

**NOTICE OF MEETING
REGULAR MEETING AGENDA**

- 1. CALL TO ORDER**
- 2. APPROVAL OF AGENDA**
- 3. PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA**
- 4. RECONSIDERATION**
- 5. APPROVAL OF SYNOPSIS**
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- 9. PENDING BUSINESS**
- 10. NEW BUSINESS**
 - A. Draft Resolution Re: Requesting the Kenai Peninsula Borough Pass Through the Fish Tax that is Generated by the Port of Homer.
 - B. Recommendations from the Port and Harbor Advisory Commission regarding Tariff Rates and Amending the Scope of Projects. **Page 5**
 - C. Development of Recommendations from Port and Harbor Improvement Committee to the City Council Supporting the Bond Projects. **Page 13**
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- 12. COMMENTS OF THE AUDIENCE**
- 13. COMMENTS OF THE STAFF**
- 14. COMMENTS OF THE COMMITTEE MEMBERS**
- 15. ADJOURNMENT/NEXT REGULAR MEETING IS THURSDAY, MAY 24, 2012 at 5:30 in the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.**

Session 12-05, a Regular Meeting of the Port and Harbor Improvement Committee was called to order by Chair Howard at 5:30 on April 19, 2012 at the City Hall Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

PRESENT: Hartley, Hawkins, Howard, Howard, Lewis, Wythe

STAFF: City Manager Wrede
Deputy City Clerk Jacobsen

AGENDA APPROVAL

The agenda was approved the agenda by consensus of the Commission.

PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA

There were no public comments.

RECONSIDERATION

There were no items for reconsideration.

APPROVAL OF SYNOPSIS

A. February 9, 2012 Regular Meeting Synopsis

The synopsis was approved by consensus of the Committee.

VISITOR/PRESENTATIONS

No visitors were scheduled.

STAFF & COUNCIL REPORTS

PUBLIC HEARING

A. Project Public Hearing

Sean Martin, charter operator, commented his concern is the head tax. They take approximately 30 people per day in the course of the summer. Their passengers have to pay a 7.5% sales tax on the full amount. There is no tax cap like there is when shopping in town. The visitors in Homer pay sales tax where ever they go in town. Mr. Martin feels this is a targeted tax, focused on the visitor industry. On top of what they already have to pay. it doesn't seem right to have a targeted tax. He recognizes they use other facilities in the harbor like the restrooms, but a lot of other people use the same facilities. Knowing this targets one group specifically to raise money for this purpose isn't fair.

Question was raised as to how he would suggest off setting the cost. He suggested the number one thing would be to spend less money. He has seen the information and the numbers. He recognizes there are options and they are not going to raise that much money with a two dollar head tax.

Roark Brown, co-owner of Homer Ocean Charters, echoed Mr. Martin's comments. He realizes the sales tax does not come back to the harbor, and if he thought he could raise prices his prices 7.5% he would have. The sales tax is substantial and there is only a certain amount customers can take on. This additional tax is targeting tourists. There is also the expense of collecting and reporting the money. He doesn't support the head tax and believes there are ways to save on project costs. He would love to see a new harbor office but it may not be practical when there are empty buildings on the spit that may accommodate the need. There are Government agencies who have interest in leasing space and that could help offset some cost. We need to be creative. It's a hard economy right now and we need to take care of our tourists.

Gary Ault, owner of Inlet Charters and Alaska Adventures, said he has worked 20 years on the spit. He echoes the other comments. One of the great things about having all the tourist businesses out there is that it makes it extremely competitive, it works for free enterprise system, and keeps businesses taking care of their customers. Businesses out there keep rates as low as they possibly can to still survive, and it broadens the appeal to the larger audience. Raising the prices cuts more and more possible customers out of the equation. He has concerns about what the rising costs are going to mean this summer. Hitting the businesses with a fuel tax, head tax, and moorage fees all at once takes them back.

Monte Davis, Chamber of Commerce Executive Director, noted that he is not truly educated on the projects, but was asked by his board to comment tonight in opposition to the head tax. The board is alarmed. He appreciates how hard it is to raise funds, but also feels there is a point where you fall into a death spiral when it comes to adding taxes and fees to existing business rather than bringing people in to create business. There is a lot of room on the spit and lots of opportunity for new people to come here if we would encourage them rather than discourage them. \$2 doesn't sound like much but when it's added to everything else that's going on these days, and at this point they can't just pass the cost on. Their rates have been set and advertised, and deals have been made. The business will have to figure out where the money will come out of their budget. The port and harbor is the economic engine of the community. We need to do everything in our power to keep every business viable. He understands that we need to take care of our infrastructure, but not at the expense of existing business. We are in competition with Seward, they are closer to Anchorage, and they have cruise ships and the Alaska Railroad servicing them. We are not an easy port for cruise ships, and we have to make sure we can attract visitors from Anchorage. We need every advantage we can get.

Point was raised that ease of access, maintenance, and curb appeal play into how people choose where they are going to go. As an enterprise fund, the harbor has to take care of itself and to do so, revenue has to be created to build up a better facility and maintain what we have. Mr. Davis said he understands and thinks if we could educate people about the community wide importance of the harbor, improvements could be done to be paid by the entire community rather than on the backs of the harbor users. If that was the way the City chose to go, Mr. Davis said the Chamber would be willing to do an education campaign to help the city.

Brad Faulkner, city resident, said he is encouraged to see all the people commenting tonight. He acknowledged that we have a real problem with maintenance. We are trying to take it all on at once and throwing on to one bond rather than maybe stretching it out and driving that old car a little longer. If they follow legislature they know there is a \$450 million bond is dedicated to ports and harbors around the state. Seward is getting \$10 million. It's a general

obligation bond paid off by the state. If Homer had received any of those funds, this would have been easy. He would also like to see fish tax return to the harbor. The harbor is helping pay for the lobbyist, but having that fish tax will go a long way to help ease that pain. Regarding the load and launch ramp, the engineering is covered by ADF&G, but to get stuck with the build-out could be another \$3.75 million. ADF&G has had the money in the past, but sales of fishing licenses are way down and the money may not be there. With all the projects before the City, this is a big capital bite to take all at once.

Greg Sutter, charter operator, commented that we all know we need additional revenues to maintain the harbor facilities. It is important infrastructure that serves as a base for a lot of commercial operations and private businesses. We need good facilities and to improve handicap access. He emphasized that whatever this body decides to recommend, the costs be shared as equally between all user groups, as some groups use the facilities more than others, and some use it year round. He said he runs a 30 foot boat and last year he generated over \$9,000 in sales tax revenue and had expenses over \$50,000, which he paid sales tax on. Another \$2 fee doesn't sound like a lot, but the tourists are already hit hard and we need to shy away from some of that and find a balance between the user groups. He questioned how they plan to enforce the head tax, how they will audit it, and who pays. Not all information is logged, and their log books are state property.

Jim Lavrakas, charter operator, commented that he is willing to pay for the service that he gets from the harbor that is beneficial to him and required for his business. Enforcing the head tax is short sided, especially at this time in our economy. He agrees that everyone in town is benefitted by the harbor and he thinks the revenue bond is a good idea and thinks there is a good way to sell the idea to the public. His experience in Anchorage has been when revenue bonds are proposed to voters, if it wasn't really well thought out and over reaching, the voters say no, until proposers realized they need to compartmentalize and do projects in sequence.

PENDING BUSINESS

NEW BUSINESS

- A. Memorandum from Port and Harbor Director Re: Erosion Control Project Funding Update and Consideration of Amendments to the Project Plan

The Committee discussed the importance of keeping the erosion control project on the list for bonding. Erosion is going to continue and the cost continues to increase exponentially. At a minimum we need to look at the project and consider revamping it in a staged process rather than paying the full cost at one time. We need to focus less on what other people will pay for, leave it on the list, and continue to look at other alternatives. If the City could go for ACOE or federal money it would make us look better if we were already pursuing funding for the project. There may be some trails money to help with the revetment wall. Staff has talked with FEMA and possible mitigation funds. The City had negotiated a lease with Snug Harbor Seafood's for a parcel affected by the high winds and Planning has been asked to take the lead on applying for the mitigation funds.

WYTHE/HOWARD MOVED TO RETAIN THE LIST AS IT EXISTS.

Comment was made that we need to keep moving forward for bonding but also continue to look for other money.

VOTE: NON OBJECTION: UNANIMOUS CONSENT.

Motion carried.

INFORMATIONAL ITEMS

None

COMMENTS OF THE AUDIENCE

None

COMMENTS OF STAFF

None

COMMENTS OF THE COMMITTEE MEMBERS

Mrs. Wythe commented that for their May 3 agenda they will talk about Seward's head tax process, information about Municipal Harbor Grant Funds, stage bonding rules, and trails funding for erosion control and FEMA funding. She encouraged committee members to be their own best supporters and refrain from negative comments, even if it is in fun. There is nothing about this that is intended to happen at one time, it will be over a course of a few years.

Mr. Hartley commented that the Port and Harbor Meeting we will get more push back from the charter fleet regarding head tax. He believes they are doing business in a public facility because of the maintenance we are doing down there as opposed to a person who is just a user. The use of the businesses is more than a single user. He suggested they think about a business tax on boats for hire based on the size of the boat.

Mr. Hawkins said he has been working on a question and answer worksheet that he will let the Chair review and provide feedback. He thinks it will be helpful to answer people's questions.

Chair Howard said the group should applaud themselves for their work because for the folks who showed up only have one area of the complex situation to not be supportive of speaks well of their knowledge of the harbor's condition and how they have put the information together.

ADJOURN

There being no further business to come before the Committee the meeting adjourned at 6:52 p.m. The next meeting is scheduled for May 24, 2011 at 6:50 p.m. at the Cowles Council Chambers located at 491 E. Pioneer Avenue, Homer, Alaska.

MELISSA JACOBSEN, CMC, DEPUTY CITY CLERK

Approved: _____

CITY OF SEWARD

P.O. Box 167
1300 4th Avenue
Seward, Alaska 99664



Harbor Department
907.224.3138 907.224.7187 fax
harbormaster@cityofseward.net
www.cityofseward.net/harbor

SUBJECT: SEWARD HARBOR PASSENGER FEE

Dear Business Owner:

It is time to register for the passenger fee for the year 2012. The fee is pursuant to Resolution No. 2005-80. The fee applies to all boats carrying passengers for compensation who are operating from any Seward City Property. This includes but is not limited to, charter fishing operations, tour operations, water taxis and guide services. The \$3.50 fee is per passenger carried, regardless of who pays for the charter. Passengers must pay the full \$3.50 fee whether they embark on a one-way or round trip excursion.

Please complete a vessel registration form for each vessel with current insurance prior to commencing your boat operations for the year and return it to the Harbor Department.

Once the forms have been approved the Harbor will notify the City Clerk's office to issue a city business license and issue a current Passenger sticker for your vessel(s).

The passenger transit fee vessel report form must be completed, signed and returned with payment to the City by the **30th of each month** for passenger activity for the prior month. The forms may be placed in the drop box located to the right of the main entrance of the Harbor office, mailed or brought to our office between 8am-5pm, 7 days a week. If we do not receive the form and payment **by the 30th**, there will be a 10% penalty enforced as well as a \$25 missed filing fee for each vessel. The Harbor uses the first day of business listed on the registration form to determine filing requirements.

You must have \$1 million dollars of coverage with the City named as additional insured and a waiver of subrogation to operate a business such as a charter, tour, commercial, etc.

Thank you for your cooperation. If you have any questions, please call (907) 224-3138.

Sincerely,

Jackie, Cheryl & Melody

Enclosures: Passenger Fee Registration Form
Passenger Fee Report Form



**PASSENGER TRANSIT FEE VESSEL
REPORT FORM INSTRUCTIONS
2012**

All reports must be turned in by the 30th of the following month!

1. Document the number of passengers per vessel for each day of the month that you are filing for.
2. Total the number of passengers and multiply it by \$3.50, this is the total passenger fees due for this filing period.
3. 10% PENALTY: If the return is late, a penalty of 10% will be assessed. Multiply the passenger fees due by 0.10; this will be entered on the Penalty for Late Remittance line.
4. MISSED FILING: If the return is late or not received, there will be a \$25 missing filing fee assessed as well as the 10% late fee. Zero file reports must be received for any open period with no activity.
5. INTEREST/OTHER: If the return is more than one month late, interest on the passenger fees is due at the maximum rate allowed by law per year currently at 1.5% per month (18% per year) until the account is brought current. § 7.10.615(e)
6. The sum of the passenger fees, penalty and interest are what you should enter in the Total Due box.
7. To prefile, please put the first month you will not have charters in the first section and the first month of operation in the second section for the next season.

Any company or individual that has collected passenger fees on behalf of another vessel must remit those fees to the boat owner. The boat owner is then responsible for the reporting of those filings. The harbor will not take passenger fees from anyone but the business owner/agent.

A company with more than one vessel may file a multi-vessel report that provides the same level of detail as the individual vessel report form as long as it has been approved by the Harbor Department. Copies of the passenger fee report forms are included with this letter. Additional copies may be obtained at www.cityofseward.us/doc or via an e-mail to the harbor office email at harbormaster@cityofseward.net. The penalties and interest will be assessed as explained above for any report that is not filed on time.

A vessel that fails to file passenger fees or is not current on passenger fees will result in denial of a City Business License and non-renewal of waitlist status and/or slip renewal.

An incomplete or improperly prepared form is the same as not filing a return and may result in missed filing fees, penalties and interest.

If you have any questions, please call the Harbor Department at (907) 224-3138.

CITY OF SEWARD
P.O. Box 167
1300 4th Avenue
Seward, Alaska 99664



Harbor Department
907.224.3138 907.224.7187 fax
harbormaster@cityofseward.net
www.cityofseward.net/harbor

2012
PASSENGER TRANSIT FEE
VESSEL REGISTRATION FORM

First Day of Business in 2012 ____ / ____ / ____

(If no date is entered above the office will go by date form is signed as 1st day of business this may result in a missed fee)

AK or U.S.C.G Documented # _____

Please complete all items

VESSEL NAME: _____ VESSEL OWNER _____

AUTHORIZED AGENT: _____

BUSINESS NAME: _____ BUSINESS ADDRESS: _____

CITY/STATE/ZIP _____

TELEPHONE# _____ ALT TELEPHONE # _____

VESSEL LOCATION: SLIP # _____ TRANSIENT _____ LAUNCH DAILY _____

CAPACITY OF VESSEL: PASSENGERS _____ CREW _____

Type of Operation: *(check all that apply)*

_____ Day Cruise/scenic _____ Charter/Transport _____ Kayak Businesses

_____ Sports Fishing _____ Other (describe)

Facilities being used: *(check all that apply)*

Seward Small Boat Harbor _____ Launch Ramps _____ X Float Loading Zone _____

Other (describe) _____

Return this completed form to the, Harbor Department,
P.O. Box 167, Seward, Alaska, 99664

This form must be completed and submitted to the Seward Harbor prior to receiving or renewing
a Seward Business license, or commencing operations.

Signature of Owner Printed Name Date

Office Use Only

SWD 2012 BUSINESS LICENSE ISSUE DATE _____

Insurance Expires: _____ PAX Sticker # _____

City of Seward
 Harbor Department
 P.O. Box 167
 Seward, AK 99664
 (907) 224-3138

**2012
 PASSENGER TRANSIT FEE
 VESSEL REPORT FORM**



Account # _____

MONTH/YEAR: _____

VESSEL NAME: _____

BUSINESS NAME: _____

If this is your final return-check here
 Indicate reason below
 Business Sold
 Business Closed

REQUEST TO PRE-FILE
 Zero sales from (mo/dt/yr) to (mo/dt/yr)
 _____ / _____ / _____ to _____ / _____ / _____
 (MAXIMUM 1 YEAR)

Date	# of Passengers	Date	# of Passengers	Date	# of Passengers
1	_____	11	_____	21	_____
2	_____	12	_____	22	_____
3	_____	13	_____	23	_____
4	_____	14	_____	24	_____
5	_____	15	_____	25	_____
6	_____	16	_____	26	_____
7	_____	17	_____	27	_____
8	_____	18	_____	28	_____
9	_____	19	_____	29	_____
10	_____	20	_____	30	_____
				31	_____

TOTAL NUMBER OF PASSENGERS _____

OF PASSENGERS X \$3.50 _____

INTEREST/OTHER _____

PENALTY FOR LATE REMITTANCE _____

TOTAL DUE

Date _____

Printed Name _____

Signature of Owner/Agent _____

I declare that this return (including any accompanying statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return.

Return this completed form and total fee by the 30th day of the following month to the Harbor Department. A 10% penalty and a \$25 missed filing fee per boat will be included for all payments made after the due date.



CITY BUSINESS LICENSE APPLICATION

City of Seward
City Clerk
P.O. Box 167
410 Adams Street
Seward, AK 99664
Telephone: 907-224-4046
Fax: 907-224-4038

- ▶ Check in the amount of \$30 (Non-refundable annual fee)
 - ▶ Copy of State Business License (or proof that you have filed)
 - ▶ Copy of Borough Sales Tax Registration Card (or Registration No. _____)
 - ▶ Copy of any required occupational licenses
- Your city business license will be issued within one week of the date the City Clerk has verified the above and has received proof that all of your tax and other accounts with the City and the Kenai Peninsula Borough are current. Annual renewals are due January 31 & Seasonal (May 1-Sept. 30) are due May 1st

If your business license application is submitted between January 1 and September 30, your license will be issued for the remainder of that calendar year. If your application is submitted between October 1 and December 31, the license will be issued for the remaining period of the year in which you applied and for all of the following calendar year. This does not apply to renewals.

Legal Name of Business Entity: _____ Date: _____

Mailing Address for LICENSE & RENEWAL: _____

City: _____ State: _____ Zip: _____ Telephone: _____ Cell: _____

Email Addresses: _____

Please Describe Your Business Activity and how it will be conducted: _____

Physical Business Location in Seward: _____

Business Category: Retail Tour Operator Transportation Communication Services Professional Services
 Charter Automotive Construction Childcare B&B/Lodging (nightly) Monthly rental Engineering
 Educational **Fourth of July Vendor** Other _____

Owner Name(s): _____

Social Security Number of one owner or Business Employer Identification Number: _____

Business is: **Partnership** (Make sure all partners are listed) **LLC** (Limited Liability Company)
 Corporation (List corporate officer's names below) **Nonprofit** **Sole Proprietorship**

Please note Zoning Limitations: A business license does not authorize the holder to conduct business in violation of any zoning ordinance. If the applicant ceases to engage in business or change its name, nature or business location, the business license expires. You must provide a physical business location. (A post office box or mail drop is not a physical business location.)

CORPORATE OFFICERS

President: _____

Vice President: _____

Secretary: _____

FOR OFFICE USE ONLY	
PAID: CASH/CHECK NO. _____	DATA ENTRY _____
NOTICE SENT: _____	ACCTS. VERIFIED: _____
ZONING DISTRICT: _____	USE ALLOWED? _____
NOTE: _____	
ISSUED: _____	LICENSE #: _____ EXPIRES: _____
RECEIVED (DATE & INITIALS): _____	

As Applicant, I _____, certify or declare under penalty of perjury under the laws of the State of Alaska that the foregoing is true and correct.

Signature

Printed Name

Title

Date

Walt Wrede

From: Thomas Klinkner [tklinkner@BHB.com]
Sent: Tuesday, May 01, 2012 1:59 PM
To: Walt Wrede
Subject: Borrowing for Phased Construction Project

Walt,

The City proposes to undertake several harbor improvement projects over a period of years. The City may borrow to meet the cash flow requirements of this program in the following ways:

1. Issue bonds in the amount required for all projects at one time. Arbitrage restrictions for tax exempt bonds require that at least 85% of the bond proceeds be spent within three years. If the bond proceeds can be spent on this schedule, the amount required for all projects may be borrowed at one time. The principal cost of doing so is the interest that will be payable on the bonds while their proceeds are awaiting expenditure. It is unlikely that the proceeds can be invested at a return (determined by short term interest rates) that will be equal to the interest rate on the bonds (determined by long term interest rates).
2. Issue more than one series of bonds, to provide funds as projects become ready for construction. This reduces the interest expense under the first approach, but that savings may be offset by the higher issuance costs that multiple bond issues entail.
3. Borrow funds from a bank under a draw-down loan structure. This would be similar to a conventional construction loan, in which a bank commits to lend the total amount that is required, but the borrower draws only the amount required to pay current construction costs. Some banks in the Alaska market will make loans of this sort at tax-exempt rates, but the interest rate generally will be higher than for a bond of similar maturity issued through the Alaska Municipal Bond Bank.

The schedule under which tax exempt bond or loan proceeds must be expended also is affected by federal rules limiting arbitrage (i.e., profiting from borrowing at tax-exempt rates and investing the proceeds at taxable rates). These rules take two general forms: (1) arbitrage yield restriction, under which a bond issuer may not invest bond proceeds at a yield exceeding the yield on the bonds; and (2) arbitrage rebate, under which a bond issuer may invest bond proceeds at a yield exceeding the yield on the bonds, but must rebate the excess earnings to the U.S. Treasury. Bond proceeds held to pay construction expenses generally are exempt from arbitrage yield restriction for a period of three years, provided that 85% of those proceeds are spent on project costs within the three-year period. However, any excess earnings on those proceeds during the three-year period will be subject to arbitrage rebate unless either (1) the City issues no more than a total of \$5 million in bonds in the year in which the bonds are issued, or (2) the proceeds are spent under one of the accelerated schedules (six, twelve or 24 months) prescribed in Treasury regulations.

Let me know if you have any additional questions.

Thomas F. Klinkner | Birch Horton Bittner & Cherot
1127 W 7th Avenue | Anchorage, AK 99501
Tel: (907) 276-1550 | Fax: (907) 276-3680
Email: tklinkner@bhb.com | Website: www.birchhorton.com



City of Homer

Port / Harbor

4350 Homer Spit Road
Homer, Alaska 99603-8005

Telephone (907) 235-3160
Fax (907) 235-3152
E-mail port@ci.homer.ak.us
Web Site <http://port.ci.homer.ak.us>

MEMORANDUM

TO: HARBOR IMPROVEMENTS COMMITTEE
FROM: BRYAN HAWKINS, PORT DIRECTOR/HARBORMASTER 
DATE: MAY 1, 2012
SUBJECT: HARBOR ENTRANCE EROSION CONTROL PROJECT

During the Harbor Improvement Committee's April 19, 2012 meeting, a motion was made and passed to keep the Harbor Entrance Erosion Control project on the list, fully include it in the bonding, and keep searching for other funds but be prepared to pay for it in full if we need to. Staff was directed to look for other funding to assist in paying for this project as it was the committee's opinion that it was too important to just remove from the bonding list.

It appears that our best course ahead for funding this erosion control project is to build a public access trail to Coal Point Park, armoring the trail with rock that will also prevent erosion at the harbor entrance. That's a win-win for everyone who uses the harbor and for those who also enjoy the trails. We have two Spit trails projects in the works. Currently, City Manager Walt Wrede and Public Works Director Carey Meyer are working through the details with ADOT for a TORA (transfer of responsibility agreement) that will transfer the funding and the management responsibilities to the City. This will allow us to extend the Spit trail from the Fishing Lagoon to the "End of the Road" Park, near Land's End. The second trails project includes connecting the Deep Water Dock to the Spit trail at the corner of Freight Dock and Homer Spit Road, and connecting the trail from the "End of the Road" Park to Coal Point Park.

Attached is the project list for the Cruise Ship Head Tax Grant. The third bullet from the bottom notes a trail extension to Coal Point Park from the "End of the Road" Park. There is \$950,000 set aside for this improvement.

At the time of this writing I am awaiting a reply from the ADOT Coastal Engineers about what services they may be able to provide. It is possible that we could see some real cost savings if they will agree to donate or provide the engineering at a reduced cost for the trail to Coal Point. Staff feels that there may also be some available funding from the Spit trails project to help with the Coal Point connection.

Another challenge for moving this ahead (besides funding) will be gaining easement to the beach from the Spit trail. There are a few possible routes and Staff will be talking to the landowners and lessees to see if we can find a workable solution to this hurdle.

Recommendation

For Information

Attached: Cruise Ship Head Tax Grant project list



City of Homer State Legislative Request - FY 2012

DEEP WATER/CRUISE SHIP DOCK: DOCKING & UPLAND PASSENGER FACILITY IMPROVEMENTS

PROJECT DESCRIPTION & BENEFIT: Classified as an Emerging Port for cruise-ship based tourism, the Port of Homer has seen a dramatic increase in cruise ship bookings in the last three years, from two ships in 2009 to nine in 2010 to fifteen scheduled for 2011. With the goal of encouraging this trend, the City of Homer has developed an Integrated Cruise Ship Enhancement Strategy aimed at utilizing state cruise ship head tax monies to maximize benefits of cruise ship tourism for both passengers and the Homer community. This project will implement key features of that strategy:

- Add docking fender, camel upgrade, and bollard upgrades to the Deep Water Dock (also known as the Cruise Ship Dock) (\$2.15 million). These upgrades will greatly facilitate docking maneuvers and help prevent damage to cruise ships.
- Modify the dock to eliminate bird nesting (\$600,000). The existing open I-beam construction of the Cruise Ship Dock creates ideal nesting sites for hundreds of seagulls, which in turn creates a huge problem with bird excrement. This problem will be largely eliminated by welding steel plates over the open I-beams, removing old fender brackets, and installing bird-deterrent spikes on dock support systems.
- Purchase a broom attachment for the Port forklift, to be used for cleaning the dock prior to cruise ship arrivals (\$10,000).
- Install a steel transition plate to bridge the gap between the dock and the dock trestle, for the full width of the trestle (\$20,000). Currently this gap creates a trip hazard for foot traffic, a particular problem for less agile passengers.
- Construct a guard house for security personnel that includes a public restroom (\$500,000).
- Construct a covered area for passengers waiting for ground transportation (\$50,000).
- Create a level, paved, and fenced staging area specifically for cruise ship passengers (separated from marine industrial uses) (\$100,000). The paved and marked surface will eliminate problems with dust and uneven/hazardous terrain that plague the area now and make it easier to direct passenger and vehicle/bus traffic. Signage will also help eliminate confusion in the staging area.
- Construct a paved ADA-compliant trail along the east side of the existing harbor and Outer Dock Road (4,000 feet). Include three pullout/view areas with benches and signage (\$425,000).
- Construct a paved parking area and covered shelter in the main commercial/retail area of the harbor for passengers embarking/diseMBarking from buses (\$100,000).
- Construct a paved trail from where the new Spit Trail ends (at End of the Road Park) to Coal Point, to include benches and signage at Coal Point and a restroom at End of the Road Park (\$950,000). The new trail will be utilized by passengers who disembark at either the Cruise Ship Dock or the Pioneer Dock (back-up cruise ship dock). Coal Point provides an outstanding overlook area for observing all the activities of the harbor, including those at the Fish Dock. Project may include ADA access to harbor on west side.
- Construct public restrooms with covered bus stops at two downtown locations (\$1 million).
- Include public art and landscaping features with some of the above projects to enhance the visitor experience (\$50,000).



A stinky dock, rough unmarked parking lot, lack of weather protection, and general disheveled appearance at the Cruise Ship Dock uplands do not provide the best first impression of Homer.

Total project cost: \$5,955,000

Schedule: 2011-2013

FY 2012 STATE REQUEST: \$5,955,000

Contact: Mayor Jira Hornaday or City Manager Walt Wrede. 235-8121

11



SY2013

**Instructions for completing the
Municipal Harbor Facility Grant Fund Application**

*Use these instructions to complete an
Application for a Municipal Harbor Facility Grant (Form DOT&PF H-26267)*

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A. INTRODUCTION

The Municipal Harbor Facility Grant Program (AS 29.60.800 et seq.) provides financial assistance in the form of a 50/50 matching grant to municipally owned small boat harbor facilities in the State of Alaska. The Department of Transportation and Public Facilities administers the Municipal Harbor Facility Grant Program. Port or barge facilities are not eligible for the grant program.

This grant program is funded on an annual basis at the discretion of the Alaska Legislature and consists of two tiers, Tier I and II.

- The first tier has priority and consists of major maintenance and repair of a harbor facility that was previously owned by the state and now is municipally owned. A harbor facility may only receive one Tier I grant regardless if it is for all or only a portion of that harbor facility. Once a Tier I eligible harbor facility receives a Tier I grant, the status of that harbor facility changes from Tier I to Tier II henceforth. After all eligible Tier I projects have been selected, the department will consider Tier II projects.

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- The second tier consists of all other municipally owned harbor facilities. Harbor facilities which have already received a Tier I grant can only compete for Tier II grants. Tier II grants may comprise new construction, expansion, or major maintenance and repair of a harbor facility. A harbor facility is eligible for multiple Tier II grants.

B. APPLICATION SUBMITTAL PROCEDURES

1. **Application Deadline.** Applications for Municipal Harbor Facility Grant funding during state fiscal year 2013 must be delivered to the State Ports and Harbors Engineer, Alaska DOT&PF, P.O. Box 112500, Juneau, Alaska, 99801-2500 **on or before the close of business on August 1, 2011.** Applications may be submitted by mail but must be **postmarked no later than August 1, 2011 and sent by certified mail, return receipt requested.**
2. **Copies of Applications and Supporting Documentation. The applicant is to provide an original and five legible copies (a total of SIX copies) of ALL application materials.** This includes plans (11" by 17" preferred), drawings, reports, maps, and the like. Because of the potential volume of material supplied in support of an application, each document must be clearly identified with the applicant's name, the identification or name of the project and the phrase, "document in support of block no. ____." Block numbers are described in Section D.
3. To the extent possible, application material should be "loose leaf" bound to provide secure binding and to facilitate ease of handling. Clearly identify bulky items such as harbor 11" by 17" plans or blueprints which cannot reasonably be bound with other items. The application should contain an index or other device for referencing attachments and supplemental materials to the form data. Use page numbers or marginal tabs.

The department's contact for the Municipal Harbor Facility Grant program is:

Michael Lukshin, P.E.
State Ports and Harbors Engineer
Phone: (907) 465-3979 work
Email: michael.lukshin@alaska.gov

C. KEY PROVISIONS OF THE PROGRAM

1. *The intent of the Municipal Harbor Facility Grant Program funding is to assist municipalities only with the construction phase of small boat harbor facilities.* It may not be used to fund the development of the engineering studies, land acquisition or bidding documents, i.e. plans and specifications. Keep in mind that this is a competitive matching grant program with limited annual funding. Do not request funding for a project that the

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municipality cannot reasonably expect to expend within 18 months after all parties sign the grant agreement.

2. The applicant is responsible for making sure that he has read these instructions fully and has determined that the proposed construction items of work are eligible for matching state funding. **The list of eligible and non-eligible items of work is found in the Definitions section of these instructions, under the phrase “harbor facility”.**
3. If after signing the grant agreement, the grant recipient has not awarded a construction project for the grant agreement’s named harbor facility within six (6) months, the department may terminate the grant agreement and deduct those grant funds that are not expended or the unobligated portion of the authorized balance from the grant recipient.
4. **Projects may be denied funding for various reasons, including:**
 - Application criteria in these instructions and AS 29.60.800 et seq. not satisfied
 - There are inadequate Municipal Harbor Facility Grant Program funds
 - Application receives lower priority than other applications during evaluation cycle
 - Application submitted after the application deadline
 - Application was submitted electronically (facsimile or e-mail)
 - Application is incomplete or unsigned
 - An ineligible person signs the Certification Statement on the application
 - Applicant has not met the program planning requirements, i.e. preparation of finance plan and preventive maintenance plan
 - The application is for a harbor facility project that is speculative; for example, the applicant for a grant has no firm financial commitment for a proposed harbor fee increase, income from a potential harbor lessee or operator, or bonds yet to be approved by ballot measure. Each of these items could cloud the validity of the finance plan and the future operation and maintenance of the harbor facility.
 - The applicant cannot demonstrate that it has ownership or long term management control of the tidelands and uplands required for the capital improvement project, including public access to the site. The grant program cannot be used for acquiring land.
 - Applicant proposes to use force account or “in-kind” services to make the local match
 - Proposed project inconsistent with applicable local harbor development plans or comprehensive plans
 - Proposed project inconsistent with AS 29.60.800 et seq.
5. In all cases, the department will determine the final eligibility of any portion of a project for funding under this program.
6. Projects selected for funding require formal agreements between the department and the eligible applicant.
7. All grant recipients will be required to maintain project books and records and to make periodic progress reports to the department.

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8. No grant funds will be committed to an eligible applicant until a grant agreement is negotiated and signed by the department and the eligible applicant.
9. Prior harbor grants must be completed and closed-out before another harbor grant application will be accepted for the same harbor facility.

D. APPLICATION INSTRUCTIONS (see Form DOT&PF H-26267)

Block 1. Write a brief project description and statement of need. Note that Block 4 requires a detailed scope, schedule and budget (see below). Prepare a separate application for each harbor facility even if the municipality owns multiple harbor facilities. Each application must be independently justified.

Block 2. Decide if this application is for a Tier I or a Tier II harbor grant. Check the box or boxes to indicate the type of project and list the estimated percentage of overall cost for major repair, major maintenance, replacement, expansion or new construction.

Block 3. Indicate the total state funding requested for the harbor facility project in this grant application. The state will contribute 50% of the project cost up to a maximum of \$5 million per state fiscal year under this program. Also describe the source(s) for the local 50% matching grant amount. Municipalities must submit evidence of local government action authorizing the project, where the local funds are coming from, and when the local funds will be available. Bonds requiring local voter approval must be approved by the voters prior to submission of the grant application to count as evidence of ability to finance the local share of the project. Submit a narrative or other support documentation concerning the timing of available non-grant financing and known or expected prerequisites for, or limitations on, that financing, i.e. bond issue, budget appropriation, bank loan approval, other grant, etc. *Force account and "in-kind" contribution of services will not be accepted to make any portion of the local match.*

Line 3a. Enter the requested amount of state matching Municipal Harbor Facility Grant funds (\$50,000 minimum). The total of Lines 3b through 3e must equal or exceed the amount on Line 3a to satisfy the 50% local matching share contribution per AS 29.60.800 et seq. *Note, if the municipality is making more than one harbor grant application, then beware that the maximum amount of harbor grant(s) to a municipality per state fiscal year is \$5 million per AS 29.60.820(a).*

Line 3b. Indicate the source of the local funds, for example, municipal cash on hand or funds in a municipal harbor enterprise account. Bond funds must be from bonds already voted on and passed by the municipality before the application deadline date.

Line 3c. If applicable, list state sources for the local match requirement. *Designated Legislative Grants and Grants to Municipalities by the Alaska Legislature are not eligible state sources for the local match requirement.* There are only two eligible state sources per AS 29.60.800 et seq. available for the local share of the match. They are:

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- A. AS 29.60.850 - 29.60.879 (community revenue sharing program); and
- B. AS 29.60.450, AS 43.75.130, and 43.75.137 (shared fisheries business taxes);

Line 3d. If applicable, list the federal sources for the local match requirement. Include copies of grant awards from federal agencies participating in the project funding. Federal grants from the Denali Commission, EDA, USDA, BIA, etc., are acceptable sources to fulfill the local match requirement. Funds from one of the federal Community Development Quota groups are also eligible.

Line 3e. Include copies of grants or letters of award, or its equivalent, from private donors, banks, corporations, etc.

Line 3f. The total estimated cost of the project.

Block 4. Attach a detailed project scope, schedule and cost estimate that includes the following elements:

- a) An 11" by 17" plan view drawing (preferably overlaid on an aerial photo) clearly identifying the elements and limits of the project.
- b) A detailed description of the scope or extent of the project and that clearly identifies what will be accomplished.
- c) A cost estimate in sufficient detail to support a meaningful evaluation of the project costs and the reasonableness of the estimate. Estimated quantities may include items such as the number of piling and square feet of floats along with materials or vendors you propose to use. For all applications, cost estimates must be based on the municipality's most recent information and must address the project requested. If there are special requirements or considerations, a detailed explanation and justification must be provided in the project description and scope of work. A contingency percentage may be added to account for inflation, project location, and increased material costs.
- d) For the project schedule, describe the project duration and list the project start and completion dates, anticipating that grant funds are available after July 1, 2012.

Documentation of the existing harbor facility's condition is optional; however, it may be useful to the department in evaluating the overall merits of a project request. Condition surveys (it may be helpful to include photographic documentation of the deficiencies that will be corrected as a result of the proposed project) can be prepared by the owner or a consultant. Portions of the harbor facility condition survey, such as utilities, may require the services of a licensed professional engineer or journeyman electrician. The department may have historical data and condition assessments from a survey completed in the early 1990's of department owned harbors that may be useful for a comparative analysis.

Block 5. List all previous municipal harbor facility grants received at this harbor facility under this grant program. *If the harbor facility has not received a previous harbor grant, then the applicant should leave this blank or put down "N/A".*

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Block 6. Attach documentation proving ownership of existing harbor facilities associated with the project. This may include upland and tideland information, in addition to the bill of sale for the harbor facilities.

Block 7. Attach documentation demonstrating that the project is a capital improvement project (CIP) and not part of a preventive maintenance program or regular custodial care program. Provide evidence that the project is included in the municipal capital improvement program and indicate its rank amongst other capital improvement projects.

Block 8. Attach a detailed description how the municipality will fund the 50% match required for the grant. Submit supportive backup documentation that demonstrates that loans and grants from eligible federal and private sources have been approved. General Obligation or Revenue Bond funding not yet approved by municipal voters or the municipal government will not be considered valid. State funds may not be used for the match except those as specifically allowed under AS 29.60.800 *et seq.*

Block 9. Attach proof that municipality has secured and will maintain adequate property loss insurance for the replacement cost of the harbor facility or has an adequate program of insurance.

Block 10. Attach a copy of the municipality's preventive maintenance plan (PMP) for the harbor facility. The PMP will be reviewed for completeness, reasonableness, and must be adequately supported by the finance plan.

For a successful applicant, specific detailed information is expected concerning the preventive maintenance plan. For example, the preventive maintenance plan must demonstrate that the municipality understands the operational costs of owning and maintaining their harbor facility, has developed a daily process to address maintenance items, and is maintaining the harbor in a safe and prudent manner.

Block 11. For the first grant application, an adequate finance plan is sufficient documentation that the municipality will adhere adequately to the PMP after completion of the proposed project. Subsequent grant applications will require a demonstration that the municipality is managing the harbor facility consistent with the finance and preventive maintenance plans.

Block 12. If applicable, provide evidence that the harbor facility was transferred from the state to the municipality.

Block 13. Attach a detailed finance plan that indicates how the municipality will fund the construction and maintenance of the harbor facility in accordance with the PMP. The finance plan will be evaluated based on the level of detail and adequacy, including the current harbor fee structure or schedule. Provide adequate documentation that substantiates the amount and sources of municipal and non-municipal funds. Municipality may contribute funds from their general fund or harbor enterprise account. To be considered, bonds must have been sold before the grant program's application deadline. For non-municipal funds, document the amount and the sources of those funds by providing copies of Letters of Award, grant agreements, loans, etc. that show the applicant has sufficient funds for the project. Funds from federal agencies, private

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corporations or donors, and non-state groups are eligible to contribute towards the applicant's matching requirement. State funds, including deferred maintenance and transfer funds from the department, can't be used to make the match except for rare exceptions described in AS 29.60.810. Projected future revenues based on harbor rate and fee structures not yet approved will not be considered valid.

Be careful not to present a financial plan that is speculative. Examples of speculative funding would be income or revenue from a source that would require a mutually executed contract or agreement to establish the level of funding or on city bonds yet to be approved by ballot measure. Speculative items are any funds that could cloud the validity of the finance plan and the municipality's ability to build and maintenance the harbor facility now and in the future.

For a successful applicant, specific detailed information is expected concerning the finance plans. The financial plan would show that there is a written rationale to income and expenditures. The plan may also include the last date user fees were adjusted and why. It may show how user fees are adjusted to balance the cost of operating the harbor. Also, it may show how future costs are adequately supported by previous expenditures and adjusted for inflation. The plan must include a contingency fund for major repair and replacement. Further the finance plan would be augmented by proof that there is a dedicated harbor fund.

Block 14. Identify all safety issues with the current harbor facility and describe how the project will address them. Provide evidence of a public safety or emergency factor that will be corrected by the proposed capital improvement project. Acceptable evidence includes accident reports by the municipality or other government agency (state trooper, US Coast Guard, etc.), lawsuits, formal emergency response plans (municipal, state or federal) or similar documentation. The municipality must explain how the proposed project alleviates the public safety concern or enhances other emergency factors. If this project is an emergency, provide the following information:

- Nature of the emergency
- Harbor facility condition related to the emergency
- Potential threat to harbor users or the public
- Consequence of continued use of the harbor facility
- Individuals or groups affected by the condition
- Action taken by the municipality to mitigate the emergency conditions
- Eligibility of all portions of the project for insurance reimbursement or emergency funding from state or federal agencies

Block 15. Provide documentation concerning past maintenance expenditures and include a narrative describing the nature of the maintenance performed to the extent practical. These costs must be substantiated and documented by providing a detailed description and cost breakdown of maintenance efforts expended at this harbor facility. For municipalities with multiple harbor facilities, a separate maintenance breakdown is required for each harbor facility.

Block 16. Provide documentation concerning the full range of options the municipality evaluated that would reduce or eliminate the need for the proposed project. A municipality must provide

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evidence that other options were evaluated and the proposed harbor capital improvement project is fully justified. Acceptable evidence may include planning documents from a Capital Improvement Program, harbor board minutes, or council meeting minutes discussing harbor options considered. Please explain how the options were evaluated, and if not, why.

Block 17. A checklist is provided for your convenience to help the applicant make sure that the application is complete. Please verify that all required and any additional attachments are properly numbered (see Section B, number 2). That will greatly assist the department when evaluating your application.

Block 18. Read the Certification Statement and be sure the application is signed by a municipal official authorized to represent the municipality. Typically, the municipality's manager/administrator or the mayor will sign the Certification Statement. Unsigned applications may be rejected. A municipal resolution that shows support for the proposed small boat harbor project is encouraged as it will increase an applicant's score, but a resolution is not required.

E. APPLICATION REVIEW PROCESS

- (1) The commissioner will appoint a panel of reviewers consisting of a minimum of four department staff members. This panel called a harbor panel or a Harbor Project Evaluation Board will review all eligible grant proposals. Applications will be scored independently using the instructions and scoring criteria (Form DOT&PF H-27269) for this grant program. The reviewers' total scores will be averaged to determine the priority by which applications will be considered for funding.
- (2) The proposal having the highest average score will be allocated funding unless the available Municipal Harbor Facility Grant funds appropriated by the Alaska Legislature for that fiscal year are less than the proposal; in which case, the next highest proposal that can be fully funded will be awarded the next grant and so on. The harbor panel will work its way down the priority ranking until at least 50% of available funds are awarded in that fiscal year or until proposal cost estimates exceed the remaining grant funds.
- (3) The harbor panel will conduct its work in a timely fashion following the application deadline. The department will issue a notice of intent to award the municipal harbor facility grant via first class mail to the entity(s) whose application it has selected for further action, carbon copying all other applicants.
- (4) Minimum Award per Grant: \$50,000.
- (5) Maximum Award per Grant: \$5,000,000.
- (6) Applicants who don't receive a municipal harbor facility grant award this year will need to reapply for consideration in the next evaluation cycle. Preferential consideration will not be afforded previous applicants.

F. CONDITIONS OF THE GRANT

- (1) Neither the solicitation of grant applications nor issuance of a notice of intent to award obligates the department to award grant monies. As a prerequisite to any award, the selected applicant must properly ratify and execute a mutually agreeable grant agreement within six (6) months of the Notice to Award to the municipality. If a selected applicant fails to promptly do so, the department may deny the award and select the next highest scoring proposal or award the funds in subsequent years.
- (2) For project construction work that is competitively bid by the grantee, the original bid result amount received by the grantee may come in lower than the estimated bid amount in the grant application. In this case and in this case only, the amount in the grant agreement will be decreased such that the department will award a grant for 50% of the grantee's original bid result amount. This difference between the estimated amount on the grant application and the original bid amount is considered a project cost savings to be shared equally between the grantee and the department. When there is a cost savings, the public benefits because there is a shared benefit to the grantee and the department. Just as the construction cost expenses are shared 50/50 with the grantee, so are cost saving benefits shared 50/50 between the department and the grantee.
- (3) The grant period is eighteen (18) months. The department will reimburse the grantee for eligible harbor facility expenses, described in the grant agreement, for the construction of a harbor facility.
- (4) Harbor facilities not eligible under this program are ones that lease the majority of its slip space to large commercial or tourist marine vessels (greater than 125 feet LOA) or ones that are not available to the general public.
- (5) Port or barge facilities are not eligible for the grant program.
- (6) Force account and "in-kind" contribution of services are not eligible activities under the definition of a harbor facility.
- (7) Grantee may not alter the grant agreement (including modifications to goals and/or objectives) without prior written approval of the grant officer.
- (8) In all cases, the department will determine final award and eligibility of any portion of a project for funding under this program.
- (9) Grantee shall comply with all provisions of the grant agreement. It is responsible for managing the day-to-day operations of grant-supported activities. However, as program steward, the department monitors grants and grantee's performance. It does so through review of retained records, reports and correspondence from grantee, audit reports, site visits, and other means available to the department.

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- (10) Grantee shall be responsible for preparing and administering all contracts and projects undertaken in connection with a grant award. Grantee shall ensure all contracts and work financed in connection with a grant award comply with applicable federal, state, and local statutes, regulations, ordinances, and laws. Grantee shall defend, indemnify, and hold the State harmless from all claims arising in connection with such contracts and related work. Third party contracts, engineering and construction project overruns, and construction contract claims shall be the sole responsibility of grantee.
- (11) Grantees must retain financial and program records, supporting documents, electronic data, and all other records required by the terms of a grant for a period of six (6) years from the date when the final financial status report is submitted to the department. The department shall have full access to these records for purposes of audits or other inquiries regarding grantee's compliance.
- (12) Periodically, grantee must submit financial and progress reports. Reporting deadlines are addressed in the grant agreement. Failure to submit complete, accurate, and timely reports may result in the need for closer monitoring or enforcement action by the department.
- (13) The grant program is subject to Alaska Legislature appropriations and may be reduced or terminated based on state appropriated funds in any given fiscal year. In such case, the department shall have no liability to grantee if it is unable to fund, in whole or in part, a grant award.
- (14) The department retains the right to refrain from making any awards if it determines that to be in the State's best interest.

G. ENFORCEMENT

- (1) The grant officer may take one or more actions in the event the grantee fails to comply with the terms of the award. Upon written notification explaining the basis of the action, the grant officer may suspend the grant pending corrective action or terminate the grant for cause. The grant officer may impose conditions requiring correction of noncompliance or deficiency, e.g., temporarily withholding grant payment or conversion from an advance payment method to a reimbursement method. If conditions are imposed, the grant officer will notify the grantee in writing as to the nature of the conditions, the reason for imposition, the nature of the corrective action needed, the time allowed for completing corrective actions, and the method for protesting/requesting reconsideration of this action.
- (2) The grant officer may recover funds paid to a grantee in excess of its entitlement, including misspent funds, unallowable costs incurred, or unobligated balances. If the grantee does not remit the funds in response to a demand, the grant officer or the department may collect the debt by:
 - a. Making an administrative offset against payments that would be due under other grant awards or appropriations,

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- b. . Withholding advance payments that would otherwise be due,
 - c. Instituting civil action, or
 - d. Taking any other action permitted by law.
- (3) Grantee may contest enforcement action implemented by the grant officer through the protest procedure identified below.

H. PROTEST

- (1) A grant applicant contesting the evaluation of applications under AS 29.60.800 *et seq.* may file a protest with the grant officer within 10 days of the issuance date of the department's notice of intent to award. The grant officer will deny as untimely any protest filed after the 10 day period. The protest must include the name, address, and telephone number of the protester, the signature of the protester or the protester's representative, a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and the form of relief requested.
- (2) The grant officer shall immediately provide a copy of the protest to the entity(s) identified in the notice of intent to award. (If no notice was issued, the officer will copy all grant applicants.) In the event of a protest, the grant officer may proceed with the grant award unless he/she makes a written determination that a reasonable probability exists the protest will be sustained or a stay of the award is not contrary to the best interests of the State.
- (3) Within 15 days of receipt of the protest, the grant officer will issue a decision. The grant officer may extend this deadline for up to 30 days, in which case he/she shall notify the protester in writing of the date of the extended deadline.
- a. If the officer sustains an applicant's protest to the evaluation process, he/she shall implement an appropriate remedy. In no case, however, is an applicant entitled to recover more than its reasonable application preparation costs.
 - b. In determining an appropriate remedy, the officer shall consider the circumstances surrounding the grant evaluation which may include: the seriousness of the alleged deficiencies; the degree of prejudice to other interested parties or to the integrity of the grant program; the good faith of the parties; and the costs to or impacts on the program or department regarding a proposed remedy.

I. APPEAL

- (1) Within 15 days of the date of the grant officer's decision, the protester may file an appeal with the commissioner and file a duplicate copy with the grant officer. The commissioner shall dismiss an appeal if it is untimely. The appeal must include the information required under paragraph (1) of the previous section labeled "Protest", a copy of the decision from which the appeal is taken, and identification of the factual or legal errors in the decision forming the basis for the appeal.

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- (2) The grant officer shall file a complete report on the protest and decision with the commissioner within 10 days after a protest appeal is filed. The grant officer shall furnish a copy of the report to the protester.
- (3) The protester may file comments on the protest report with the commissioner within 10 days of the date of the report. The protester shall provide copies of the comments to the grant officer.
- (4) The grant officer and the protester may make a written request to the commissioner for an extension of time to submit their respective filings. The commissioner shall respond to any such request in writing. If an extension is granted, the commissioner shall notify both parties of the new filing deadline.
- (5) The commissioner may issue a decision on an appeal without a hearing if the appeal involves questions of law without genuine issues of material fact.
- (6) If a hearing on a protest appeal is required, it shall be conducted in accordance with AS 36.30.670.

J. DEFINITIONS

As used in these instructions and the accompanying application, the terms identified below are defined as follows:

An “*adequate program of insurance*” is a property self-insurance retention program which is financially capable of paying the actual replacement cost in the event of damage to or loss of harbor facility component(s) for which the municipality is seeking a grant under AS 29.60.800 *et seq.* The grant officer will determine whether a municipality's program fulfills the foregoing requirement. In so doing, the grant officer will review the adequacy of declared value of the harbor facility, provisions of the self-insurance retention program, and the municipality's annual financial reports. In reviewing the reports, the grant officer will consider the following:

- (1) property loss history, outstanding claims liability, and proposed excess insurance coverage;
- (2) obligations under all other self-insured programs including their self-insured retention levels;
- (3) funding of the insurance program; and
- (4) bonded indebtedness.

“*Adequate property loss insurance*” is property insurance underwritten by an insurer acceptable to the grant officer or procured and administered through a joint insurance arrangement authorized by AS 21.76.010 *et seq.*, which:

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- (1) provides coverage for actual replacement cost in the event of damage to or loss of harbor facility component(s) for which the municipality is seeking a grant under AS 29.60.800 *et seq.*, and
- (2) imposes no more than a customary deductible percentage of actual replacement cost for a municipality of applicant's size.

An “*audit*” is a systematic review or appraisal of a grant recipient's internal accounting and other control systems to provide reasonable assurance the entity:

- Properly conducts financial operations
- Presents financial reports fairly, accurately and in a timely manner
- Complies with applicable laws, regulations, and other grant terms
- Manages and uses resources in an economical and efficient manner
- Achieves desired results and objectives in an effective manner

“*Capital improvement program*” is a planning document that identifies the capital needs of a municipality and indicates how these needs will be funded over a multi-year period. A Capital Improvement Program contains the descriptions and cost estimates for capital improvement projects.

“*Capital improvement project*” or “*project*” is a public harbor facility, building or other structure, public works, or other facility, highway, or local service road; the term includes an allocation or appropriation item for a public asset with an anticipated life exceeding one year and a cost exceeding \$25,000 and may include construction, structural improvement, engineering and design for the project, and equipment and repair costs.

“*Commissioner*” means the commissioner of the Department of Transportation and Public Facilities.

“*Custodial care program*” is a set of organized and methodical acts to ensure that a harbor facility is operated in a prudent and reasonable fashion for the maximum benefit of owners, users and other stakeholders.

“*Department*” means the Department of Transportation and Public Facilities.

“*Expansion*” of an existing harbor facility is any capital improvement that results in an increase in capacity including moorage or dock enhancements.

“*Fiscal year*” means a year beginning on July 1 of one calendar year and ending on June 30 of the following calendar year

“*Force account*” means the use of the applicant's own labor force and equipment.

“*Governing body*” has the meaning given in AS 29.71.800(10)

A “*grant*” is an award of monies to a municipality under the municipal harbor facility grant program, AS 29.60.800 *et seq.*

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A “*grant agreement*” is a contract containing the terms under which the department agrees to provide a municipal harbor facility grant to a recipient.

A “*grant applicant*” or “*applicant*” is a municipality seeking a municipal harbor facility grant under AS 29.60.800 *et seq.*

A “*grant officer*” or “*officer*” is the departmental representative administering the grant application process or a recipient’s grant.

“*Grant program*” or “*program*” is the Municipal Harbor Facility Grant Program, AS 29.60.800 *et seq.*

A “*grant recipient*” or “*grantee*” is a municipality to which the department has awarded a municipal harbor facility grant under AS 29.60.800 *et seq.*

A “*harbor*” is a sheltered arm of the sea, bounded by natural features, manmade structures, or a combination of both, in which small boats may seek refuge, transfer cargo, embark and disembark passengers, and/or undergo repair.

A “*harbor facility*” is a system of floats, piers, ramps, pilings, and associated upland appurtenances within a harbor that provide for the moorage, movement, launching, hauling, and maintenance of small boats.

- (1) The removal, replacement, rehabilitation, or installation of the following items are eligible for funding under this program:
 - Approach structures
 - Pilings and anchors
 - Access ramps and gangways
 - Float systems for permanent and transient moorage
 - Floating breakwaters
 - Utility systems integral to the float systems (specifically power, lights, fresh water, sewage pump out, and fire protection)
 - Launch ramps
 - Seaplane floats
 - Portable or trailer mounted equipment for fire fighting, sewage pump out, oily bilge water, etc.
 - Other appurtenances necessary for the basic operation of the harbor facility
- (2) Work that is not eligible under this program includes the removal, replacement, rehabilitation, or installation of:
 - Dredging
 - Rubble-mound breakwaters and revetments
 - Dikes, groins, and jetties
 - Wharfs and docks for large commercial or tourist marine vessels (greater than 125 feet LOA)

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- Seawalls, bulkheads, sheet pile walls, gabions, and quays
- Access roads and upland improvements
- Boat houses
- Commercial or privately owned utility systems on the float systems
- Fuel and oil distribution systems
- Platform floats for small buildings, restrooms, or commercial retail space
- Landscaping and facility amenities, e.g., trash receptacles, used oil collection tanks, storage/locker boxes, fish cleaning stations, etc.
- Utility system improvements beyond the harbor facility limits, e.g., electrical and water/sewer line extensions to bring those services to the harbor facility
- Harbormaster offices, buildings, offices, shops, boat yards or storage structures
- Marine vessel hoisting machinery and small boat haul-out systems

(3) For purposes of this program, each named harbor facility in an agreement that transfers ownership from the state to a municipality, constitutes a harbor facility for which the municipality is eligible to receive only one grant with a Tier I status. There may be more than one named harbor facility in a Harbor Transfer Agreement or Bill of Sale.

"In-kind contribution" means a contribution of equipment, supplies, property or other non-cash item in lieu of a dollar contribution.

"Length-over-all (LOA)" is the linear distance, in feet, from the forward most part at the stem to the aftermost part of the stern of the marine vessel, measured parallel to the base line of the marine vessel.

"Major repair or major maintenance" means to extend the life of an existing harbor facility by 20 or more years.

"Municipality" means a political subdivision incorporated under the laws of the state that is a home rule or general law city, a home rule or general law borough, or a unified municipality.

"New construction" means construction of a harbor facility at a new harbor.

"Preparation costs," when used in the context of application or protest preparation costs, are limited to reasonable clerical, copying, and postage costs incurred in preparing and submitting grant application forms or documentation in support of a protest. They do not include costs incurred in connection with formulating facility preliminary or layout drawings, engineering designs (comprising plans, estimates and specifications for a project), preventive maintenance plans, financial plans, schedules, budgets, legal costs or fees, or the like.

"Preventive maintenance" is the planned strategy of cost-effective treatments to an existing harbor system and its appurtenances that preserves the system, retards future deterioration, and maintains or improves the functional condition of the system (without substantially increasing structural capacity).

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“Preventive maintenance program” is a systematic approach to extending the life of harbor components by applying low-cost preventive maintenance treatments.

“Program of insurance” means a property self-insurance retention program financially capable of paying the actual replacement cost of harbor facility components for which the municipality is seeking a grant;

“Property” has the meaning given in AS 29.71.800;

“Property loss insurance” means coverage underwritten by an insurer eligible to do business in this state, or procured and administered through a joint insurance arrangement authorized by AS 21.76, which is capable of paying the actual replacement cost of the harbor facility components for which the municipality is seeking a grant less a customary deductible percentage for a municipality of the applicant’s size;

“Small Boat” means a recreational, pleasure or commercial fishing marine vessel with a LOA of equal to or less than 125 feet.

“Small Boat Harbor” means a harbor facility where the majority of the marine vessels are small boats. A harbor facility can also be used for the intermittent or transient use by vessels over 125 feet long.

“Unobligated balance” means the portion of the funds authorized by the department that has not been obligated by the recipient and is determined by deducting the cumulative obligations from the cumulative funds authorized.

K. ALASKA STATUTE REFERENCE

The following are excerpts from Alaska Statutes 2010, Title 29. MUNICIPAL GOVERNMENT, Chapter 29.60. STATE PROGRAMS

Sec. 29.60.800. Municipal harbor facility grant fund.

- (a) There is established the municipal harbor facility grant fund consisting of money appropriated to the fund. Each fiscal year, the legislature may appropriate money to the fund from the watercraft fuel tax account (AS 43.40.010 (f)) and from the fisheries business tax collected under AS 43.75.015 after payments to municipalities are made under AS 43.75.130. The legislature may make other appropriations to the fund. The legislature may appropriate to the fund income earned on money in the fund.
- (b) Money appropriated to the municipal harbor facility grant fund may be expended by the Department of Transportation and Public Facilities for municipal harbor facility grants without further appropriation. Money in the fund does not lapse and remains available for expenditure in successive fiscal years.

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- (c) Each fiscal year, the Department of Transportation and Public Facilities shall use an amount equal to at least 50 percent of the balance of the municipal harbor facility grant fund on June 30 of the preceding fiscal year for municipal harbor facility grants.

Sec. 29.60.810. Grant applications.

A municipality that owns a harbor facility may submit to the Department of Transportation and Public Facilities an application for a municipal harbor facility grant to be used for construction, expansion, major repair, or major maintenance of a harbor facility. The application must include information about the project requested by the department. For a proposed project to be eligible for a grant, the municipality must provide evidence acceptable to the department that the:

- (1) proposed project is a capital improvement project and not part of a preventive maintenance program or regular custodial care program;
- (2) municipality will provide 50 percent of the total project cost as matching funds for the state grant and that money received by the municipality from the state will not be used for the matching funds except money received under
 - A. AS 29.60.850 - 29.60.879 (community revenue sharing program); and
 - B. AS 29.60.450, AS 43.75.130, and 43.75.137 (shared fisheries business taxes);
- (3) municipality has secured and will maintain adequate property loss insurance for the replacement cost of the harbor facility or has an adequate program of insurance;
- (4) municipality has a preventive maintenance plan for the harbor facility and will be adequately adhering to the preventive maintenance plan after completion of the proposed project.

Sec. 29.60.820. Award of grants.

- (a) The Department of Transportation and Public Facilities may award a municipal harbor facility grant during a fiscal year only for a proposed project eligible under AS 29.60.810 based on a grant application filed during the immediately preceding fiscal year before February 1. The total amount of grant money made available to a municipality during a fiscal year may not exceed \$5,000,000.
- (b) The Department of Transportation and Public Facilities shall award a grant for every proposed project eligible under AS 29.60.810 that is for repair and major maintenance of a harbor facility that was transferred by the state to a municipality before grants may be made for other proposed harbor facility projects during a fiscal year. However, after the department makes a grant for the repair and major maintenance of a harbor facility under this subsection, no other grants for the repair and major maintenance of that facility may be made during the same or any other fiscal year.
- (c) The Department of Transportation and Public Facilities shall establish priorities for the award of grants for proposed municipal harbor facility projects under (b) of this section and priorities for the award of grants for other proposed harbor facility projects, with new construction projects having the lowest priority. The department shall award grants in the order of priority established. In establishing priorities, the department shall include at least the following, in the order listed:

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- (1) the extent to which the municipality can demonstrate that it will have sufficient revenue to operate and maintain the harbor facility in the future without state aid;
 - (2) public safety and emergency factors;
 - (3) the amount spent by the municipality on maintenance of the harbor facility;
 - (4) other options that would reduce or eliminate the need for the proposed project;
and
 - (5) whether alternative harbor projects would better serve the public interest.
- (d) The Department of Transportation and Public Facilities may suggest modifications to a project request to achieve cost savings or to better serve the public interest and, if the municipality agrees, award the municipal harbor facility grant for the proposed project as modified.

Study: Harbor rates should go up

by [James Brooks](#)

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On Tuesday night, the Kodiak City Council learned that if the city's harbor fund is to stay ahead of rising materials costs, moorage rates will have to rise.

The bad news was delivered by Alexis Bond of Northern Economics, who presented the results of a monthslong analysis of fees levied on cruise ships and boats in Kodiak harbors.

"We can tell you what the costs are going to be over time ... but how you cover those costs is up to you as a community," Bond said.

Bond's analysis, which looks 50 years into the future, says the city needs to raise another \$475,000 per year for its harbor fund to ensure that when a project needs work, it can be paid for.

"We're approaching (replacement) with St. Herman Harbor and some of the older floats out there," said harbormaster Marty Owen. "If you want to have money in the bank when it's time to do that, the rates have to be set ... to capture the lifecycle costs."

While rates need to go up, Bond said Kodiak is better off than many ports in Alaska.

"Kodiak is actually doing amazingly well by covering depreciation," she said, but depreciation only covers the cost of what it took to build a structure the first time. Because prices have risen, a dock can't be rebuilt for what it cost 20 years ago, when construction prices were half their current values.

If the city's moorage fees stayed the same, it would require a 47 percent raise from current rates to make up the shortfall. Additional rises would be required each year to keep up with inflation and changes in the cost of goods.

"It's a community decision," Owen said, "and we can be shortsighted about it or we can take the long view and set rates high enough now."

Instead of simply raising rates across the board, Bond suggested the city could explore charging boats by square footage, taking into account their beam as well as their length.

"It would account for the really wide vessels," she said, "and wide vessels are hard to accommodate in a harbor."

Nick Szabo, chairman of the city's port and harbor advisory board, will oversee a May 1 meeting of the board to consider the rate study.

He said the advisory board has considered square-footage pricing before, since the recent trend in shipbuilding has been to construct "limit" boats that are 58 feet long — just below the 60-foot limit at which stricter regulations come into effect — but wider than normal.

"The standard used to be that width was one-third of the length," Szabo said. "Now they're 24 feet (wide). That not only stresses the harbor facilities, it takes up more room."

Szabo said he can't comment on specific proposals until the harbor board meets next week, but he said there's sure to be some controversy even if mariners understand the need for the rate increase.

"Nobody likes a raise in rates, and the rates have been raised considerably the last few years, so nobody's anxious to see them up again," he said. "But things go up, and I know we have to prepare for replacements."

The Kodiak port and harbor advisory board will meet at noon Tuesday in Fisherman's Hall. The public is encouraged to attend.

Study says cruise ship rates also should rise

Simultaneous with Tuesday's presentation on Kodiak harbor rates, Northern Economics' Alexis Bond unveiled a proposal for the city to increase its cruise ship moorage fees.

Just as more money is needed to keep pace with rising replacement costs in the city's harbor, Pier 2 will need replacement or a major overhaul in the early 2040s.

To save money for that multimillion-dollar project, Bond's analysis recommends the city double its cruise ship tonnage rate from 15 cents per net ton to 30 cents per ton.

"Juneau, Seward and Ketchikan are already higher than the suggested rate," she said.

For a 600-foot cruise ship of 11,500 net tons, that would mean a rate increase of \$1,725 for a 12-hour dockside visit.

As with the harbor rate study, Bond said the rates must be tied to inflation and the price of goods to stay effective.

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