



BOARD OF DIRECTOR'S MEETING

THURSDAY, JULY 18TH, 2024 - AGENDA

3:00 PM

Room 6 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	Motion to Approve
APRIL 22ND, 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
2. GPIP Haul Out Development Discussion/Decision	Discussion/Recommendations
I. New Business	
1. Global Hydration LLC Water Purchase Proposal	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
April 22, 2024 3:00 pm
Room 5, 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, Mike Johnson, Casey Campbell, Lauren Mitchell
- Members Absent:** Chad Goeden
- Staff Present:** Garry White
- City Representatives:** Michael Harmon, John Leach
- Others Present:** Chris McGraw of Adventures Sitka LLC, Members of the public
- C. Review of Minutes – March 18, 2024**
- Motion:** M/S Johnson/Goeden to approve the minutes of March 18, 2024
Action: Motion Passed 4/0 on a voice vote
- D. Correspondence & Other Information-** None
- E. Changes/Additions/ Deletions to Agenda-** None
- F. Reports –**
- Mr. White briefly discussed bulk water and that there was another proposal should the current company not want to continue.
- G. Persons to Be Heard-** None
- H. Unfinished Business –**

1. Adventures Sitka LLC Dock Use Agreement

At the last board meeting the board voted to increase the dock use agreement from \$1 to \$5 per passenger. Chris McGraw of Adventures Sitka LLC declined renewing the agreement at that rate and wrote a letter asking to revisit this subject due to the 500% increase three weeks before the start of his season. He suggested meeting half way to find a proposal that worked for both parties, then increasing incrementally over the next

few years. He was in attendance at the meeting and addressed the board. They shared they have to negotiate rates at a two or three year advance agreement with cruise ships, so increasing the fee structure well in advance is helpful to their business model.

Members of the public did share a future concern of how using this dock for recreation and a haul out would work and urged caution in creating too long-term of an agreement. The board agreed but ultimately expressed they needed to address this year's agreement.

Motion: M/S /Mitchell/Johnson motion to change the rate privileges to \$2 per person for Adventures Sitka LLC Dock Use Agreement for the 2024 season, with the increase to \$5 or the posted city rate in the 2025 season. With the understanding the adjustment needed to be made in the fall to have sufficient time to plan ahead for tour bookings.

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

2. GPIIP Haul Out Development Discussion

Mr. White gave an update that Western Marine won the bid for the contractor and that there are weekly meetings with CBS, PND, & Mr. White. Permitting is also underway. The CBS put out a bid for a 150 ton lift for a bid, Kendrick Equipment was the only one who responded to the bid. The bid came in at \$1, 412, 800 a little over budget (\$1.3 million), but it is the desired piece of equipment and only bid. Mr. White suggested GPIIP pass a motion to move forward with that bid. He will hopefully be able to negotiate further but wants to have a motion passed so he can move forward when needed instead of waiting for another meeting.

Motion: M/S Johnson/Mitchell motion to move forward with the Kendrick Equipment bid for the haul out lift in the amount of \$1, 412, 800.

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

Mr. White then updated that he is working with the Denali Commission to work on a price point that would be helpful to put in the electrical in the North Yard at the new GPIIP haul out site which is just over \$1 million. EDA has a public works grant that is funded with no deadlines, so Denali Commission can do a matching leverage grant. We are hoping to find out in July if this shared cost option would work. We had \$0 budgeted for this so it would be huge for this concept to be successful he expressed.

I. New Business-

1. GPIIP Bus Policy

The GPIIP Director has received multiple complaints from tenants of the park regarding bus parking at the GPIIP. Buses have been staging on the GPIIP easement roadways impeding traffic flow and causing potential safety issues. Mr. White outlined a policy to bring to CBS stating:

“It is unlawful for any person to park or stop any bus upon any part of the Gary Paxton Industrial Park (GPIIP), except as follows-

1. When a cruise ship is in port, or in conjunction with an authorized tour operation at the GPIIP Dock, buses may park in the GPIIP Dock passenger loading zone as signed while actively loading or unloading passengers only.
- B. The driver of a bus shall enter the GPIIP Dock passenger loading zone as signed in such a manner that the bus, when stopped to load or unload passengers, shall be in a position as not to unduly impede the movement of other vehicular traffic.
- C. No taxicab or for-hire vehicle shall be parked at the GPIIP except when actively engaged in loading or unloading passengers.”

Motion: M/S Johnson/Mitchell motion to move forward with the above GPIIP Stopping, Standing and Parking Bus & Taxi Cab Policy.

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

J. Adjournment

Motion: M/S Mitchell/Johnson move to adjourn the meeting at 3:43 pm

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

PROJECT COVER SHEET – Updated July 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 Boat Haul-Out Pier, Wash Down Pad, North Boat Yard and 150T 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"/> 06.22.23 GPIP BOD adopted Concept 4 <input checked="" type="checkbox"/> 07.25.23 Assembly Adopted Concept 4 <input checked="" type="checkbox"/> 09.29.23 Geotech Field Investigation Complete <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 and Construction Pricing 	<ul style="list-style-type: none"> <input type="checkbox"/> GPIP Board Meeting project price/scope update and operational RFQ – July 18, 2024 <input type="checkbox"/> Q 3 '24: Final Construction Price Amendment & 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 and Design Services	T&M	\$1,347,537	14%
Western Marine Construction (WMC) & Project Contingency	CMAR	\$6,279,362	68%
Travel Hoist Purchase	LS	\$1,377,800	15%
Construction Management & CBS Indirect Cost	T&M	\$276,341	3%

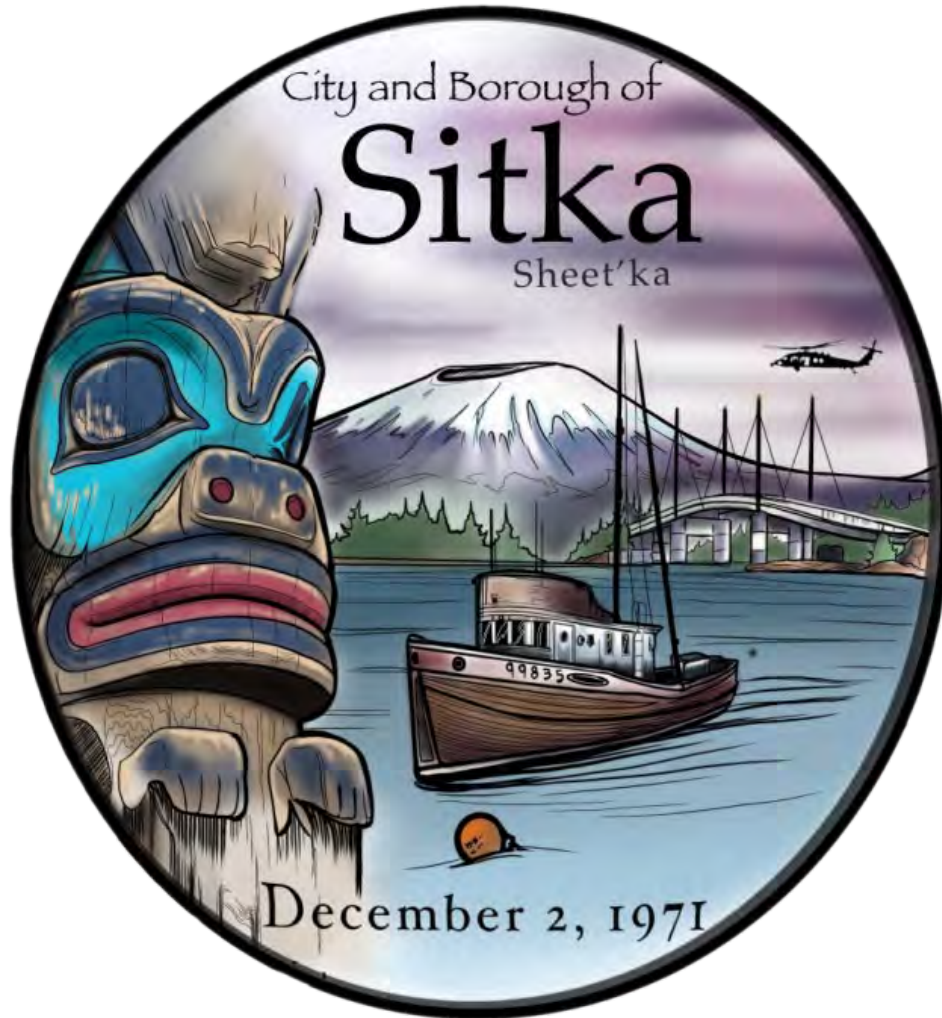
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General Comments:

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 GPIIP 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 & GPIIP	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.		



REQUEST FOR QUALIFICATIONS

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

Contents

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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:** [Insert Date], 2024
- **RFQ Prebid Meeting:** Meeting to clarify the process and answer questions from potential bidders, [Insert Date], 2024
- **RFQ Response Deadline:** [Insert Date], 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 [Insert Date], 2024
- **RFP Development based on input from Prequalified Proposers:** [Insert Date], 2024
- **Invitation to Bid (ITB) to Prequalified Proposer Only :** [Insert Date], 2024

- **ITB Deadline:** Responses Received from Prequalified Proposers: [Insert Date], 2024
- **Completion of Evaluations and Issue Notice of Intent (NOI) to Award:** [Insert Date], 2024
- **Recommendation for Approval of Operator Contract/Lease by GPIB Board:** [Insert Date], 2024
- **Approval of Operator Contract/Lease by City and Borough of Sitka Assembly:** [Insert Date], 2024

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 PM local time on [Insert Deadline Date], 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 202
Sitka, AK 99835
Phone: 907-747-2660

Tuesday, July 16, 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 conceptual design includes a 150-ton vessel lift and other various components for the haul out to operate. The conceptual design included 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 ~\$5.8 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 \$15 million dollar range.

Development Updates

Project Construction

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

Recent work includes the following:

- Final design for Phase 1 has been completed.
- A firm fixed bid with Western Marine has been agreed to with a fixed lumped sum of \$6,248,364. *(Note: 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.)*

150-Ton Vessel Lift Purchase

An Invitation to Bid (ITB) was developed and released for the purchase of a 150-ton vessel lift. The CBS opened bids on April 16th and received one bid from Kendrick Equipment, an authorized Marine Travelift distributor. The bid came in at \$1,412,800. The CBS worked with Kendrick to reduce the cost of the machine to \$1,377,800. A purchase order was executed and the machine is currently being built.

GPIP Haul Out Operations

A Request for Qualifications (RFQ) for GPIP haul out operations has been drafted and ready for GPIP Board review.

The RFQ requests 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 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.

Grant Opportunities

The CBS applied for another Denali Commission grant this year. The GPIIP 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.

Action

- GPIIP Board discussion and direction on vessel haul out development updates.



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

Tuesday, July 16, 2024

MEMORANDUM

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

Introduction

The GPIP Board and the CBS have been working on vessel haul out development concepts since the GPIP properties were acquired. The CBS is now moving forward with the development of a haul out facility and shipyard at the GPIP.

Attached is 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 GPIP.

The RFQ requests 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 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.

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

- GPIIP Board discussion and approval of the RFQ for Marine Vessel Haul Out and Shipyard Operations at the Gary Paxton Industrial Park.



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

Tuesday, July 2, 2024

MEMORANDUM

To: Gay Paxton Industrial Park (GPIP) Board of Directors
From: Garry White, Director
Subject: Global Hydration, LLC Water Purchase Agreement

Introduction

Global Hydration, LLC (GH) is requesting to establish a water purchase agreement with the CBS to export raw water in bulk. Please see proposed terms below.

The CBS is currently in a water purchase agreement with Arctic Blue Waters Alaska, LLC (Arctic). The agreement contains the following terms:

- The term of the contract is 20 years with four 5-year extensions with consent of both parties.
- The contract was executed March 30, 2021 with a requirement that Arctic must take delivery of at least 50 million gallons of water within 60 months or the agreement can be terminated.
 - To date Arctic has not exported any water.
- Arctic has 48 months to submit a design and construction documents for loading of water.
- Arctic is allocated 6,138 Acre-feet (~2 billion gallons) annually
- Arctic has the first right of refusal to acquire an additional 20,869 Acre-feet (~6.8 billion gallons) annually.
 - Arctic must execute a Bulk Water Sales Agreement with a creditable purchaser for a minimum of 100 million gallons of water.
 - 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.
 - The CBS is free to enter into multiple water purchase agreements at any time during the contract. Per the contract, water allocations after the 60-month period are at the Administrator's sole discretion.
- The price for water from the CBS powerhouse after bay will be \$1,629.26/Acre-feet or \$0.005/US gallon.

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.

Besides the Arctic agreement, 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. *(Eckert is current on payments, but they have not meet the terms of the agreement to export 75 thousand gallons by January 15, 2024.)*

<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

Current Agreements

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

Proposed Agreements

*Assumes Arctic does not execute first right of refusal

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

<u>GH Proposal Phase 2</u>	<u>15,000</u>	<u>4,887,765,000</u>
Available water for contracts	<u>1,958.69</u>	<u>638,241,095</u>

GH Proposed Water Purchase Agreement

Below are the terms requested by GH.

The standard Purchase Agreement for Raw Water in Bulk for Export that has been developed over many years will be used. 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.

Terms (Section 1)

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

GH 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. GH 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
- 60 month – requirement for GH to export 50 million gallons.

Water Volume and nonrefundable fees

GH 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 party contract.

Phase 1

- 6,138 Acre-feet (~2 billion gallons) annually (Section 1)
 - GH must pay a non-refundable fee of \$10,000 to execute agreement within 30 days of Sitka Administrator signature.
 - GH must purchase and export a total of 50 million gallons of water within a 60-month period or Sitka can terminate agreement. (Section 3)

Phase 2

- GH has the first right of refusal acquire an additional 15,000 Acre-feet (~4.9 billion gallons) annually. (Section 1)
 - GH must pay a \$100,000 non-refundable fee to acquire additional rights.
 - GH 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.
 - GH has 60 months to execute its first right of refusal from execution of the agreement. (Section 3)

Post 60 months (Section 3)

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

Example: If GH exports 150 million gallons of water in the 12 month period following 60 months from contract execution. GH'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)

GH 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)
- GH 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 \$977.55/Acre-feet or \$0.003/US Gallon for the first 9 months after the initial water delivery in order to offset initial startup costs required to maximize delivery efficiency
- After 9 months, the price of water will be \$1,629.26/Acre-feet or \$0.005/US gallon.
- GH 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%.
- GH 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.

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

Action

- Board discussion and recommendation of water purchase agreement to the Assembly.

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

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

AND: Global Hydration, LLC (“GH”)
734 S. Colorado Avenue
Stuart, FL 34996

1. Term and Documents Comprising this Agreement.

1.1 The “initial term” of this Agreement shall commence upon GH making a non-refundable payment of Ten Thousand Dollars (\$10,000.00), payable within 30 day of Sitka signing of this Agreement (the “effective date”), to the Administrator of Sitka (“Administrator”), and shall end at 11:59 p.m. Alaska Standard Time on July 31, 2044. Sitka hereby grants to GH, 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 GH executing a Bulk Water Sales Agreement with a creditable purchaser for a minimum of 100 million gallons of bulk water, Sitka shall grant to GH the first right of refusal to purchase an additional 15,000 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, GH 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. GH 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 GH does not so timely notify the Administrator, this Agreement shall terminate at the expiration of the then-current term. If GH does so timely notify the Administrator, Sitka has thirty (30) days to notify GH in writing of its consent to the additional term. As initiated in writing by Sitka after notice is given by GH 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 GH 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 GH under this Agreement, and delivered by Sitka to GH 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 GH at the point of delivery.
- g) “Export” means the transportation by GH 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 GH-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 GH, 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 GH from Sitka.

3.1 Sitka will make available to GH 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, GH must take delivery of and export at least 50 million gallons of raw water. If GH 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 GH, in accordance with section 23 below, that GH has failed to comply with this subsection, unless within said 45-day period GH 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, GH's access to such water will be governed by the stages set out in subsection 3.2 below, provided that GH 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 GH from Sitka under this Agreement and the minimum export requirements are set forth below as follows:

Contract Increment Stages	Maximum Water Delivery per 24-Hour Period	Acre-Foot Available Annually	Minimum Export Required to Move to Next Stage	Minimum Export Required to Remain at Stage	Required Period of Performance
Stage 1	33.6 MG	1,000 af	230.2 af (75mg)	153.4 af (50mg)	12-month period
Stage 2	33.6 MG	2,000 af	306.9 af (100mg)	230.2 af (75mg)	12-month period
Stage 3	33.6 MG	4,000 af	920.7 af (300mg)	306.9 af (100mg)	12-month period
Stage 4	33.6 MG	10,000 af	3,068.9 af (1bg)	920.7 af (300mg)	12-month period
Stage 5	33.6 MG	() ¹	N/A	3,068.9 af (1bg)	12-month period

Stage 1: Stage 1 begins 60 months after the effective date of this Agreement. Sitka will make available to GH 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, GH 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 GH 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 GH, in accordance with section 23 below, that GH has failed to meet such requirement, unless within said 45-day period GH cures such failure, as determined by Sitka in its sole discretion.

Stage 2: GH 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 GH 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 GH 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 GH 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 GH does not meet the requirement to remain at Stage 2 set out in the previous sentence, GH 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: GH 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 GH 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 GH 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 GH 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 GH does not meet the requirement set out in the previous sentence to remain at Stage 3, GH shall revert to Stage 2 thereby establishing a new Stage 2 Anniversary Date.

Stage 4: GH 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 GH 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 GH 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 GH 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 GH does not meet the requirement set out in the previous sentence to remain at Stage 4, GH shall revert to Stage 3 thereby establishing a new Stage 3 Anniversary Date.

Stage 5: GH 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 GH takes delivery of and exports a total of 3,068.9 acre feet (1 billion gallons) of raw water per 12-month period, then GH 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 GH 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 GH does not meet the requirement set out in the previous sentence to remain at Stage 5, GH shall revert to Stage 4 thereby establishing a new Stage 4 Anniversary Date.

3.3 If GH 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 GH 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 GH 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 GH 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 GH and exported by GH falls below 50 million gallons during any period of 12 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 GH, in accordance with section 23 below, that GH has failed to comply with this subpart, unless within said 45-day period GH cures its failure to take delivery of and export at least 50 million gallons of water from Sitka.

3.2 If GH 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 GH 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 GH 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 GH 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 GH and exported by GH 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 GH, in accordance with section 23 below, that GH has failed to comply with this subpart, unless within said 45-day period GH cures its failure to take delivery of and export at least 50 million gallons of water from Sitka.

3.5 At no time may GH 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 GH 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 GH 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 GH of any such planned suspension.

d) Sitka shall be relieved of its obligation to deliver raw water in bulk to GH 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 GH 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 GH 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 GH for reasons noted in this paragraph or due to Force Majeure or due to unforeseen circumstances, then GH'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 GH 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 GH 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 GH 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 GH UNDER THIS AGREEMENT. GH 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 GH OF THE QUANTITIES OF WATER WHICH ARE CONTRACTED FOR UNDER THIS AGREEMENT, AND THAT IT HAS FOUND ALL SUCH ITEMS ADEQUATE AND SATISFACTORY FOR GH'S PURPOSES.

6.2 GH 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 GH's obligations under this Agreement.

6.3 GH acknowledges and agrees that the quality of raw water contracted by Sitka to be delivered in bulk to GH 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

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

the occurrence of such events shall not alter or affect GH's contractual obligations under this Agreement, except that the quantity of water GH is obligated to take delivery of and to export shall be reduced to the quantity Sitka can and does make available for delivery to GH, as a consequence of an occurrence of any of such natural events.

6.4 GH 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 GH.

7. Purchase Price for Raw Water.

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

a. Raw water delivered in bulk to GH for export shall be priced at U.S. \$0.003 (one third of a cent) per gallon for the first 9 months after the initial water delivery. After 9 months after the initial water delivery, raw water delivered in bulk to GH for export shall be priced at U.S. \$0.005 (one-half of a cent) per gallon.

b. Raw water delivered by Sitka to GH 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 GH for export.

7.2 GH 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 GH for such water. Failure by GH to make timely payment shall be a material breach of this Agreement and be cause for the Administrator to suspend water delivery to GH until payment is made or other action is taken under this Agreement.

7.3 Beginning July 31, 2029 and every calendar year thereafter, the prices charged by Sitka for raw water delivered to GH 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 GH shall pay Sitka for the volume of water delivered to GH as measured by flow meters, purchased and installed by GH at or near the point of delivery. GH 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 GH to commence this Agreement will be credited toward export of water payments over the term of this Agreement. The additional

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

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 GH'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 GH by certified mail that GH 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, GH 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 GH under this Agreement shall cease, except that GH'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 GH 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.

GH is required to submit to Sitka all design and construction documents GH deems necessary for the loading of bulk water from the Point of Delivery within 48 months from the effective date of this Agreement. If GH 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 GH, in accordance with section 23 below, that GH has failed to comply with this subsection, unless within said 45-day period GH 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, GH shall assume any financial losses incurred to CBS.

10.4 GH 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 GH 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, GH 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 GH 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 GH MUST ASSURE THE ADMINISTRATOR OF THE FEASIBILITY OF A PARTICULAR USE BEFORE ENGAGING IN SUCH USE.

10.7 GH 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, GH will designate in a writing to the Administrator a local representative as GH's continuing personal contact with the Administrator and its subordinate departments, agencies and authorities.

11. Ballast Water and Wash Water Discharges.

11.1 GH 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 GH shall comply with all applicable federal, state and local requirements regarding the use and disposal of any raw or treated water delivered to GH 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 GH loads any bulk water delivered to it by Sitka, GH 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 GH to resubmit—any portion of the Plan. Such action by the Administrator shall be in a writing to GH that states the deficiency. Sitka shall deliver no bulk water to GH and GH 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. GH 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 GH 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 GH 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 GH intends to address the risks associated with a catastrophic event arising from GH's loading activities or GH'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 GH 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, GH 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 GH 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 GH to comply with section 6.3 of this Agreement.

13.2 GH 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. GH shall provide a copy of the certificate insurance GH to Sitka within sixty (60) days after the effective date of this Agreement.

13.3 GH 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. GH shall assure that any contractor for GH 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 GH 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 GH 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 GH is relieved of an obligation under this Agreement due to Force Majeure, time

periods under this Agreement shall be adjusted accordingly. The party asserting a Force Majeure event must demonstrate by clear and convincing evidence that the failure or delay in performance is directly and proximately caused by a Force Majeure event.

17. Applicable Law.

GH 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 GH 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 GH 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. GH 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 GH: Michael Buono
Global Hydration LLC
734 S Colorado Ave.
Stuart , FL 34994

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.

CITY AND BOROUGH OF SITKA, ALASKA

Date

By: John Leach
Its: Municipal Administrator

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

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

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

GLOBAL HYDRATION LLC

Date

By: Michael Buono
Its: Managing Member

STATE OF ALASKA)
) ss.
SECOND JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on this ____ day of _____, 2021, by MICHAEL BUONO, President of GLOBAL HYDRATION LLC, an Alaska corporation, on behalf of the corporation.

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