

# DOCKS AND HARBORS OPERATIONS MEETING

## AGENDA

August 21, 2024 at 5:00 PM

Port Director's Conference Room/Zoom Webinar

<https://juneau.zoom.us/j/86272087941> or (253)215-8782 Webinar ID: 862 7208 7941 Passcode: 817283

- A. **CALL TO ORDER:** (5:00pm in Port Director's Conference Room and via Zoom)
- B. **ROLL CALL:** (James Becker, Don Etheridge, Tyler Emerson, Clayton Hamilton, Debbie Hart, Matthew Leither, Nick Orr, Annette Smith, and Shem Sooter).
- C. **PORT DIRECTOR REQUESTS FOR AGENDA CHANGES**  
MOTION: TO APPROVE THE AGENDA AS PRESENTED OR AMENDED.
- D. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** (not to exceed five minutes per person, or twenty minutes total time)
- E. **APPROVAL OF MINUTES**
  - [1.](#) April 17th, 2024 Meeting Minutes
- F. **ITEMS FOR INFORMATION/DISCUSSION**
  - [2.](#) Proposed Regulations Changes  
Presentation by Harbormaster  
  
Committee Discussion/Public Comment
  - [3.](#) Goldbelt Seadrome Building Land Needs  
Presentation by Port Director/Goldbelt VP for Alaska Operations  
  
Committee Discussion/Public Comment
  - [4.](#) National Guard Tide Land Lease  
Presentation by Port Director  
  
Committee Discussion/Public Comment
  - [5.](#) Huna-Totem Corp Dock - Update  
Presentation by Port Director  
  
Committee Discussion/Public Comment
  - [6.](#) Aurora Harbor G-Float Shelter Options  
Presentation by Port Director  
  
Committee Discussion/Public Comment
  - [7.](#) Taku Harbor Repair Options  
Presentation by Port Engineer  
  
Committee Discussion/Public Comment
  - [8.](#) Statter Harbor NOAA Art Project  
Presentation by Port Engineer  
  
Committee Discussion/Public Comment

**G. STAFF, COMMITTEE AND MEMBER REPORTS**

**H. COMMITTEE ADMINISTRATIVE MATTERS**

Next Operations/Planning Committee Meeting - Wednesday, September 18th, 2024

**I. ADJOURNMENT**

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: [city.clerk@juneau.gov](mailto:city.clerk@juneau.gov).



# DOCKS AND HARBORS OPERATIONS MEETING MINUTES

April 17, 2024 at 5:00 PM

Port Directors Conference Room/Zoom Meeting

- A. CALL TO ORDER:** Mr. Ridgway called the meeting to order at 5:00pm in the Port Director's Conference Room and via Zoom.
- B. ROLL CALL:** Don Etheridge, Paul Grant, Debbie Hart, Matthew Leither, Annette Smith, Shem Sooter, and Mark Ridgway
- Absent:** Jim Becker
- Also in attendance:** Carl Uchytel – Port Director, Matthew Creswell - Harbormaster, Emily Wright – CBJ Law, and Leah Narum – Administrative Assistant.
- C. PORT DIRECTOR REQUESTS FOR AGENDA CHANGES** - None
- MOTION By MR ETHERIDGE: TO APPROVE THE AGENDA AS PRESENTED AND ASK UNANIMOUS CONSENT.**
- Motion passed with no objection.**
- D. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** – None
- Mr. Uchytel introduced the AELP contractor that is here doing a site survey for the cruise ship dock electrification.
- E. APPROVAL OF MINUTES**
1. Hearing no objection, the March 20th, 2024 Operations Meeting Minutes were approved as presented.
- F. UNFINISHED BUSINESS**
2. Vessel Disposal Surcharge (VDS) – Next Steps
- Mr. Creswell said this starts on page eight in the packet. We have talked about this over the winter and the surcharge regulation which is the charge assessed to uninsured vessels. Currently that surcharge is only applied to assigned stall holders that are uninsured. Approximately 19% of the vessels of assigned moorage are uninsured. From April 1 last year to April 1 this year there was approximately \$20K collected for vessel surcharge. Discussion from previous meetings was along the lines that we should be assessing vessel surcharge to certain transient vessels including non-stall holders. They may be here all year but are non-stall holders. His direction from the Board was to figure out how to assess the VDS to transient vessels wanting to pay the monthly, semi-monthly, and annual rate. If we applied the VDS to these transient vessels, we would be collecting just over \$30K. If vessels are paying the daily rate, it is a much higher rate and the VDS would not be applied. We spent over \$100K for disposal of vessels in the last year and there will probably be another \$50K before the fiscal year end. If we were to collect more VDS revenue to get closer to our current disposable costs, it would be a \$.97 VDS fee. We would need to charge about \$1.50 to recover all our disposals costs expected to the end of the fiscal year. An average uninsured vessel would pay about \$51 per month. If the VDS was raised to \$1.50, it would be about \$75 per month.
- Committee Questions
- Mr. Ridgway asked how the personnel time spent on these vessels is handled?
- Mr. Creswell said it is in our Lucity software program.
- Mr. Ridgway asked if staff is proposing the \$.97 per foot or the \$1.50 per foot?

Mr. Creswell said the \$.97 per foot would get us to our current disposal expense, but the \$1.50 would be to recover the anticipated disposal expense to the end of the fiscal year. He said he will take direction from the Board on what fee the Board would like to charge. It could be \$.97, \$1.00, \$1.25, or \$1.50 per foot.

Ms. Smith asked if Wrangell increased their VDS fee to \$3.00 per foot?

Mr. Creswell said they were proposing that fee, but he does not know if that was implemented.

Mr. Leither commented that this was an exceptionally bad year for vessel disposal and wanted to know if past years there was as high disposal costs?

Mr. Creswell said winter was bad this year, but those boats were not the expensive ones to dispose of. The big expense vessels were the 55' ferro cement (Halana), 43' power troller (Norther Star), 56' (Silver Lady) which were all transient vessels paying monthly rates and not assessed the VDS fee. With the annual sea trial notifications, there could be a potential for more vessel disposals if the vessels do not meet the sea trials and are impounded. He is not sure if this is the normal disposal costs for a bit until all the vessels meet their sea trials or if it will get better now.

Mr. Etheridge asked where this year compares to the last couple of years?

Mr. Creswell said this year was worse due to not selling the impounded vessels and having to dispose of larger vessels. He does not have a number to compare this year to.

Mr. Grant asked if staff could look back ten years to see the trends or have our procedures changed so looking back is not a good comparable number?

Mr. Creswell said pre COVID, we had a way to track vessels. During COVID we took a pause on impounding vessels, and we are paying the price for that now. We could be in for a couple of tough years.

Ms. Smith asked if the Board approved an increase, and our vessel disposal expense goes down in a couple years, can we reduce the rate at that time?

Mr. Ridgway said yes, and this fee could be adjusted year to year.

Mr. Etheridge commented that we would still need to go through the Assembly for all rate increases.

Mr. Ridgway said the Board should take all our expenses for the previous year or two years to determine the VDS fee so we would need to go back to the Assembly.

Mr. Grant asked why this is not an insurable event. If someone leaves a junk car in my yard, he believes he could call his insurance and tell them to take it away. He asked if getting rid of boats could be covered by our insurance.

Mr. Creswell said he does not believe any of these boats would be insurable unless they sank. Claiming this on our insurance may increase our insurance even more.

Mr. Etheridge commented that being public property is the difference from being able to use our insurance.

Ms. Smith asked if we collected more VDS than our expense, could we refund the excess money evenly to the people we collected it from?

Mr. Uchytel commented that he would be cautious about having a fund balance for vessel disposal. That may send a message to the boating community that Docks & Harbors has money to dispose of vessels and anyone wanting to get rid of their vessel would leave for us to dispose of. We want people to be responsible for their own property.

Mr. Ridgway said the Board has two questions to answer, what is a good rate for the VDS, and what do we do with the money if we charge more than our disposal costs?

Mr. Creswell said over the years of FY20 and FY21 we were just over \$100K for those two years and we were not even very active with impounds and disposal.

Mr. Hart said this is a statewide issue. Often these vessels are sold to people who do not have the means. Are current patrons who have the vessels in question of future impound having trouble paying their moorage and paying the current VDS fee?

Mr. Creswell said most of the vessels we sell are transient vessels and per regulation do not pay the VDS fee. He does not see the VDS fee as a problem for the boaters.

Mr. Grant asked if the proposed \$.97 rate total revenue includes the transient vessels also.

Mr. Creswell said if we include the transient vessels over the April 2023 to April 2024 and raised it to \$.97 it will cover our current cost of disposal.

Mr. Grant commented that we will never be current with the recovering our costs but always a year behind. Even if we adjust the rate every year.

Mr. Creswell said that is the way he sees it.

Mr. Ridgway commented that staff provided all the information needed to determine a rate to make use whole. If we want to move something to the full Board, we should determine a rate. We cannot go forward as an enterprise without these costs addressed.

Mr. Leither said this seems like a lot for some people, especially with the rate increase that just happened. He wants to know how the Assembly might feel about this fee being increased. One of the ways to have a variable rate is the wording could be the same as the CPI wording that it will be adjusted unless the Board decides not to and that way we would not need to go to the Assembly every time. If we keep track of things, and have collected over what our costs are, we could reduce the fee.

Mr. Ridgway recommended updating our rate setting policy and have a formula this Board wants to apply to the VDS fee. Look at this fee every couple of years and raise or lower it to what makes Harbors whole.

Mr. Leither commented it is a lot of time and work to raise the fee with advertisement timeline, public hearing meetings, Assembly meetings, and if that does not have to happen each time it would be better.

Mr. Ridgway recommended staff come back to the next Operations meeting with a cost-setting proposal.

Mr. Etheridge wanted to check with CBJ Law to see if we could have a fee set at a rate, but if our costs are "x" it would be one rate and if they are "x" it would be a different rate. Could it be based on our expense?

Mr. Ridgway asked Ms. Wright if the Board could have some flexibility in our rates so we would not have to come back to the Assembly to have the VDS fee adjusted.

Ms. Wright said yes, we can do this any way you want. We can have the wording like the CPI and have this fee adjusted annually or you could go to the Assembly every time.

Mr. Ridgway commented that he would like to see a proposed rate/formula from staff before moving this to the full Board and would not need a motion tonight.

Ms. Smith commented that the Boards responsibility is to Harbors and to make sure we have the funding to take care of any issues. Owning a boat is expensive. It is cheap housing for people, but we do not get City assistance.

Mr. Creswell clarified that he would come back to the next Operations Committee with a formalized formula that he used as an example tonight, and work through CBJ Law to come up with language for regulation change. After the Operations Committee approves the formula and regulation wording, it will be forwarded to the full Board for approval.

Mr. Etheridge recommended coming up with a top number to give to CBJ Law to work with.

Mr. Ridgway commented that if it is a formula number it will not be rounded. It will be a representation of what is owed.

Mr. Etheridge said that is the final number, but if the Committee recommends a top number not to go over or not to exceed, they could work with that.

Mr. Leither recommended leaving the formula out of the motion but say this is our current needs for boat disposal. He does not want to be bound to a specific formula but have the wording more like the CPI. We can adjust up to a certain fee or we do not have to and decide based on what needs to happen.

Ms. Hart recommended for staff to also show a timeline. If this is approved at the next meeting, what does that mean when it would be implemented if it was approved by the Board and Assembly.

Mr. Creswell said Ms. Wright will work on different languages for the Committee to review and decide on. He said rate changes are best at the beginning of the new fiscal year (July 1<sup>st</sup>) or January 1<sup>st</sup>.

Mr. Uchytel said staff is also working on several other regulation changes and this would be added to those changes.

Ms. Smith asked, including assessing this to transient vessels, do we need to start public notice now?

Mr. Creswell said no, this would go through our standard process.

Public Comment - None

Committee Discussion/Action

NO MOTION

3. PIDP Grant Update – Local Matching Grant Amount

Mr. Uchytel said the question here is, how much do we want to commit for the local match. Like last year, we are going to pursue a small project, small port, which limits our ask to \$11.25M. Brandon Ivanowicz with PND Engineers is working on the Grant application with his team. Part of our scope of work is for PND to come and provide an overview of what efforts have been provided. Last month, the Committee discussed providing a local match of up to 20%. Last year, the Committee decided on \$500K which was closer to 5%. No match is required for this grant but during our debrief in January, one of the suggestions was that we would be more competitive with 20% match money. Harbors will have approximately \$4M at the end of June in our Harbor fund balance.

Brandon Ivanowicz (PND Engineers)

He said PND was contracted by Docks & Harbors to provide concept development and grant writing assistance for the Aurora Harbor drive down float. The grant being pursued is the Maritime Administration Port Infrastructure Development Program Grant (PIDP). Our team is working on the concept drawings, cost estimates, and technical project descriptions that will go into the grant narrative. We have graphic designers that are working on providing an eye-catching application document. We have a sub-consultant, Marine Coast Data, who will prepare the BCA, or cost analysis for the application. That will be the overall cost of the project and the long-term benefits the project will create over its lifespan. We met with MARAD to get an idea where the application needs to be approved from last years. Our application was strong, but just not to the level of being selected. The team is focusing on the areas that need to be improved from last year's application. The grant is due May 10<sup>th</sup>. We will

submit a draft on May 2<sup>nd</sup> for review. On May 4<sup>th</sup> Docks & Harbors will provide comments. May 6<sup>th</sup>, the final draft will be submitted to Docks & Harbors for their submission to Grants.gov by May 10<sup>th</sup>. He went over the location and what the drive down float would look like. The total construction cost is estimated to be \$12.6M.

Mr. Uchytel said the only way we would do this is with a federal grant so this would be buy American and hopefully that has been considered in the estimate. The other thing about this grant, small project, small port, is the most the governments will give us is \$11.25M. Anything over that will be on us to pay. PND does have great experience building drive down floats, but none have been post pandemic numbers.

Committee Questions –

Mr. Grant commented that the location for the drive down float could alter the traffic pattern for boats coming into Aurora and will that create any problems that will need to be thought about?

Mr. Ivanowicz said he does not see any issues. This is located at the best place to still have usable space on that inside edge.

Mr. Grant asked if there would need to be a red marker on the end of the float?

Mr. Ivanowicz said PND would submit the project to the Coast Guard, and they would provide the requirements for markers and lights.

Mr. Creswell said going around the breakwater in Douglas is much tighter than this opening. We currently have 100 plus feet boats in Douglas.

Mr. Uchytel said we did have a good turnout at the Infrastructure fair. There was commercial fisherman that saw this layout and thought it looked good.

Ms. Smith asked if this is on Docks & Harbors property?

Mr. Ridgway said yes.

Ms. Smith asked if there are concerns for cost overrun with these numbers or does PND believe the contingency is a good number?

Mr. Ivanowicz said it is tough estimating, but we have a good level of confidence with this estimate for 2024 numbers. It would not hurt to redo the estimate with 2027 numbers.

Ms. Hart asked if height restrictions have been considered for house boats to leave the area they are located in?

Mr. Ivanowicz said if the houseboat got into the area where they are, they will be able to get out.

Mr. Leither asked how often the anodes need to be replaced.

Mr. Ivanowicz said 15 to 20 years of service life. That is the same for the galvanized coating.

Mr. Leither asked if the Auke Bay Facility supports itself?

Mr. Creswell said the Auke Bay Loading facility does bring in a substantial amount of money but has not been compared to cost. He does not believe it pays for itself but does pay for the operations.

Mr. Uchytel said none of our facilities pay for themselves. We have to subsidize everything.

Mr. Ridgway questioned if the turn has been looked at to see what size trailers can make the turn.

Mr. Uchytel said in final design the turn calculations can be looked at but not at this level.

Mr. Ridgway how wide is the elevated approach dock?

Mr. Ivanowicz said about 20' and it is rated for a slightly smaller semi-truck. If it needs to hold more weight, we could modify the existing structure.

Ms. Smith asked how much more that would cost?

Mr. Ivanowicz said it would probably increase by about five or ten percent.

Public Comment - None

Committee Discussion/Action

MOTION By MR. ETHERIDGE: TO COMMIT FROM HARBOR FUND BALANCE - 20% OF PROJECT COST TOWARDS THE LOCAL MATCH FOR THE PIPD GRANT APPLICATION AND MOVE TO THE NEXT FULL BOARD AND ASK UNANIMOUS CONSENT.

Mr. Leither objected for the purpose of discussion.

He asked if the contingency can be added in, or do we need to say exactly what it costs?

Mr. Uchytel said for grant purposes, we need to tell MARAD what we are committed to.

Mr. Ivanowicz said based on the projects estimate, the federal match would be \$10.12M, the 20% local match would be \$2.53M and if they gave us the \$11.25M without the match, we would be responsible for \$1.4M which is the project cost over the \$11.25M.

Mr. Leither clarified that we are going to pay 20% on the entire proposed budget for the drive down float project. Mr. Leither withdrew his objection.

Motion passed.

## **G. NEW BUSINESS**

### **4. Angoon Trading Company Lease Assignment**

Mr. Uchytel said on page 14 in the packet is a simple lease with Angoon Trading Company. Back in the October time frame, we were aware of Angoon advertising to sell their warehouse building. They own the building, and we own the lease property. Marine Exchange of Alaska wants to purchase the Angoon trading building and they need the approval by CBJ to make the assignment of Angoon Trading to Marine Exchange of Alaska. The lease allows them to assign, but it shall be approved by CBJ.

Committee Questions

Mr. Grant asked if this is the lot next to the CBJ lot?

Mr. Uchytel said we own the parcel but not the building. The next couple parcels are leased to DJG (Hugh Grant) and owned by CBJ. The area south of Angoon Trading needs a lot of fill to be useable. The two lots after that are owned by Mr. Doug Trucano.

Mr. Ridgway asked what is paid in lease rent.

Mr. Uchytel said he was unsure.



Mr. Grant asked what is Marine Exchange going to use this area for?

Mr. Coutu, Marine Exchange representative, said this will be for our Marine safety site, light industrial, and light welding.

Mr. Grant commented that the Board has an obligation to ensure the operations are marine or water related.

Mr. Coutu said Marine Exchange of Alaska builds and places marine safety sites all over the state of Alaska. We are in the automated identification system process for vessels. Our marine safety sites are equipped with weather sensing data which is available to ships across Alaska.

Mr. Ridgway asked Mr. Uchtyl if there is any reason this Board should not approve the assignment of this lease?

Mr. Uchtyl said only if the Board had a better use.

Public Comment - None

Committee Discussion/Action

MOTION By MR. ETHERIDGE: TO APPROVE ANGOON TRADING COMPANY LEASE PROPERTY TRANSFER TO MARINE EXCHANGE OF ALASKA AND ASK UNANIMOUS CONSENT.

Mr. Grant objected for a brief comment.

He wanted the Board to remember that this may be giving up one of our location options for a boatyard.

Mr. Grant withdrew his objection.

Motion passed.

5. Boat Shelter Sale of AF-019

Mr. Uchtyl said on page 16 in the packet, the Harbors Admin supervisor received a notification from a boat shelter owner that he sold his boat shelter. He did not go through the requirements of Board approval. The boat shelter is already sold, and this has happened before.

Committee Questions - None

Public Comment - None

Committee Discussion/Action

MOTION By MR. ETHERIDGE: THAT THE BOARD WAIVE ITS RIGHT OF FIRST REFUSAL TO PURCHASE BOAT SHELTER AF-019 AND ASK UNANIMOUS CONSENT.

Motion passed with no objection.

6. US Army Corps of Engineers - Feasibility Cost Sharing Agreement for Auke Bay Wave Attenuator

Mr. Uchtyl said on page 19 in the packet is a template for the feasibility cost sharing agreement. Ever since the senate passed the budget for water and energy, Senator Murkowski has \$500,000 earmarked for the Statter Harbor Breakwater feasibility study. Since then, the Alaska Army Corps District in Anchorage has been moving forward with documents back and forth to consummate the agreement. This commits us to half of a \$3M study as a local sponsor. This needs to be approved by the Board. He

also said it could be more than \$3M so we could end up paying more. These are big projects and big decisions that will impact our fund balance.

**Committee Questions –**

Mr. Etheridge asked if we could use our Docks funds because of all the whale watching boats that moored at Statter Harbor?

Mr. Uchytel said we currently have \$1.6M in the Statter Harbor improvements phase III. We could legitimately pull from that for the Breakwater and continue to ask for Marine Passenger fees for the curb/gutter/paving project for the Statter Harbor uplands. However, Docks fund balance is going to be close to \$3M. Instead of asking for marine passenger fees to support the breakwater, that would need to go through the Tourism Manager and the Assembly, we could just pay for the breakwater with our Docks fund balance.

Mr. Ridgway asked if there has ever been a small cruise ship tied to the Breakwater?

Mr. Creswell said no.

Mr. Ridgway asked how critical it is to move this to the full Board next week?

Mr. Uchytel said he would like to get this moving as quickly as possible to let the Corps of Engineers know we want to do this. This agreement really says we are committed to working with the Army Corps and we know we have costs.

Mr. Ridgway asked what is this agreement buying us?

Mr. Uchytel said with our local share, we will get a full design from the Army Corps. It goes from feasibility study to construction, and we will have to come up with a 20% local match. With the feasibility study, they say three years, and \$3M cost. Half of the cost is shared with the local sponsor. This buys us that process. We have applied for congressionally directed spending that Senator Murkowski earmarked and our lobbyist in DC has already asked for the rest of the \$2M. The study has to say that it makes sense to replace the breakwater to protect a private marina, Statter Harbor, and all the revenue generated from whale watching.

Ms. Smith commented that we are committed to a local match of \$2M, if this goes through, we are committed to another 20% match for the construction which will be substantially more than \$2M. She wanted to know where that money would come from?

Mr. Uchytel said the way he would structure it is the ADOT Harbors facility grant does allow for grant match for floating breakwaters. They have been working to increase the cap of \$5M to a cap of \$7.5M and if we could get the \$7.5M we would be at \$15M. We would still need to come up with \$7.5M for local match. But that would be \$15M of the \$20M project.

Mr. Etheridge said getting this raised to \$7.5M is looking good. Getting it funded is something different.

Mr. Uchytel suggested not ask for marine passenger fees for the feasibility study, but if we need to for the floating breakwater construction, to ask at that time.

Public Comment - None

**Committee Discussion/Action**

**MOTION By MR. ETHERIDGE: TO RECOMMEND THAT THE BOARD ACCEPT THE US ARMY CORPS OF ENGINEERS AGREEMENT FOR A FEASIBILITY COST SHARING AGREEMENT FOR THE AUKE BAY WAVE ATTENUATOR AND ASK UNANIMOUS CONSENT.**

Motion passed with no objection.

**H. ITEMS FOR INFORMATION/DISCUSSION**

7. Goldbelt Seadrome Property Swap

Mr. Uchytel said on page 38 is a letter from Goldbelt saying they want to start the discussion again on the proposed property swap. On page 45, there are alternative property relocations. It will be best for Steve Sahlender to come and talk and explain what he wants.

Committee Discussion

Mr. Leither asked if the Title 85 changes, will this be something we can do?

Mr. Uchytel said Title 85 changes are in front of the Assembly on the 28<sup>th</sup>.

Public Comment - None

8. Title 85 Changes

Mr. Uchytel said this is on page 51 in the packet. On the 28<sup>th</sup>, this will go in front of the Assembly. He said it is an excellent point to ask, "what does the Assembly want the Board to do". It has been stated before that they are not able to put everything in ordinance as far as expectations. The management of this property is one of the questions. By taking out the limitations of authority, what is the Assembly signaling to this body. Are they saying they do not want the Board's input? This was brought up as an information item just to keep on our radar.

Committee Discussion

Mr. Etheridge commented that he thought the downtown waterfront property was already taken away from us.

Mr. Uchytel said his recollection was only for the Norwegian Cruise Line dock. The Title 85 changes cause confusion on what this body should be doing.

Mr. Etheridge said his understanding from the Mayor was they were taking over all the downtown waterfront property.

Mr. Grant said considering the Title 85 changes, maybe we should tell Goldbelt to go talk to the Assembly.

Ms. Hart commented that the Board is good to work with the Tourism Manager and work for the greater good of the community, but the Title 85 changes hinders the Docks & Harbors Board and the Port Director. It does not give any guidance to the new Tourism Manager. Now the changes throw Goldbelt into chaos because who do they go to now. The Assembly does not even know what these changes will cause.

Mr. Grant commented that these changes are taking away our ability to answer the question that we are being asked by Goldbelt. Why would Goldbelt come to us when Docks & Harbors Board no longer can comment on these projects. Does the Assembly want us to do anything on this topic?

Ms. Smith commented that this is either our responsibility or it isn't. If this is not ours to deal with, then they should get it all and not just the good stuff.

Mr. Uchytel said he has tried to work with the Tourism Manager very closely. He sends tourism related requests to her, and she decides what she will work on what he will work on.

Mr. Ridgway commented that this is a very frustrated Board and the language in the changes does not make anything clear on our roles.

Public Comment - None

**9. Proposed Camping Resolution**

Mr. Uchytel said on page 58 is the most recent version that the Committee of the Whole adopted on Monday. No decision is being made in the short term. They have punted to the City Manager Robert Barr to come up with a new proposed location.

Committee Discussion

Mr. Ridgway asked if they were still talking about moving it to the little rock dump?

Mr. Etheridge said he heard that was not going to happen.

Ms. Smith said she is not in favor of letting the Assembly use any of our property for a homeless camp.

Mr. Uchytel said the dispersed camp idea will probably mean we have a lot of dispersed camping along the seawalk. He can see Docks & Harbors dealing with it in one way or another.

Public Comment - None

**I. STAFF REPORTS -**

Mr. Creswell reported –

- At all locations, Staff is deep into summer preparations. Everything is looking great.
- Doug Liermann is retiring on April 30<sup>th</sup>. There will be a gathering at the Buoy Deck at 4:45 to wish him well.

**MEMBER REPORTS -**

Mr. Etheridge reported –

- He attended the Assembly Finance Meeting with Mr. Creswell on Saturday where he presented the budget. The Assembly was very pleased with our budget.

Mr. Leither said he will not be attending the Board meeting next week.

Mr. Ridgway said he will resign from the Board after the next Board meeting. He wants to take a year off.

**J. COMMITTEE ADMINISTRATIVE MATTERS**

Next Operations/Planning Committee Meeting - Wednesday, May 22nd, 2024

**K. ADJOURNMENT - The meeting adjourned at 7:40pm.**

A REGULATION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA  
ADOPTION OF REGULATION AMENDMENTS

- Title 05 Chapter 10 – Waterfront Sales Permits, Tour Sales Permits
- Title 05 Chapter 20 – Small Boat Harbor, Reserved Moorage Waitlist Fee
- Title 05 Chapter 20 – Small Boat Harbor, Harbor Fee Policy
- Title 05 Chapter 35 – Small Boat Harbor, Transient Moorage Management Fees
- Title 05 Chapter 40 – Small Boat Harbor, Moorage Management Regulations
- Title 05 Chapter 45 – Small Boat Harbor, Auke Bay Loading Facility

PURSUANT TO AUTHORITY GRANTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, THE DOCKS AND HARBORS BOARD PROPOSES TO ADOPT THE FOLLOWING AMENDMENT TO REGULATIONS:

**Section 1. Authority.** These regulations are adopted pursuant to CBJ Ordinance 01.60, 85.02.060, and 85.02.100.

**Section 2. Amendment of Regulations.** The City and Borough of Juneau Administrative Code is amended at 05 CBJAC 10 Waterfront Sales Permits to read:

**05 CBJAC 10.040 Tour sales permits.**

- (a) Application process and permit award.
- ...
- (3) *How the permits are awarded.* The port director will manage and award the permits by public outcry auction. The minimum bid for a permit is ~~\$30,000.00~~ \$35,000. Applicants meeting the permit eligibility requirements set out in 05 CBJAC 10.030(f) will be allowed to bid on a permit provided the applicant posts a ~~\$30,000.00~~ \$35,000 bid bond payable to CBJ. The applicant must agree to forfeit the bid bond in the event the applicant does not honor a winning bid on a permit.

**Section 3. Amendment of Regulation.** The City and Borough of Juneau Administrative Code is amended at 05 CBJAC 20 Small Boat Harbor Fees and Charges, to read:

**05 CBJAC 20.010 Small boat harbor fee policy.**

- ...
- (r) Collection accounts. If a person has had a previous account with Docks and Harbors sent to collections, the person shall not be able to moor a vessel until the collection account has been paid in full. Should the person moor their vessel without settling all accounts, the vessel is deemed abandoned and immediately subject to the impound process under CBJ 85.25.130.

- (s) Habitual Offenders. Any person who has been subject to impoundment proceedings or had an account sent to collections in the previous 24 months, shall be required to pre-pay for their moorage.

**Section 4. Amendment of Regulations.** The City and Borough of Juneau Administrative Code is amended at 05 CBJAC 35 Small Boat Harbor Transient Moorage Management, to read:

**05 CBJAC 35.060 Fees.**

Persons using transient moorage must pay fees in accordance with CBJ Administrative Code Title 05, Chapter 20 and as set forth below.

(a) Uninsured Vessel Surcharge.

- (1) Prior to obtaining a moorage assignment, CBJAC 40.035, 050, 055, or 065, the owner of a vessel must:
  - (i) provide the Harbormaster with proof of current marine insurance showing, at a minimum, the owner's name, information identifying the vessel, and the dates of insurance coverage; or
  - (ii) pay a non-refundable moorage surcharge of \$1.00 per foot per month.
    - A. As of January 1, of each year, should vessel disposal costs exceed the annual amount collected, Docks and Harbors will adjust the rate not to exceed \$3.00 per foot per month. The new rate must be approved by the Board no less than 30 days prior to implementation.
  - (iii) Vessels paying the daily moorage rate are exempt from paying this surcharge.
- (2) The funds collected from the moorage surcharge under this regulation will be used to pay for the unrecoverable costs attributable to vessel salvage and disposal activities in the small boat harbors.
- (3) This regulation does not relieve an owner from the responsibility to pay fees as set out in CBJ Ordinance Title 85 or regulations adopted thereunder and does not constitute marine insurance.

**Section 5. Amendment of Regulations.** The City and Borough of Juneau Administrative Code is amended at 05 CBJAC 40 Small Boat Harbor Moorage Management Regulations, to read:

**05 CBJAC 40.010 General moorage management policy.**

(g) ~~Vessel salvage and disposal.~~ Uninsured Vessel Surcharge.

- (1) Prior to obtaining a moorage assignment pursuant to CBJAC 40.035, 050, 055, or 065, the owner of a vessel must:

...

- (ii) pay a non-refundable moorage surcharge of ~~\$.031~~ \$1.00 per foot per month.

- B. As of January 1, of each year, should vessel disposal costs exceed the annual amount collected, Docks and Harbors will adjust the rate not to exceed

\$3.00 per foot per month. The new rate must be approved by the Board no less than 30 days prior to implementation.

(iii) Vessels paying the daily moorage rate are exempt from paying this surcharge.

...

**Section 6. Amendment of Regulations.** The City and Borough of Juneau Administrative Code is amended at 05 CBJAC 45 Small Boat Harbor and Port Facilities Use Regulations, to read:

**05 CBJAC 45.050 Auke Bay Loading Facility.**

- (k) *Drive-Down Use Fees.* Notwithstanding any fee provision listed in 05 CBJAC 15 and 20, and 30, operators shall pay fees for use of the drive-down gangway and float as follows:
- (1) The owner of a vessel that ties up to the float shall pay daily moorage fees for each calendar day or portion thereof that the vessel remains affixed to the float, except that an owner may use the facility for up to two hours on any calendar day without incurring moorage. Vessels wanting to use the float will need to schedule in advance with the Harbormaster. Mooring a vessel without first contacting the harbor office constitutes unauthorized moorage and the vessel will be assessed the full daily moorage fee in accordance with 05 CBJAC 20.210.

**Section 7. Notice of Proposed Adoption of a Regulation.** The notice requirements of CBJC 01.60.200 were followed by the agency. The notice period began on XXXX, 2024, which is not less than 21 days before the date of adoption of these regulations as set forth below.

**Adoption by Agency**

After considering all relevant matter presented to it, the agency hereby adopts these regulations as set forth above. The agency will next seek Assembly review and approval.

Date: \_\_\_\_\_

\_\_\_\_\_  
Carl Uchtyl, P.E.  
Port Director

**Legal Review**

These regulations have been reviewed and approved in accordance with the following standards set forth in CBJ 01.60.250:

- (1) Consistency with federal and state law and with the charter, code, and other municipal regulations;
- (2) Existence of code authority and the correctness of the required citation of code authority; and
- (3) Clarity, simplicity of expression, and absence of possibility of misapplication.

Date: \_\_\_\_\_

\_\_\_\_\_  
Emily Wright  
Assistant Municipal Attorney

**Assembly Review**

These regulations were presented to the Assembly at its meeting of \_\_\_\_\_. They were adopted by the Assembly.

Date: \_\_\_\_\_

\_\_\_\_\_  
Elizabeth J. McEwen  
Municipal Clerk



Filing with Clerk

I certify, as the clerk of the City and Borough of Juneau, that the following statements are true:

- 1. These regulations were accepted for filing by the office of the clerk at \_\_\_\_:\_\_\_\_a.m./p.m. on the \_\_\_\_ day of \_\_\_\_, \_\_\_\_.
- 2. After signing, I will immediately deliver or cause to be delivered copies of this regulation to the attorney and the director of libraries.
- 3. A permanent file of the signed originals of these regulations will be maintained in this office for public inspection.
- 4. Effective date:\_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Elizabeth J. McEwen  
Municipal Clerk



**New Seadrome Marina  
Building  
COLDBELT**

## Docks & Harbors Board Questions

- Why the changes from the original proposal?
  - After previous presentations, Docks & Harbors board members expressed interest in keeping tideland/waterfront parcels.
- Which proposal is most beneficial for Goldbelt?
  1. Alternative 2: most beneficial, as it allows us to utilize the property footprint to its fullest.
  2. Original Proposal: allows Goldbelt to build a building without setbacks impacting size.
  3. Alternative 1: does not allow Goldbelt to build the desired building due to setback requirements.
- Is there a dollar exchange involved with these land swap proposals?
  1. Original Proposal: no money is exchanged.
  2. Alternative 1: no money is exchanged.
  3. Alternative 2: Goldbelt would purchase the remaining property for approximately \$630,903.



## Docks & Harbors Board Questions

- Does the water-front have good access to the beach?
  - No, steep boulders make the beach largely inaccessible and homeless people frequent the area.



## Introduction:

- CBJ Docks & Harbors (D&H) and Goldbelt have an opportunity to create better space for a new Seadrome facility.
- The first step is a land exchange between Goldbelt and CBJ D&H to create more useful and unified properties for both parties.
- Improved property configurations will support small cruise ships companies operations.
- New property layout will provide a Seawalk that leads to the Egan Drive crosswalk.
- Goldbelt will rebuild the Seadrome building on the expanded site, establishing an iconic Alaskan Native facility on the waterfront to better support visitors.



Actions:

1. A property exchange is made to optimize CBJ D&H and Goldbelt lots.
2. Goldbelt demolishes the existing Seadrome and builds an improved facility on the newly consolidated property.
  - Meets Waterfront Design guidelines, Lands Management Plan, Subport Revitalization Plan, and Small Cruise Ship Master Plan.
  - The facility will host mixed-use spaces that are complimentary to the waterfront.





# Original Property Reallocation Proposal

Section F, Item 3.



# Original Site Plan Proposal

Section F, Item 3.



SHEET TITLE:  
**SITE PLAN CONCEPT**  
SHEET NO.:  
**A04**  
02.26.2024

CONCEPT PHASE  
**New Seadrome Marina Building**  
**GOLDBELT**

**MRV**  
ARCHITECTS  
ARCHITECTURE PLANNING INTERIOR



# Alternative 1: Property Reallocation Proposal

Section F, Item 3.



# Alternative 1: Site Plan With Notched Building

Section F, Item 3.





# Alternative 2: Property Reallocation Proposal

Section F, Item 3.



CBJ DH To Goldbelt	Exchange Parcel	SF Area	Unit Value	Total Value
Parcel B	CX3A Upland	4,900	\$65	\$318,500
Parcel B	CX3B Sloping/Tideland	2,098	\$26	\$54,548
Part Parcel C+Cone	CX4 Sloping/Tideland	6,650	\$26	\$172,900
Parcel A	CXA Upland	1,307	\$65	\$84,955
Total to CBJ D&H				\$630,903

- In this option, Goldbelt would purchase the CBJ owned parcels for \$630,903.

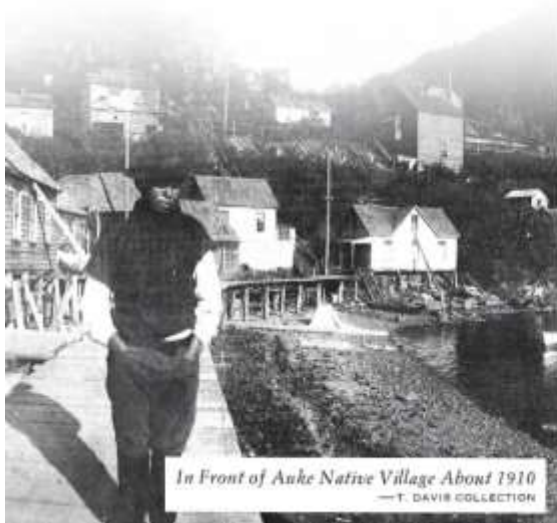
## Improved Site Benefits:

- Efficiency of space for CBJ D&H and Goldbelt properties
- Meets CBJ's various Plans and Guidelines
- Future improvements can be added efficiently – Seawalk construction and upland expansion will funnel visitors to the Egan Drive crosswalk



## Cultural and City Planning Benefits:

- The new Seadrome building will be a cultural centerpiece, featuring prominent Alaska Native art.
  - This space will serve to educate visitors on aspects of local native history
  - Arriving ships will be able to view the building and accompanying local art in a way that will provide pride for the native community and Juneau residents
- The improved facility will provide an ideal arrival point to Juneau, with links to the Seawalk, the Áak'w Kwáan District, the SLAM, expanded Centennial Hall, hotels, and shopping centers.
- The new building will also feature an attractive mix of offices, a restaurant, and other amenities.







**New Seadrome Marina  
Building  
COLDBELT**

**MEMORANDUM**

**DATE:** May 30, 2024  
**TO:** Assembly Committee of the Whole  
**FROM:** Alexandra Pierce, Visitor Industry Director  
**SUBJECT:** Seawalk Update

The Assembly has not received a formal update on the seawalk in over a year, and the body will need to make several key decisions on this important community project over the coming months. At this juncture, staff is looking for guidance on some key questions around financing options and for Assembly direction to start work on a land swap with the Franklin Dock. The project components are outlined below.

**Franklin to A.J. Dock Connection**

This is a complex project with multiple stakeholders. All relevant parties have hired PND Engineers to develop a design that accounts for our mutual needs (Attachment A – note that this plan is the latest iteration and is not yet finalized).

**Franklin Dock**

Reed Stoops, representing the Franklin Dock, has requested to trade the National Guard Dock for an easement on Franklin Dock property. The easement is valued at \$164,500, and the National Guard Dock is valued at \$306,000. The trade would clear up encumbrances on Franklin Dock property and facilitate construction of the seawalk. The National Guard Dock has a very small uplands footprint. Mr. Stoops is also interested in leasing the adjoining tidelands from CBJ. He proposes to make up the difference in property values in credit towards lease payments. The National Guard Dock is the property between the Franklin Dock and the Petro Marine property, it has difficult access through the Franklin Dock property. Mr. Stoops is very motivated to complete the land trade because it will allow the Franklin Dock group to clear up encumbrances on the land caused by the access to the National Guard Dock and facilitate development. The dock is in disrepair and is a liability to CBJ - the only recent uses are the Tagish, which sank at the dock, and the Sea Pro spill response boats. Docks & Harbors is able to relocate Sea Pro.

Petro Marine and Franklin Dock Enterprises have a shared interest in constructing a float that could accommodate a small number of yachts or other mid-size vessels, as represented in Attachment A.

Pending Assembly direction, the next step is to begin work on the land swap.

**Petro Marine**

Petro Marine also has redevelopment plans for its property. There are plans to replace the fuel dock. The challenge of the seawalk development has long been how we get past the fuel dock, due to security concerns with cruise ship passengers and active fueling. We believe we have reached a solution with a gate that would close off the seawalk for approximately 30 minutes at a time while crews connect and disconnect the fuel lines. Petro Marine is interested in coordinating with the city on common needs

including permitting efficiencies and other creative solutions that make this project a good deal for both CBJ and Petro Marine.

The next step is to meet with the Coast Guard to discuss safety requirements and to discuss and determine what both parties need to proceed with 30% design and with initial permitting.

#### A.J. Dock

The only A.J. Dock property affected by the project is a small triangle of land at the property line. CBJ proposes to purchase that land at appraised value of \$23/square foot.

The next step is to finalize the design and determine the exact value of the land required for construction.

#### Project Cost:

The most recent estimate for the work was prepared in August 2019 for approximately \$18 million (about \$25 million at today's construction costs). The scope was slightly different and more complicated, but the Assembly should think of this as a \$20-25 million project.

#### **Deck-overs**

These are the seawalk "holes" between the Marine Park Garage and the Tram. CBJ is currently working with a rough estimate of \$4 million to complete the deck over projects. The next steps are to determine the exact scope of the project and get an updated estimate, including revisiting the Assembly discussion of which areas should be decked over.

#### **Fishermen's Memorial**

The Fishermen's Memorial is slowly falling into the water and the supporting structure needs repair. There are no recent cost estimates for this work, but we can anticipate needing to fund this work within the next few years. The next steps are to determine the exact scope and get a cost estimate.

#### **Financing:**

We currently have \$5,692,481 in the Seawalk CIP. I recommend that we pursue debt financing using Marine Passenger Fees to complete all of the above projects or just the Franklin to A.J. connection. This will come back to the Assembly for final review and approval.

#### **Assembly Action:**

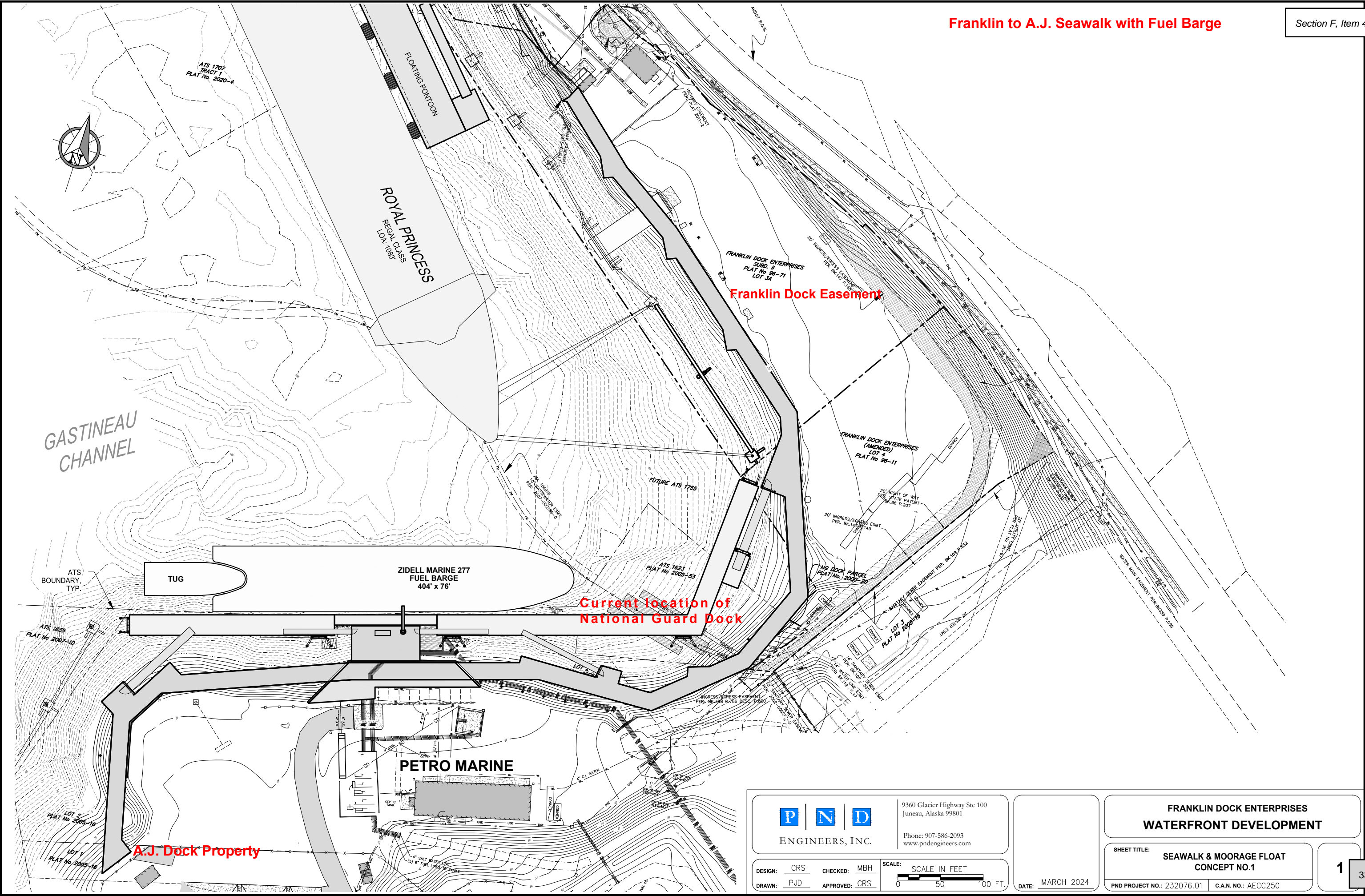
Staff recommends that the Assembly direct staff to begin work on a land swap with the Franklin Dock that trades the National Guard Dock for the seawalk easement.

Provide the following guidance of debt financing: direct the Finance Director to research one large debt package for all Seawalk projects or for the Franklin to A.J. connection only.

#### **Attachments:**

A – Current Iteration, Franklin Dock to A.J. Dock Seawalk Connection Plan





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ENGINEERS, INC.

9360 Glacier Highway Ste 100  
Juneau, Alaska 99801  
  
Phone: 907-586-2093  
www.pndengineers.com

DESIGN: CRS  
DRAWN: PJD

CHECKED: MBH  
APPROVED: CRS

SCALE: SCALE IN FEET  
0 50 100 FT.

DATE: MARCH 2024

FRANKLIN DOCK ENTERPRISES  
WATERFRONT DEVELOPMENT

SHEET TITLE: SEAWALK & MOORAGE FLOAT  
CONCEPT NO.1

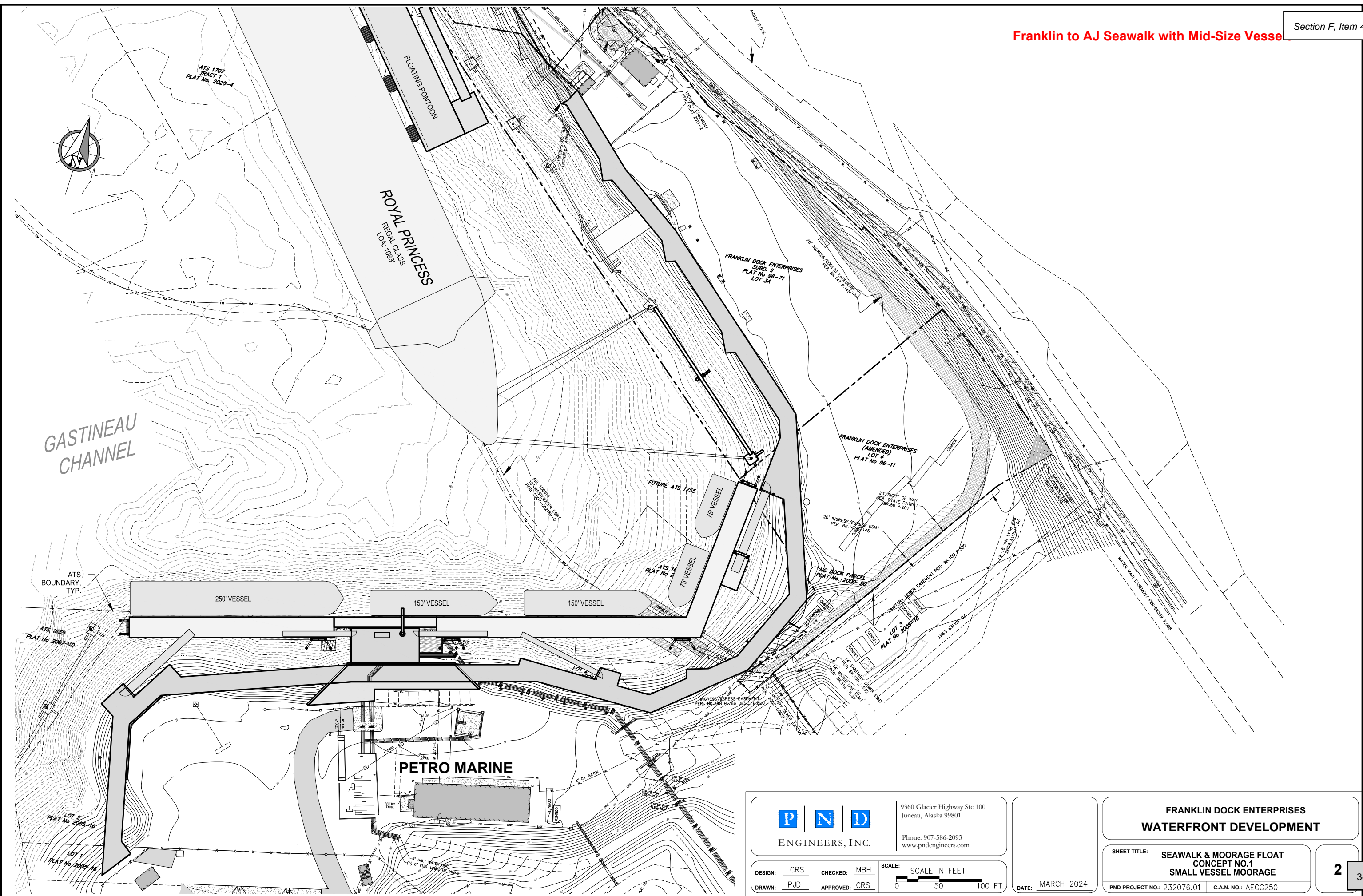
PND PROJECT NO.: 232076.01 C.A.N. NO.: AECC250

1

33



Franklin to AJ Seawalk with Mid-Size Vessel



P

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D

ENGINEERS, INC.

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Juneau, Alaska 99801  
  
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DESIGN: CRS  
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SCALE: SCALE IN FEET  
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DATE: MARCH 2024

FRANKLIN DOCK ENTERPRISES  
WATERFRONT DEVELOPMENT

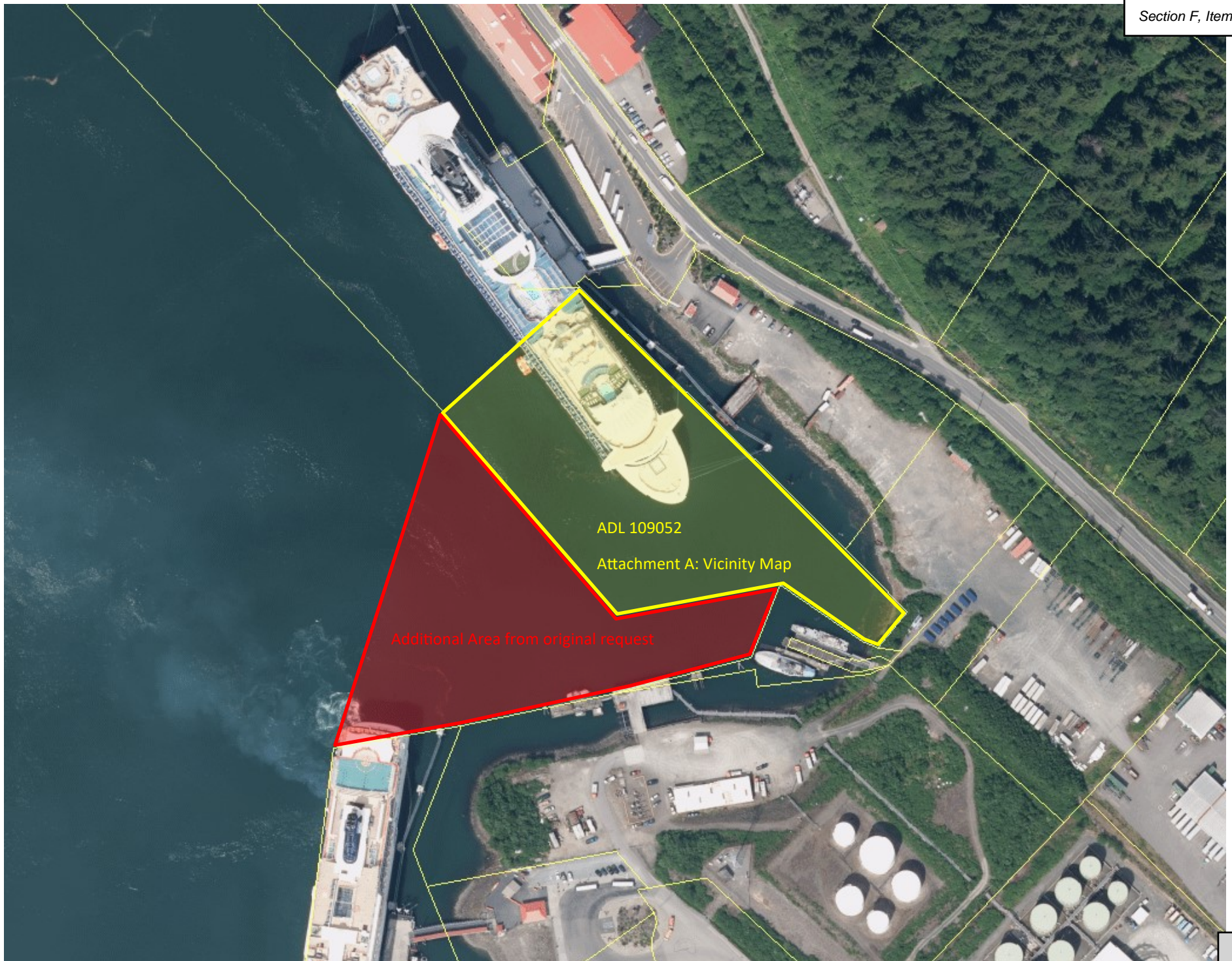
SHEET TITLE: SEAWALK & MOORAGE FLOAT  
CONCEPT NO.1  
SMALL VESSEL MOORAGE

PND PROJECT NO.: 232076.01 C.A.N. NO.: AECC250

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**BEFORE THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU**

KARLA HART,	Appellant,	
v.		
CITY AND BOROUGH OF JUNEAU PLANNING COMMISSION,	Appellee,	OAH No. 23-0695-MUN Appeal Case No. APL2023-AA01
HUNA TOTEM CORPORATION,	Intervenor Appellee.	Appeal of: PC Case No. USE2023 0003 Decision dated July 20, 2023

**ORDER RE AMENDED DECISION**


On July 29, 2024, the Assembly of the City and Borough of Juneau accepted and adopted the Hearing Officer’s Amended Decision dated July 20, 2024 (attached).

This is a final decision of the Assembly and may be appealed to superior court consistent with CBJC 01.50.190. Consistent with Appellate Rule 602(a)(2), the Assembly intends the 30 day appeal window to start upon distribution of this order.

IT IS SO ORDERED.

DATED August 13, 2024.

ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU

  
\_\_\_\_\_  
By: Beth Weldon  
Mayor

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL  
BY THE CITY AND BOROUGH OF JUNEAU**

In the Matter of	)	
	)	
KARLA HART,	)	
	)	
Appellant,	)	
	)	
v.	)	
	)	
CITY AND BOROUGH OF JUNEAU	)	
PLANNING COMMISSION,	)	
	)	OAH No. 23-0695-MUN
Appellee,	)	Appeal Case No. APL 2023-AA01
	)	
HUNA TOTEM CORPORATION,	)	Appeal of:
	)	PC Case No. USE2023 0003
Intervenor Appellee.	)	Decision dated July 20, 2023
	)	

**AMENDED DECISION**

**I. Introduction**

This case concerns an application of Huna Totem Corporation (HTC) for a conditional use permit (CUP) for a phased mixed-use development project involving a floating cruise ship dock, related retail space, underground bus staging and vehicle parking, and a community park. Following a public comment period and a public meeting to take testimony from members of the public, the CBJ Planning Commission (Commission) voted to approve the CUP application for the dock portion of the project only.

Juneau Resident Karla Hart appealed the Commission’s decision to the CBJ Assembly, expressing concerns that the permit, as conditioned, will materially endanger public health and safety and will violate the Long Range Waterfront Plan (as amended in 2022).

This decision concludes that substantial evidence supports the Commission’s determination that the permit will not materially endanger public health and safety and is in general conformity with the Long Range Waterfront Plan. The Commission’s approval of the CUP application is affirmed.

II. Facts and Proceedings

A. The Project Background

The project at issue involves the proposed construction of a fifth dock in the Juneau Subport at the southeast corner of Eagan and Whittier Streets.<sup>1</sup> The subport consists of tidelands owned in part by CBJ and in part by the State of Alaska, as well as 2.2 acres of associated uplands currently owned by HTC.<sup>2</sup>

Efforts to build a dock have been ongoing since at least 2019, when Norwegian Cruise Lines (NCL) purchased the uplands property and began exploring the possibility of a floating cruise ship dock and related waterfront development.<sup>3</sup> NCL engaged in various outreach efforts during its ownership of the property, including three community meetings, in which HTC participated.<sup>4</sup>

B. Process for Consideration of a Fifth Dock

The CBJ’s process for considering a fifth dock in Juneau was outlined at a public meeting in January 2022.<sup>5</sup> The process entails three steps: (1) an update to the Long Range Waterfront Plan (LRWP), which is included in the CBJ Comprehensive Plan and codified at CBJ Code (CBJC) 49.05.200(b)(1)(C);<sup>6</sup> (2) the application for a conditional use permit for consideration by the Planning Commission for compliance with Title 49 of the CBJC and related plans; and (3) an application for a tidelands lease, to be submitted to the CBJ Division of Lands and Resources for consideration by the CBJ Assembly.<sup>7</sup>

The first step in the process was completed on March 14, 2022, through the CBJ Assembly’s adoption of Ordinance 2022-12, which amended the LRWP “to allow for creation of a dock facility capable of accommodating one large cruise ship.”<sup>8</sup> The ordinance also contained an appendix (Appendix B) that listed criteria for future dock construction projects, for reference

<sup>1</sup> R. 57.  
<sup>2</sup> R. 61. The property at issue is identified as Lot C1 on the Plat 2009-37, which subdivided the Subport. R. 57. The tidelands are zoned Waterfront Commercial, and the uplands are zoned for mixed use development. R 346.  
<sup>3</sup> R. 75; Tr. at 60.  
<sup>4</sup> Tr. at 60.  
<sup>5</sup> This process was established when NCL still owned the property. R. 55.  
<sup>6</sup> CBJ Tourism manager Alexandra Pierce has described the LRWP as “an infrastructure plan and guidebook to manage waterfront change along four overarching goals identified by the CBJ: (1) enhance community quality of life; (2) strengthen tourism product offerings as well as downtown retail, entertainment, residential and service activities; (3) improve Juneau’s image and attractiveness for investment; and (4) recognize all current waterfront uses.” R. 765. The LRWP was originally adopted in 2004. R. 765.  
<sup>7</sup> R. 55.  
<sup>8</sup> R. 280.

during the conditional use permitting process.<sup>9</sup> The criteria had been recommended by the Visitor Industry Task Force, a task force established by the CBJ Mayor in 2019 in part to make recommendations on tourism and updating the LRWP.<sup>10</sup> Appendix B of the 2022 amendment to the LRWP states:

**VITF Criteria for Subport Dock Construction**

In 2020, the CBJ VITF established the following criteria for constructing a cruise ship dock at the Subport. This amendment supports the VITF's criteria and any application for development needs to be evaluated consistent with the following:

1. One larger ship per day using one side of the facility;
2. Maximum of five larger ships in port per day;
3. No hot berthing at the new facility;
4. No larger ships allowed to anchor as the sixth ship in town. Larger ships may anchor but the number of larger ships in port would still be limited to five (CBJ to consider legal ramifications of limiting size of ships at anchor.)
5. CBJ manages dock to some extent through a public private partnership or management agreement;
6. **Dock is electrified;**

The following criteria are related to uplands development and remain strong recommendations for uplands-related proposals:

7. High quality uplands development for community and visitors;
8. Year-round development orientation.<sup>11</sup>

The bolding in the above quotation has been added.

Later in 2022, NCL transferred the uplands property to HTC.<sup>12</sup>

**C. *HTC's Conditional Use Permit Application***

The appeal in this case concerns the second step in the three-step process: an application for a CUP for development of the Subport. On January 25, 2023, HTC submitted a CUP application, which it revised and updated on May 18, 2023, for a development project referred to as the Aak'w Landing project.<sup>13</sup> HTC described the project as:

<sup>9</sup> R. 55 and 58.

<sup>10</sup> R. 283 and 803. After meeting twelve times, holding two public meetings, and receiving written and public testimony, the task provided a final report with its recommendations to the Assembly. R. 803.

<sup>11</sup> R. 283 (emphasis supplied).

<sup>12</sup> R. 58.

<sup>13</sup> R. 1-52; R. 58 R. 86. The original application was for development of the uplands only. The revised application proposed the construction of a floating dock in the tidelines. R. 1-52; R. 86.

a phased development of mixed use, including retail, food and beverage, community park, docking and associated parking. . . . The Aak’w Landing uplands project will be a concrete Bus Staging and vehicle Garage topped by a landscaped Park sloping up from Egan Drive. The project will include 34,000 sf of Retail spaces in the first phase with future phases adding 9,000 sf of additional Retail and 40,000 sf of facilities with a use yet to be determined. . . .

The pier portion of the project will utilize a proven steel float solution that will be built with a deck up to 70 feet wide and 500 feet long, allowing for the best facility layout and passenger handling solution.<sup>14</sup>

The application also states that the dock will include “cable trays and structure for integrating future shore power connections once the municipal feed is available.”<sup>15</sup>

***D. Review and Approval of the CUP***

The CUP application was distributed to various CBJ departments and outside agencies for review and comment, and a public comment period was held from June 2-20, 2023.<sup>16</sup> Only one public comment, which opposed the project due to over-tourism concerns, was received.<sup>17</sup> On June 29, 2023, the Community Development Department (CDD) submitted a staff report to the Planning Commission, evaluating the proposal under the permitting standards in CBJ 49.15.330(e) and (f), concluding, among other things, that the project would not materially endanger public health and safety and would conform with the CBJ comprehensive plan, the LRWP as amended, and various other adopted plans.<sup>18</sup> The CDD recommended that the Commission approve the application with nine conditions, including the provision of shore power by HTC within 24 months of a power line being located nearby; the completion of a navigability study; a limit of one large cruise ship at the dock every 24 hours; no hot berthing; and no temporary certificate of occupancy for the dock until a tidelands lease is recorded.<sup>19</sup>

The Commission convened a public hearing on the CUP application on July 11, 2023.<sup>20</sup> Public interest in the application was surprisingly low, with only three members of the public

<sup>14</sup> R. 120. HTC described the first phase of the project as developing the dock and a retail/welcome center; the second phase as adding retail space and an upper-level plaza; and the third phase as parking and a flexible space.

<sup>15</sup> R. 119.

<sup>16</sup> R. 74-75, 292-300, and 337.

<sup>17</sup> R. 353.

<sup>18</sup> R. 8—81.

<sup>19</sup> R. 81-82.

<sup>20</sup> R. 346 and 1521.



(other than the applicant) testifying, each in support of the project.<sup>21</sup> Although Commissioners expressed concern that the uplands portion of the application (particularly phase 3) required further clarification, they determined that they had sufficient information about the proposed dock to take a vote on that portion of the project.<sup>22</sup> At the conclusion of the hearing, they voted 5-2 to approve the CUP for the floating dock.<sup>23</sup> On July 20, 2024, they issued a decision approving a floating steel dock up to 70 feet wide and 500 feet long, with the nine conditions specified in the CDD's staff report, including condition 5:

The dock owner will, at their own expense, provide shore power within 24 months after an appropriately-sized power line is within 25 feet of the property line. When shore power is provided, large ships using the dock will be required to use shore power instead of ship power.<sup>24</sup>

Ms. Hart's notice of appeal followed, which was accepted by the CBJ Assembly, and HTC was allowed to intervene as a real party of interest in the subject of the appeal. The appeal was referred to Alaska Office of Administrative Hearings to supply a hearing officer as permitted by CBJC 01.50.040.<sup>25</sup>

A hearing by Zoom videoconference was held on January 24, 2024. In this context, a "hearing" consists of oral argument by the parties, with an opportunity for the hearing officer to ask questions of the presenters. Participants in the oral argument included Ms. Hart, and counsel for the Commission and HTC, respectively. A proposed decision was issued on March 12, 2024, followed by a written objection to the proposed decision by Huna, and a written response by Ms. Hart to the objection. On April 25, 2024, the undersigned requested additional briefing from the

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<sup>21</sup> Tr. 38-48. Commissioner Pedersen expected there would have been more public comment on the project, and Commission Chair LeVine described being "baffled" by the level of public participation. Tr. at 103-104.

<sup>22</sup> Tr. at 81. Commission Chair LeVine expressed his hope that the Commission's approve of the CUP for a dock "will signal to the developer and the Assembly that we're supportive of this development and would like to see a complete application come back before the Commission as quickly as possible." Tr. at 104.

<sup>23</sup> Tr. at 105.

<sup>24</sup> R. 362-363. The Commission did not adopt the analysis and findings regarding the uplands portion of the application because it "did not contain sufficiently specific information, particularly about the portion designated Phase 3, to support a conclusion that the project as a whole would comport with Title 49, including the MU2 land use designation." R. 363. The uplands portion of the project was heard at the Planning Commission's August 8, 2023, an approved as a separate CUP.

<sup>25</sup> The appeal was referred to the Office of Administrative Hearings after the Assembly granted a motion by Ms. Hart to disqualify the hearing officer originally designated to hear this case. Order Re Disqualification of Hearing Officer, October 25, 2023.

parties. Upon consideration of the parties' briefs and all information in the record, this amended proposed decision follows.<sup>26</sup>

The appeal points and arguments raised at the hearing and in the parties' written filings are discussed below. Before turning to the merits of the arguments, however, a short explanation of the process and legal standards is provided.

### **III. Discussion**

#### ***A. Procedure***

A decision of the Commission to grant or deny a CUP may be appealed by "any party affected by the proceedings," a member of the Assembly, or a municipal officer or employee.<sup>27</sup> The appeal is to the Assembly, which may appoint a hearing officer to conduct a hearing and issue a proposed decision for the Assembly's consideration.<sup>28</sup>

Appeals of a CUP are heard on the established record, as supplemented by relevant and admissible "new information" - i.e., information that was not presented to the Commission and that could not have been presented for reasons beyond the control of the party seeking its submission.<sup>29</sup> After briefing and oral argument, a proposed decision is issued, followed by the opportunity for parties to file written objections or statements of support after which either an amended proposed decision is issued, or a statement that no changes to the proposed decision should be made.

#### ***B. Standard of Review***

The standard of review governing this appeal is established by the CBJC. For the Commission's decision to be set aside, the appellant has the burden of proving at least one of the following: (1) the decision is not supported by substantial evidence in light of the whole

<sup>26</sup> Under the CBJC, after briefing and oral argument, a proposed decision is issued, to which the parties may file written objections and, potentially statements of support. CBJC 01.50.140(c)(1). Ultimately, upon consideration of these submissions, the Assembly issues a written decision affirming, modifying, or setting aside the proposed decision in whole or in part, remanding the matter to the Commission, or directing that the matter be reheard. CBJC 01.50.140(a) and (c).

<sup>27</sup> CBJ Home Rule Charter, 3.16(b).

<sup>28</sup> CBJC 01.50.030(e)(4)(A); CBJ 01.05.040.

<sup>29</sup> CBJC 01.50.030(f). CUP applications must be submitted to the CDD Director. Once the application is accepted, the CDD Director is required to schedule and notice a public hearing in front of the Commission. CBJC 49.15.330(d)(2). The Director shall also forward the application to the Commission with a report containing the Director's recommendation for approval or denial of the application, and a determination of whether (1) the proposed project is an appropriate use of the property, (2) the application is complete, and (3) the project will comply with the requirements of Title 49. CBJC 49.15.330(d)(3) and 49.15.330(e).

record;<sup>30</sup> (2) the decision is not supported by adequate written findings, or the findings fail to identify the basis upon which the decision was made;<sup>31</sup> or (3) a due process or other material procedural violation occurred.<sup>32</sup>

“Substantial evidence” means “such relevant evidence a reasonable mind might accept as adequate to support a conclusion.”<sup>33</sup> This standard requires the reviewer to uphold the original factual findings if they are supported by substantial evidence, even if the reviewer may have a different view of the evidence. In a case reviewed on the substantial evidence standard, “[i]t is not the function of the [hearing officer] to reweigh the evidence or choose between competing inferences, but only to determine whether such evidence exists.”<sup>34</sup> For decisions based on the interpretation of a zoning ordinance implicating the Commission’s expertise or the formulation of fundamental policies, the decision is “entitled to considerable deference” and is reviewed under the “reasonable basis” standard of review.<sup>35</sup> In those circumstances, review of the Commission’s decisions is narrow, and a “presumption of validity” is applied.<sup>36</sup> Otherwise, the decision is reviewed under the “independent judgment” standard of review.<sup>37</sup>

**C. CUP Requirements**

The standards applicable to CUP applications are set forth CBJC 49.15.330(e) and (f). Under section 330(e), at the hearing on the CUP, the Commission shall review the CDD Director’s report to consider:

- (1) Whether the proposed use is appropriate according to the table of permissible uses;
- (2) Whether the application is complete; and
- (3) Whether the development as proposed will comply with the other requirements of this title.<sup>38</sup>

<sup>30</sup> CBJC 01.50.070(a)(1).  
<sup>31</sup> CBJC 01.50.070(a)(2).  
<sup>32</sup> CBJC 01.50.010. A fourth basis for setting aside the Commission’s decision, that it would violate the law, is implicit.  
<sup>33</sup> CBJC 01.50.010.  
<sup>34</sup> *Interior Paint Co. v. Rodgers*, 522 P.2d 164, 170 (Alaska 1974).  
<sup>35</sup> *South Anchorage Concerned Coalition, Inc. v. Coffey*, 862 P.2d 168, 176 (Alaska 1993); *Balough v. Fairbanks North Star Borough*, 995 P.2d 245, 254 (Alaska 2000).  
<sup>36</sup> *South Anchorage*, 862 P.2d at 173.  
<sup>37</sup> *Balough*, 995 P.2d at 254.  
<sup>38</sup> CBJC 49.15.330(e)(1).

The Commission is required to adopt the Director’s determination on each of these items “unless it finds by a preponderance of the evidence that the Director’s determination was in error, and it states its reasons for each finding with particularity.”<sup>39</sup>

Under CBJC 49.15.330(f) if the Commission decides to adopt the staff report, it may nevertheless deny or place conditions on the permit in some circumstances. That section states:

- (f) *Commission determinations; standards.* Even if the commission adopts the Director’s determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based on its own independent review of the information submitted at the hearing, that the development will more probably than not:<sup>40</sup>
  - (1) Materially endanger the public health or safety;
  - (2) Substantially decrease the value of or be out of harmony with the property in the neighboring area; or
  - (3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.

#### ***D. Points on Appeal***

Ms. Hart raised a number of points in her notice of appeal, which she expressly narrowed through briefing to the two issues summarized below. She has not briefed any additional issues identified in her notice of appeal. Thus, those issues are waived.<sup>41</sup>

##### **1. Appellant’s Arguments Regarding Health, Safety, and Welfare**

Ms. Hart argues that the Commission’s finding that the project will not materially endanger public health and safety is not supported by substantial evidence, and the project is inconsistent with the goal of the Comprehensive Plan to “promote public health and the general welfare.”<sup>42</sup> As support for her position, she contends that the CDD failed to consider relevant studies and research concerning the effects of cruise ship emissions on human health. She quotes a statement from a CBJ Dock Electrification Fact Sheet by the Juneau Commission on Sustainability regarding significant health problems from exposure to cruise-ship related air pollution; she cites an EPA Shore Power Calculator she purportedly used to estimate the costs of

<sup>39</sup> CBJC 49.15.330(e)(2).

<sup>40</sup> The language of the section that the Commission “may” deny a CUP if specific circumstances exist suggests that the Commission has the discretion, but not the obligation, to deny a CUP in those circumstances.

<sup>41</sup> *Martinez v. GEICO*, 473 P.3d 316, 326 (Alaska 2020); *Hagen v. Strobel*, 353 P.3d 799, 805 (Alaska 2015) (argument “given only a cursory statement in the argument portion of a brief” was waived due to inadequate briefing and “will not be considered on appeal”).

<sup>42</sup> Appellant Brief, November 30, 2023, at p. 1

one year of air emissions from a large cruise ship at dock for 16 hours per day during the cruise season, which she claims “are realized as deaths, disabilities, emergency room visits, asthma attacks, and other harms;” and she references a Harvard School of Public Health publication as “one of many examples” of scientific studies and other “peer-reviewed federal government tools” about diesel air pollution she alleges the CDD should have examined to properly assess the health effects of emissions from the project.<sup>43</sup>

The threshold problem with Ms. Hart’s assertions on these points is that the studies and documents she references are not in the record in this case.<sup>44</sup> In the context of appellate review, the Commission’s approval of the CUP must be evaluated solely based on the established record – i.e., the information that was before it – not some larger body of evidence that was not presented to the Commission.<sup>45</sup>

There are similar problems with other assertions by Ms. Hart. For example, she contends generally that “[d]iesel air pollution has been associated with respiratory, cardiovascular, and neurodegenerative disease (such as Parkinson’s and Alzheimer’s), as well as cancer,” and “[p]renatal exposure is also of concern” – without citing any supporting authority or clarifying how these concerns are related to potential cruise ship emissions in this case.<sup>46</sup> She also maintains that to properly assess the effect of emissions from the project on human health, the CDD should have commissioned its own studies.<sup>47</sup> Again, Ms. Hart cites no legal authority in the CBJC or elsewhere that supports this position. Where legal authority is asserted without citation, it is waived.<sup>48</sup>

Here, the question is whether the finding that the project would not materially endanger public health and safety is supported by substantial evidence in the record. The 30-page CDD staff report that was presented to the Commission looked at the whole project and included a section on health, with a particular focus on shore power. The report recognized that shore

<sup>43</sup> Appellant Brief, November 30, 2023, at pp. 2-4.

<sup>44</sup> Nor did Ms. Hart seek to supplement the record to include any of these items. The deadline for motions to supplement the record was November 9, 2023. Prehearing Order, September 25, 2023, at p. 2.

<sup>45</sup> Ms. Hart wanted the Commission to consider particular information in its decision-making process, she could have availed herself of the opportunity to submit that information to the Commission through the public comment and public meeting process. She did not elect to do so.

<sup>46</sup> Appellant Brief, November 30, 2023, at p.4.

<sup>47</sup> Appellant Brief, November 30, 2023, at p. 2; Appellant’s Response Brief to Opposition Briefs of Appellee and Intervenor Appellee, January 16, 2023, at p. 4.

<sup>48</sup> *Coppe v. Bleicher*, 318 P.3d 369, 378–79 (Alaska 2014) (upholding determination that issues are waived where argument “lacked citation to authority or a legal theory to support it.”)

power would improve health through reduction of combustion byproducts, that the dock would be built to accommodate shore power when a municipal line is available, and identified suggestions of the local electric utility, Alaska Electric Light & Power (AEL&P), about options for a transmission line to the Subport. The report provided information on the effects of the project on safety, noting that sidewalk and traffic congestion in downtown are major concerns of Juneau residents, and the project would take pressure off downtown by moving roughly 120,000 passengers west of Main Street. The report provided information about sanitation, traffic, noise and lighting (among other things), and discussed the dock and related issues, including sidewalks, walkways, and bus traffic from the dock, passenger fees to offset impacts, and the percentage of local residents employed by tourism.

The Commission then reviewed the staff report and conducted its public hearing in July 2023. Following a presentation of the project proposal by HTC, the Commissioners asked many questions about the project design and timing, parking and traffic, and most notably, shore power. There was considerable discussion about the timing of shore power to the project, with HTC stating that it is “investing in the infrastructure as part of the initial plan” so it will be “plumbed and ready for shore power” as soon as a transmission line is available to the property. Because of power capacity limitations in Juneau, HTC emphasized that the timing of a power line to the property is largely out of its control, but it explained that it has met with the power utility to discuss the project, and approving the CUP would serve as a catalyst to help prioritize bringing power to the property.

The Commission considered and weighed all this evidence in deciding to adopt the staff report’s findings regarding the dock. There is substantial evidence in the record to support the conclusion that the CUP as conditioned will not materially affect public health and safety.

## 2. Appellant’s Argument that the Proposed Project Violates the LRWP

Ms. Hart contends that the conditions in Appendix B of the LRWP are mandatory, including the criterion that “the dock is electrified.” She observes that condition 5 of the CUP does not require shore power before the dock is allowed to operate – only that shore power be provided within 24 months of a line becoming accessible to the property. This means the dock could operate without shore power for at least some period of time, contrary to the condition about shore power in Appendix B. Thus, Ms. Hart argues that approving the CUP violated the LRWP.

The Commission and HTC dispute this contention, arguing that the LRWP is part of the CBJ comprehensive plan, which consists of aspirational goals and policies, rather than obligatory standards. Thus, they claim that the Appendix B criteria are likewise aspirational only, and while they should be considered in deciding whether to approve a CUP, but they are not compulsory. The Commission and HTC argue that if the criteria were mandatory, development of a fifth dock would be delayed indefinitely, contrary to the LRWP’s purpose “to allow a large cruise ship dock that accommodates one large cruise ship. . . .”<sup>49</sup> They reason that if a dock were required to have shore power before operating, no one would try to build a dock in Juneau, given the considerable uncertainty about electrical capacity beyond the dock operator’s control.

a. *The conditions in the LRWP are aspirational goals and policies rather than mandatory requirements.*

Whether the Appendix B condition that the “dock is electrified” is a mandatory requirement or an aspirational goal requires an interpretation of the land use ordinances concerning the LRWP. Because the Commission has expertise applying zoning and land use ordinances, including officially adopted plans of the CBJ, the reasonable basis standard of review applies to the Commission’s interpretation of the ordinances in this instance. According to the plain language of CBJC 49.05.200(c), the LRWP is a part of the CBJ comprehensive plan. That section specifically states:

There is adopted the comprehensive plan of the City and Borough of Juneau, that publication titled The Comprehensive Plan of the City and Borough of Juneau, Alaska, 2013 Update, including the following additions:

\*\*\*

- (C) The Long Range Waterfront Plan for the City and Borough of Juneau, dated January 22, 2004, as amended including by Ordinance 2022-12.

Thus, understanding the nature of the LRWP necessitates an understanding of CBJ comprehensive plan and its role in municipal land use planning and zoning. Alaska law defines a comprehensive plan as “a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development. . . of the borough. . . including recommendations for implementation of the comprehensive plan.” Consistent with this definition, CBJC 49.05.200(b) identifies the CBJ comprehensive plan as “the policies that guide and direct public and private land use activities in the City and Borough.”

<sup>49</sup> R. 282.

The CBJC makes clear that the policies of the comprehensive plan are aspirational only; they are not regulations of land. CBJ 49.05.200(c) specifically states:

**The goals and policies set forth in the comprehensive plan are aspirational in nature**, and are not intended to commit the City and Borough to a particular action, schedule, or methodology. **Neither the comprehensive plan nor the technical appendix adopted under this section nor the amendment of either** creates any right in any person to a zone change nor to any permit or other authority to make a particular use of land; neither do they **constitute a regulation of land nor a reservation or dedication of privately owned land for public purpose**. (Emphasis supplied)

Because the comprehensive plan consists of aspirational goals and policies, and the LRWP, including Appendix B, is part of the comprehensive plan, it follows logically that the Commission reasonably construed the Appendix B conditions as aspirational goals and objectives, albeit goals specific to development of the downtown waterfront area.<sup>50</sup> As aspirational goals, they are not mandatory requirements, despite their seemingly mandatory language, including that the “dock is electrified.”<sup>51</sup>

The language of the CBJ comprehensive plan supports this conclusion. The plan contains 123 policies, each of which contains an associated “Standard Operating Procedure”, “Development Guideline”, and/or “Implementing Action,” described as “directives for how to carry out [each] policy.”<sup>52</sup> These actions include the adoption and revision of zoning ordinances. The language of the plan specifies that it is the zoning ordinances that “regulat[e] the use of land and the improvements on it. . . which implement the land use policies and maps of this Comprehensive Plan,” by “establish[ing] standards for development and create[ing] different zoning districts or classification of land. In CBJ, zoning regulations are adopted within Title 49, the Land Use Code.”<sup>53</sup>

This conclusion is reinforced by the Alaska Supreme Court’s general description of the land use planning and zoning process in *Lazy Mountain Land Club v. Matanuska-Susitna Borough Board of Adjustment and Appeals*, 904 P. 2d 373, 378 (Alaska 1995). In that case, the Court drew a distinction between development policies and goals, which are contained in a

<sup>50</sup> This conclusion would be the same even if the independent basis standard of review were applied.

<sup>51</sup> This conclusion is also supported under the “independent basis” standard of review.

<sup>52</sup> <https://juneau.org/index.php?gf-download=2017%2F08%2F20170316UPDATEComp.Plan2013WEB.pdf&form-id=22&field-id=11&hash=44bf8467abf6aacec02114d42e16e845d6a7d6c9ebb1b73a4e0e299b018299a8>, p. 227.

<sup>53</sup> *Id.* at 243.



comprehensive plan and the measures that implement them. The Court described land use planning and zoning as a “hierarchical process in which the comprehensive plan of a municipality serves as a ‘long-range policy guide for development of the [municipality] as a whole,’”<sup>54</sup> which is then implemented through measures such as zoning regulations and permit requirements.<sup>55</sup>

The determination that the Appendix B conditions are aspirational goals rather than mandatory requirements is not altered by the language of CBJC 49.05.200(b) regarding the relationship between the policies in the comprehensive plan and the ordinances implementing them. CBJC 49.05.200(b) states that the “implementation of policies” in the comprehensive plan “includes the adoption of ordinances in this title,” and “[w]here there is a conflict between the comprehensive plan and any ordinance adopted under or pursuant to this title, such ordinance shall take precedence over the comprehensive plan.” Relying on this language, Ms. Hart suggests that the ordinance adopting the LRWP, Ordinance 2022-12, conflicts with and takes precedence over the comprehensive plan, rendering the Appendix B conditions mandatory. But this argument is misplaced. Ordinance 2022-12 was not adopted pursuant to the comprehensive plan to implement the plan’s policies. As explained previously, the adoption of the ordinance incorporated the LRWP into the comprehensive plan, establishing goals and policies for development of the downtown waterfront area – not legally binding requirements.<sup>56</sup>

The CBJ could certainly adopt specific ordinances providing mandatory permitting requirements for a fifth dock in the Subport, including a requirement mandating shore power, to implement the LRWP specifically. But the CBJ has not done so to date. Thus, only the general CUP requirements in CBJC 49.15.330(e) and (f) are binding in this context.

*b. The application of CBJC 49.15.330(f) supports the Commission’s determination that the proposed project is in conformity with the LRWP.*

<sup>54</sup> *Lazy Mountain*, 904 P.3d at 377.

<sup>55</sup> *Id.*, 904 P.3d at 377 (“the legitimate function of a zoning regulation is to implement a plan for the future development of the community.” Citing 1 Robert M. Anderson, *American Law of Zoning*, § 5.02, at 263 (2d. ed. 1976)).

<sup>56</sup> The CBJ could have adopted ordinances with specific permitting requirements for proposed dock projects in the Subport, to specifically implement the LRWP, but it has not yet done so. Thus, only the general CUP requirements in CBJC 49.15.330(e) and (f) apply here.

In this case, the Commission adopted the findings in the CDD staff report. Under CBJC 49.15.330(f), the Commission nevertheless had the authority to deny or condition the permit in certain circumstances. CBJC 49.15.330(f), in pertinent part, states:

- (f) *Commission determinations; standards.* Even if the commission adopts the Director’s determinations pursuant to subsection (e) of this section, it may nonetheless deny or condition the permit if it concludes, based on its own independent review of the information submitted at the hearing, that the development will more probably than not:<sup>57</sup>

\*\*\*

**(3) Lack general conformity with the comprehensive plan, thoroughfare plan, or other officially adopted plans.**  
(Emphasis supplied)

Here, the Commission concluded that the proposed development was in “general conformity” with the comprehensive plan and other officially adopted plans. The legal question is whether the Commission’s determination is supported by substantial evidence in the record.

The record reflects that proposed project is in general conformity with the goal of the LRWP that a fifth dock be electrified. The CDD recognized there is not currently a power line to the property, but it sought to ensure that the project be ready for shore power within a reasonable time of a power line becoming accessible. The CDD made note that the proposal includes cable trays and structures for integrating shore power once a power line to the property is available, and it recommended a condition requiring the dock owner to pay for and provide shore power within 24 months of a power line being within 25 feet of the property, and for large ships to use shore power at the dock once it is available.<sup>58</sup>

For its part, the Commission spent substantial time at the public hearing on the subject of shore power. Vice-Chair Cole asked multiple questions about the timeline for the availability of a power line to the property, and Chair Levine asked whether any portion of the project could be expedited to enable shore power to be provided sooner.<sup>59</sup> HTC’s representatives explained that HTC is “committed to shore power,”<sup>60</sup> the dock will be “plumbed and ready” for shore power,<sup>61</sup>

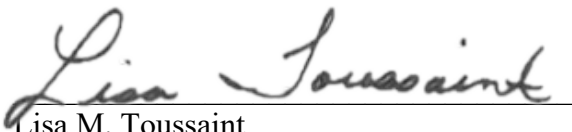
<sup>57</sup> The language of the section that the Commission “may” deny a CUP if the specified circumstances exist suggests that the Commission has the discretion, but not the obligation, to deny a CUP in those circumstances.  
<sup>58</sup> T. 70, 77, 79, and 81.  
<sup>59</sup> T. 20 -24, 30-31.  
<sup>60</sup> T. 31.  
<sup>61</sup> T. 20.

and all of the necessary infrastructure will be in place for the “power to come to us.”<sup>62</sup> But HTC does not know when a transformer will be available to run power to the property,”<sup>63</sup> claiming that is “outside of our control,”<sup>64</sup> so it cannot promise shore power will be available on day one.<sup>65</sup> After robust questioning and discussion, the Commission voted to adopt the CDD’s findings and approve the project with condition that HTC pay for and provide shore power within 24 months of a power line being within 25 feet of the property. This condition was aimed at balancing the goal of providing shore power with the practical reality that the timing of availability of electricity to the dock is uncertain. Substantial evidence supports the Commission’s conclusion that the proposed project is in general conformity with the LRWP, including the goal in Appendix B that the dock “is electrified.

IV. Conclusion

Under the standard of review afforded to the Commission’s land use determinations, there is sufficient evidence to persuade a reasonable mind that the proposed CUP will not materially endanger the public health or safety, and that it is in general conformity with the LRWP. Accordingly, the Commission’s decision to adopt the CUP is AFFIRMED.

DATED: June 21, 2024.

  
Lisa M. Toussaint  
Administrative Law Judge

**Certificate of Service:** I certify that on June 21, 2024, this document was distributed by email to Karla Hart, Sherri Layne, Garth Schlemlein, Even Garcia, Dan Bruce, Robert Palmer, Emily Wright, and the Juneau City Clerk.

By:   
Office of Administrative Hearings

<sup>62</sup>

T. 22 (“ . . . all the electricity is to the place where the transformer would sit.”); R. 24.

<sup>63</sup>

T. 24 (“ . . . we’ve already been talking with the designer to have all of the connections and everything needed to bring the power to the ships that are ready to go, but the problem is going to be connecting from our property to the power supply. . . ”)

<sup>64</sup>

T. 22 (“ . . . the city has already ordered or is in line for two transformers, so we’d be the third in line, but we wanted to make sure that we are plumbed, meaning that all the electricity is to the place where the transformer would sit, it’s run all the way to the dock, that we’ve invested in that infrastructure as part of the initial plan.”)

<sup>65</sup>

T. 24 (“So we were initially anticipating that the project would have shore power on day one, and then we were told that there’s not enough capacity in town to provide it. So the problem wasn’t us; the problem was bringing power to us, and then to our location. . . ”)

VICINITY MAP - PORT OF JUNEAU

NOTE:  
THIS DOCUMENT COMPILED FROM  
CITY AND BOROUGH OF JUNEAU  
GIS PARCEL LAYER AND SITE PLAN  
SUBMITTED BY HUNA-TOTEM AS  
PART OF THEIR CONDITIONAL USE  
PERMIT APPLICATION.



## HUNA-TOTEM DOCK TIDELANDS LEASE

52

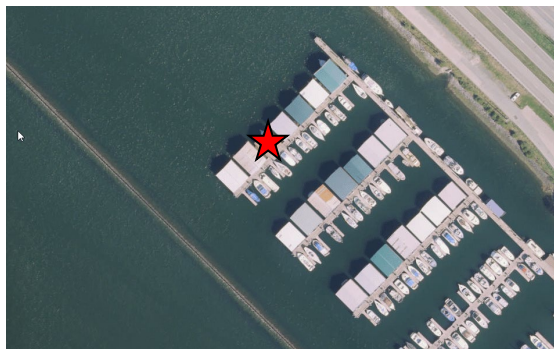


# Port of Juneau

155 Heritage Way • Juneau, AK 99801  
(907) 586-0292 Phone • (907) 586-0295 Fax

**From:** Carl Uchtyl, Port Director  
**To:** Harbor Patrons  
**Date:** August xx<sup>th</sup>, 2024  
**Re:** REQUEST FOR INTEREST (RFI) – AURORA HARBOR NEW BOAT SHELTER

The January 2024 snowstorm resulted in the loss of Aurora Harbor Boat Shelter G22/23. The owner has elected not to rebuild his boat shelter. Docks & Harbors Board is weighing future options at this location along G Float.



Depicts location of Aurora Boat Shelter G22/23  
Photo does not show recently constructed H-Float

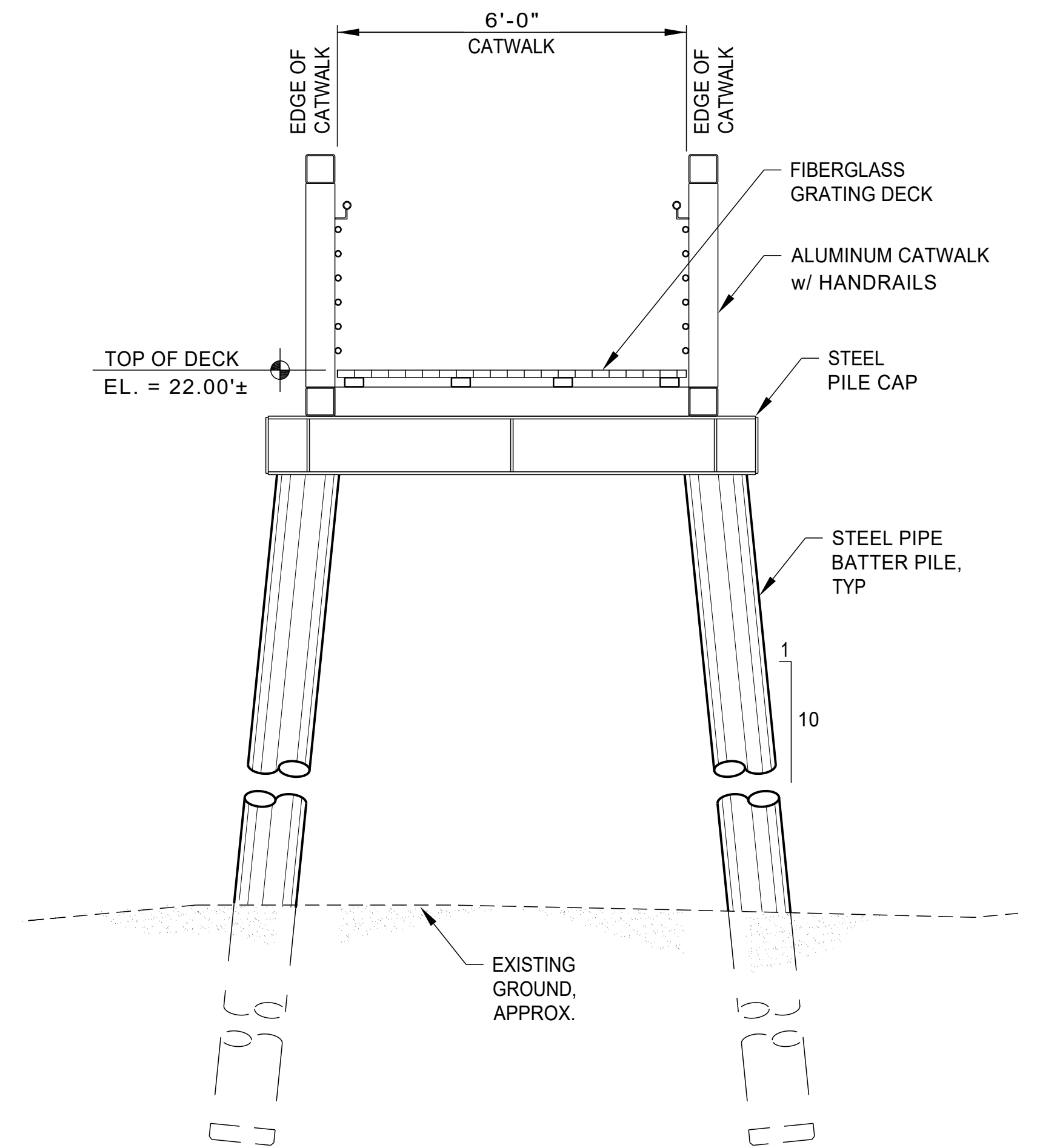
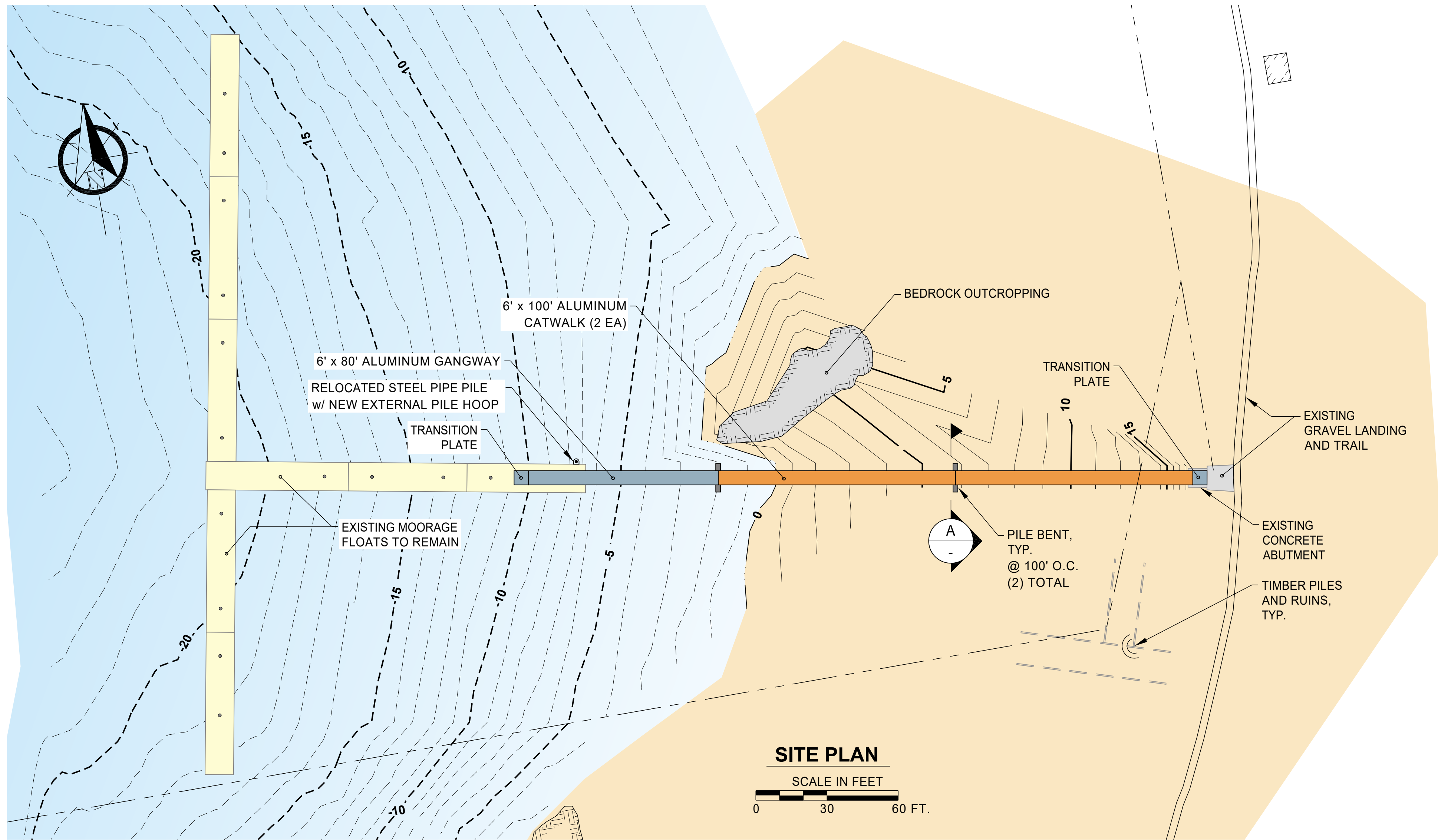
This RFI is to determine if there are individuals who desire an opportunity to construct and maintain a boat shelter in Aurora Harbor. Regulations pertaining to Boat Shelters can be found [05 CBJAC 40.015](#) or below:  
 05 CBJAC 40.015 Boat shelters.

- (a) Definition and approval required. Boat shelter means a structure that houses vessels. Except for a boat shelter moored on the north sides of Float E, Float F, and Float G in Aurora Harbor, no person may bring a boat shelter into the small boat harbors without the approval of the Docks and Harbors Board.
- (b) Access by Harbormaster. The owner of a boat shelter shall provide the Harbormaster and the Fire Department with a means to access the boat shelter in the event of an emergency. The cost of installing and maintaining the access system shall be borne by the shelter owner.
- (c) Storage of flammable liquids. The owner of a boat shelter shall ensure that all flammable liquids are stored in approved containers. An owner shall store no more than two six-gallon containers of flammable liquids per vessel in a boat shelter. This restriction does not apply to fuel stored in or upon a vessel.
- (d) Maintenance. Each boat shelter owner shall maintain the shelter in a condition that does not present a danger to surrounding vessels, other boat shelters, or other harbor users.
- (e) Modification. Other than basic maintenance, a boat shelter owner shall obtain approval of the Harbormaster prior to undertaking any modification or reconstruction of a boat shelter. In addition, the owner shall obtain the approval of the Docks and Harbors Board prior to undertaking any modification or reconstruction that changes the dimensions of the boat shelter.
- (f) Boat shelter sales. Reserved moorage status within a boat shelter may transfer between the seller and buyer of a boat shelter. In order to transfer the reserved moorage status within a boat shelter, the owner of a boat shelter shall inform the Port Director of the owner's desire to sell a shelter before offering the shelter for sale to the general public. The Docks and Harbors Board has the first right of refusal to purchase the shelter at fair market value. If the Board does not exercise its first right of refusal within 30 days after notice, the owner may offer the shelter for sale to the general public. If the owner sells the shelter without informing the Port Director and allowing the Docks and Harbors Board its first right of refusal, the reserved moorage within the shelter will not transfer to the buyer. This subsection does not allow an inappropriately sized vessel to be assigned reserved moorage space within a boat shelter.
- (g) Applicability of regulations. All requirements of 05 CBJAC 40 apply to the owner of a boat shelter and the vessels within a boat shelter except for the following: (1) 05 CBJAC 40.020(d), (e), and (i); and (2) 05 CBJAC 40.035(a)(5), (6), and (7).

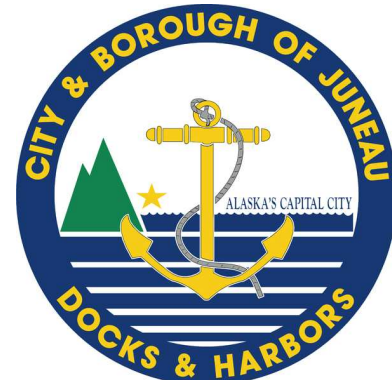
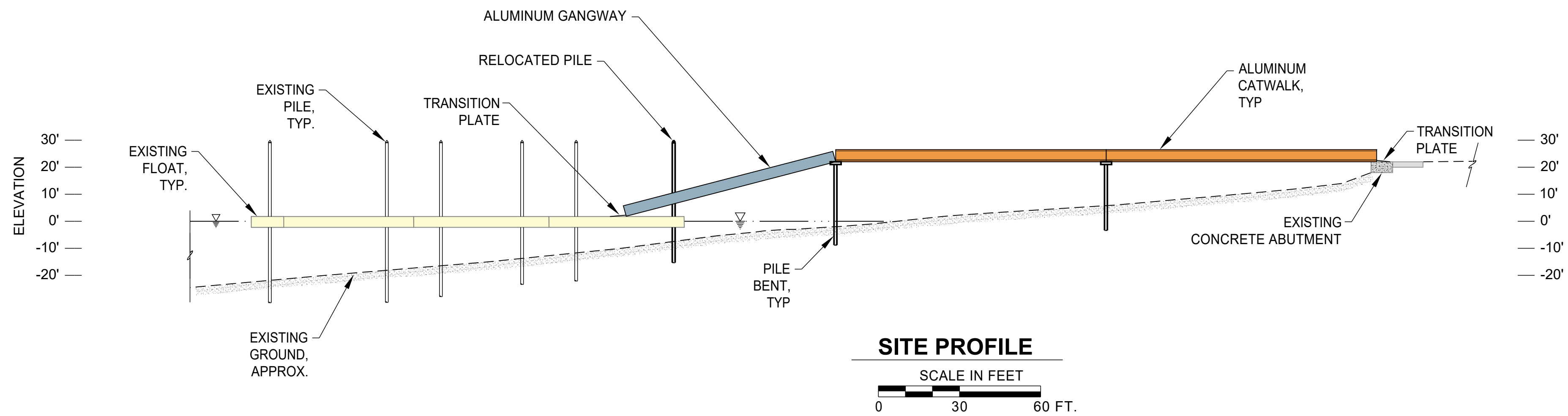
Anyone with an interest in acquiring the authorization to construct and maintain a Boat Shelter on Aurora Harbor G Float should contact the Port Director by October 1<sup>st</sup>, 2024 at [Carl.Uchtyl@juneau.gov](mailto:Carl.Uchtyl@juneau.gov).

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A TYPICAL CATWALK SECTION



REVISIONS					
REV.	DATE	DESCRIPTION	DWN.	CKD.	APP.

PND

CONSULTING ENGINEERS

Incorporated

3220 Hospital Drive Ste 200  
Juneau, Alaska 99801  
Phone: 907-586-2093  
Fax: 907-586-2099  
www.pnd-anc.com

DESIGN: BMI

CHECKED: JLD

SCALE:

DRAWN: PJD

APPROVED: -

DATE: AUG. 2024

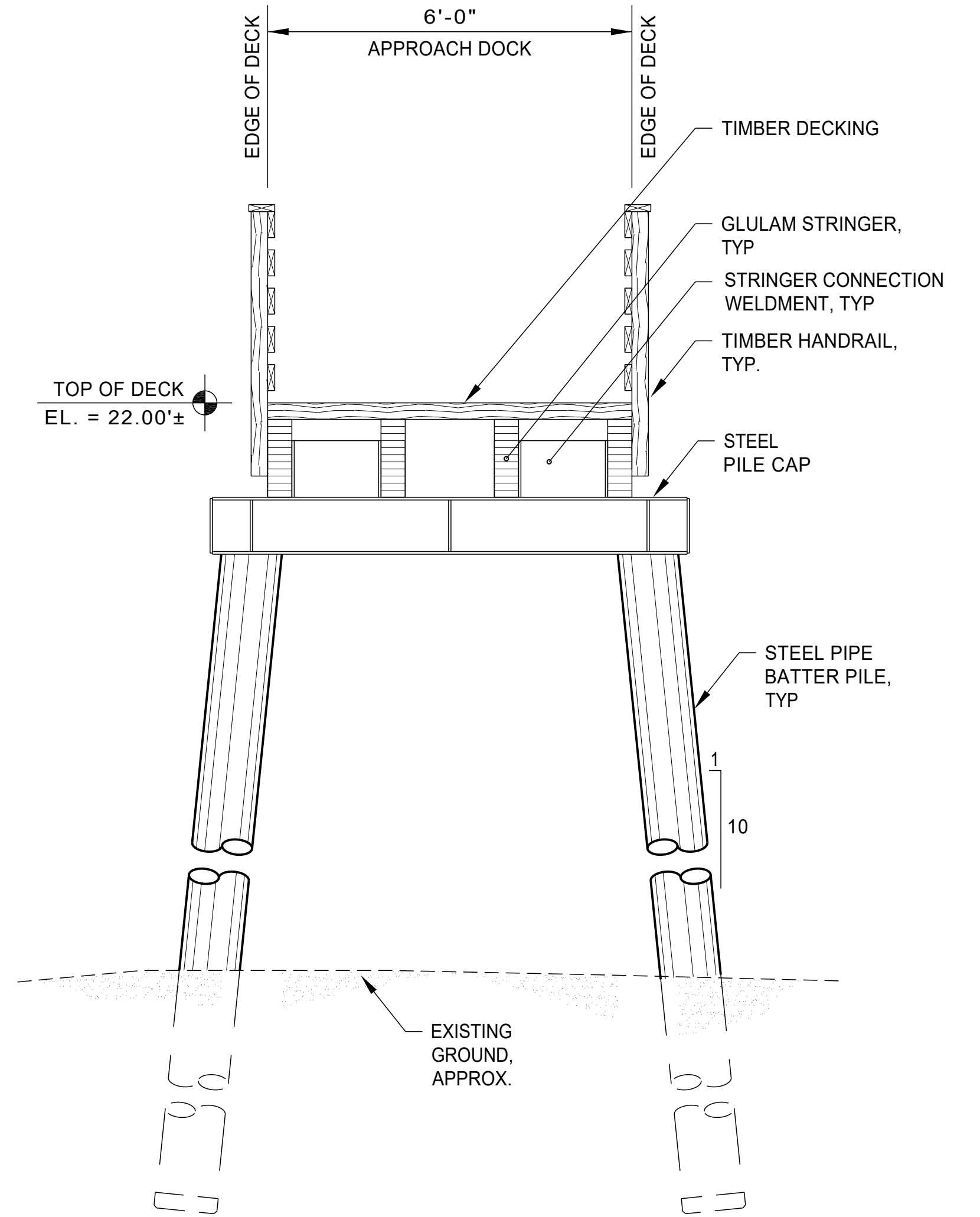
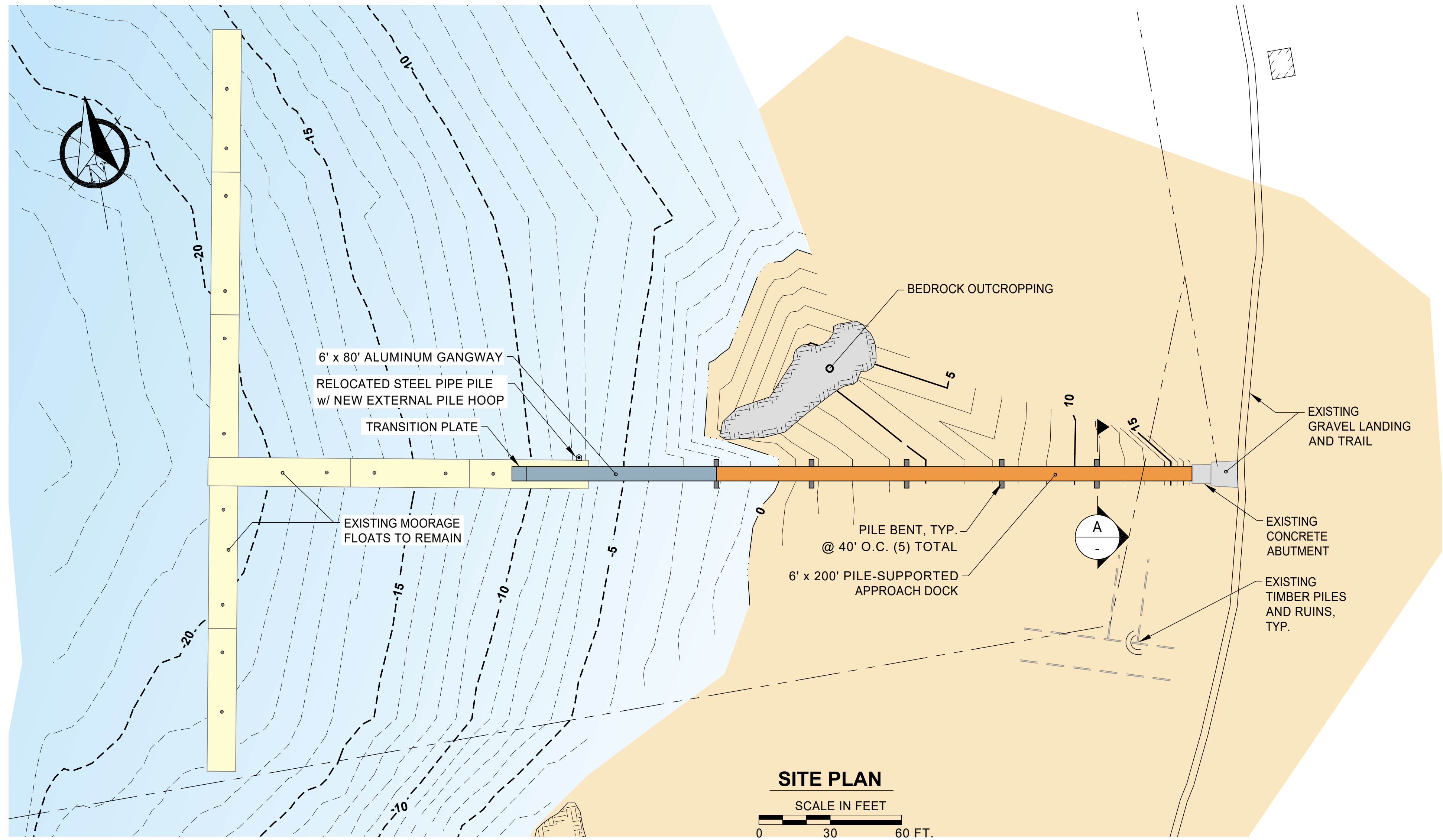
CITY & BOROUGH OF JUNEAU DOCKS & HARBORS  
TAKU HARBOR IMPROVEMENTS  
CONTRACT NO. XX-XXX-X

SHEET TITLE: CONCEPT NO.1  
CATWALK APPROACH w/ GANGWAY

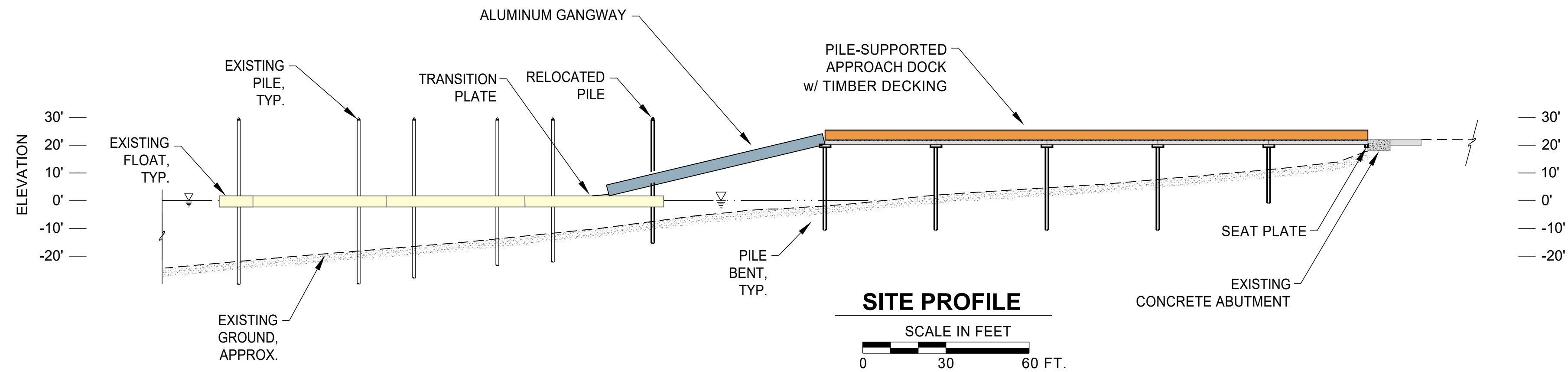
PND PROJECT NO.: 242067 DWG. FILE:

1





A TYPICAL CATWALK SECTION



REVISIONS					
REV.	DATE	DESCRIPTION	DWN.	CKD.	APP.



CONSULTING ENGINEERS

3220 Hospital Drive Ste 200  
Juneau, Alaska 99801  
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DESIGN: BMI CHECKED: JLD  
DRAWN: PJD APPROVED: -

SCALE:

DATE: AUG. 2024

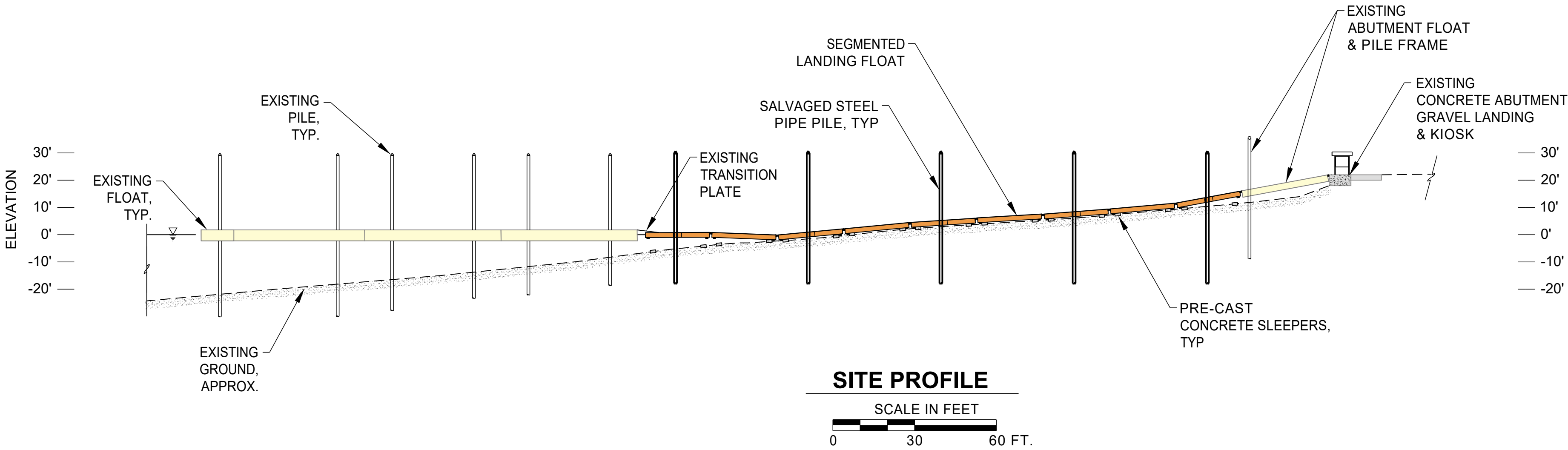
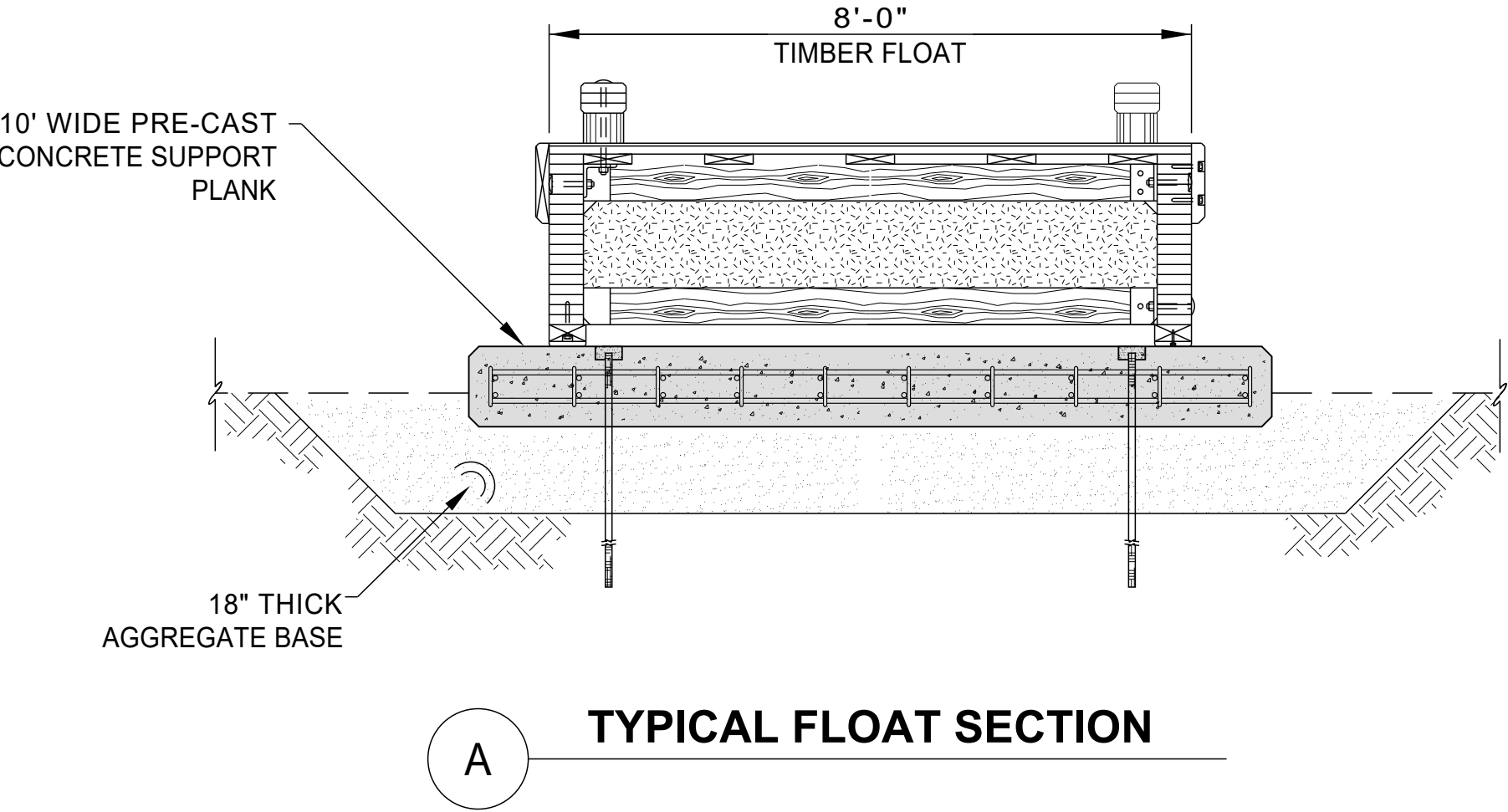
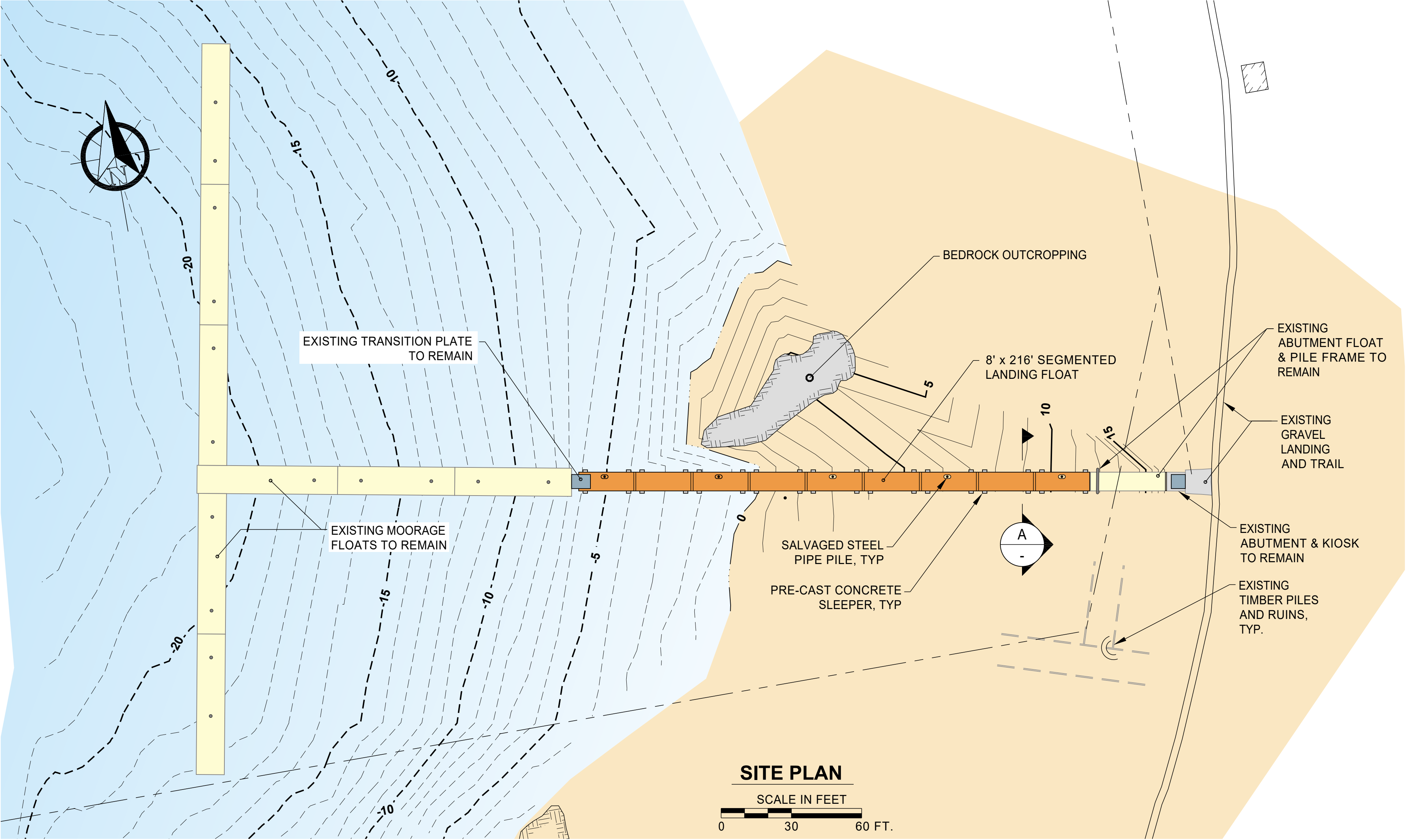
CITY & BOROUGH OF JUNEAU DOCKS & HARBORS  
TAKU HARBOR IMPROVEMENTS  
CONTRACT NO. XX-XXX-X

SHEET TITLE: CONCEPT NO.2  
APPROACH DOCK w/ GANGWAY

PND PROJECT NO.: 242067

DWG. FILE:





REVISIONS					
REV.	DATE	DESCRIPTION	DWN.	CKD.	APP.

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Incorporated

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DESIGN: BMI    CHECKED: JLD  
DRAWN: PJD    APPROVED: -

SCALE:

DATE: AUG. 2024

CITY & BOROUGH OF JUNEAU DOCKS & HARBORS  
TAKU HARBOR IMPROVEMENTS  
CONTRACT NO. XX-XXX-X

SHEET TITLE:  
CONCEPT NO.3  
SEGMENTED LANDING FLOAT

3

PND PROJECT NO.: 242067

DWG. FILE:



**CITY & BOROUGH OF JUNEAU DOCKS & HARBORS**  
**TAKU HARBOR IMPROVEMENTS**  
**BUDGET LEVEL ESTIMATE**  
**CONCEPT 1 - ALUMINUM CATWALK APPROACH**  
**1-Aug-24**



Section F, Item 7.

Item	Item Description	Units	Quantity	Unit Cost	Amount
1505.1	Mobilization	LS	All Req'd	\$196,000	\$196,000
2060.1	Demolition and Disposal	LS	All Req'd	\$150,000	\$150,000
2702.1	Construction Surveying	LS	All Req'd	\$20,000	\$20,000
2718.1	Sign Assembly	LS	All Req'd	\$7,500	\$7,500
2894.1	Aluminum Gangway, 6' x 80'	EA	1	\$160,000	\$160,000
2894.2	Aluminum Catwalk, 6' x 100'	EA	2	\$240,000	\$480,000
2895.1	Exterior Pile Hoop and Existing Hoop Deckover	LS	All Req'd	\$20,000	\$20,000
2895.2	Float Leveling Billets	LS	All Req'd	\$5,000	\$5,000
2896.1	Dock Support Batter Pile, 12.75" dia. x 0.500" thick	EA	4	\$20,000	\$80,000
2896.2	Pile Caps	EA	2	\$25,000	\$50,000
2896.3	Salvage and Reinstall Existing Pile, 16" dia. x 0.500" thick	EA	1	\$7,500	\$7,500
<b>ESTIMATED CONSTRUCTION COST</b>					<b>\$1,176,000</b>
<b>CONTINGENCY (20%)</b>					<b>\$235,200</b>
<b>PLANNING, PERMITTING, DESIGN &amp; CACI (20%)</b>					<b>\$235,200</b>
<b>TOTAL RECOMMENDED PROJECT BUDGET - 2024 DOLLARS</b>					<b>\$1,646,400</b>



**CITY & BOROUGH OF JUNEAU DOCKS & HARBORS**  
**TAKU HARBOR IMPROVEMENTS**  
**BUDGET LEVEL ESTIMATE**  
**CONCEPT 2 - PILE SUPPORTED APPROACH DOCK**  
**1-Aug-24**



Section F, Item 7.

Item	Item Description	Units	Quantity	Unit Cost	Amount
1505.1	Mobilization	LS	All Req'd	\$222,000	\$222,000
2060.1	Demolition and Disposal	LS	All Req'd	\$150,000	\$150,000
2702.1	Construction Surveying	LS	All Req'd	\$20,000	\$20,000
2718.1	Sign Assembly	LS	All Req'd	\$7,500	\$7,500
2726.1	Timber Approach Dock w/ Railing, 6' x 200'	SF	1200	\$350	\$420,000
2894.1	Aluminum Gangway, 6' x 80'	EA	1	\$160,000	\$160,000
2895.1	Exterior Pile Hoop and Existing Hoop Deckover	LS	All Req'd	\$20,000	\$20,000
2896.1	Dock Support Batter Pile, 12.75" dia. x 0.500" thick	EA	10	\$20,000	\$200,000
2896.2	Pile Caps	EA	5	\$25,000	\$125,000
2896.3	Salvage and Reinstall Existing Pile, 16" dia. x 0.500" thick	EA	1	\$7,500	\$7,500
<b>ESTIMATED CONSTRUCTION COST</b>					<b>\$1,332,000</b>
<b>CONTINGENCY (20%)</b>					<b>\$266,400</b>
<b>PLANNING, PERMITTING, DESIGN &amp; CACI (20%)</b>					<b>\$266,400</b>
<b>TOTAL RECOMMENDED PROJECT BUDGET - 2024 DOLLARS</b>					<b>\$1,864,800</b>





**CITY & BOROUGH OF JUNEAU DOCKS & HARBORS**  
**TAKU HARBOR IMPROVEMENTS**  
**BUDGET LEVEL ESTIMATE**  
**CONCEPT 3 - LANDING FLOAT (REPLACE IN KIND)**  
**1-Aug-24**



Section F, Item 7.

Item	Item Description	Units	Quantity	Unit Cost	Amount
1505.1	Mobilization	LS	All Req'd	\$193,960	\$193,960
2060.1	Demolition and Disposal	LS	All Req'd	\$150,000	\$150,000
2702.1	Construction Surveying	LS	All Req'd	\$20,000	\$20,000
2718.1	Sign Assembly	LS	All Req'd	\$7,500	\$7,500
2895.1	8' x 216' Boarding Float	SF	1728	\$350	\$604,800
2896.1	Salvage and Reinstall Existing Steel Pipe Pile	EA	5	\$7,500	\$37,500
3301.1	Precast Concrete Sleepers	LS	All Req'd	\$150,000	\$150,000
<b>ESTIMATED CONSTRUCTION COST</b>					<b>\$1,163,760</b>
<b>CONTINGENCY (20%)</b>					<b>\$232,752</b>
<b>PLANNING, PERMITTING, DESIGN &amp; CACI (20%)</b>					<b>\$232,752</b>
<b>TOTAL RECOMMENDED PROJECT BUDGET - 2024 DOLLARS</b>					<b>\$1,629,264</b>





















