriator voluntarily fails or neglects, without sufficient cause, to make use of all or a part of the appropriated water for a period of five successive years. A person who has a permit to develop a use of water including but not limited to residential, agricultural, industrial, or mining use, but has not developed that property to the point of water use before permit expiration, may file a request for permit extension with the commissioner.

(c) Failure to use beneficially for five successive years all or part of the water granted in a certificate of appropriation raises a rebuttable presumption that the appropriator has abandoned or forfeited the right to use the unused quantity of water and shifts to the appropriator the burden to prove otherwise to the satisfaction of the commissioner.

(d) If the commissioner revokes a certificate in whole or in part, the portion of the certificate covered by the revocation reverts to the state and the water becomes unappropriated water.

89-6/1252

DEPOSITED WITH

89-6/1252

Thank you



First National Bank

ALASKA MEMBER FDIC

The deposit for which this receipt is issued is accepted subject to the terms and conditions of this bank's collection agreement. Deposits may not be available for immediate withdrawal.

Transaction number, date and amount of your deposit are shown below.

THIS IS YOUR RECEIPT

Johansen Branch		
0329 37 04/13/21		13:47
DDA Deposit		
Acct# 11800430		\$10,000.00