

City and Borough of Juneau
ASSEMBLY FINANCE COMMITTEE MEETING
Docks and Harbors Issue Paper – Use of Marine Passenger Fees at Statter Harbor
December 14, 2016

Introduction

Numbers of cruise ship visitors to Juneau have once again reached their record peaks of one million visitors a year, a five-fold increase in annual numbers since 1985. Each year passengers purchase excursions sold on board their respective cruise vessel to whale watch or charter fish. Tens of thousands of these passengers are transported roundtrip on cruise-line affiliated buses to CBJ's Statter Harbor facilities where they embark by boat on their activity.

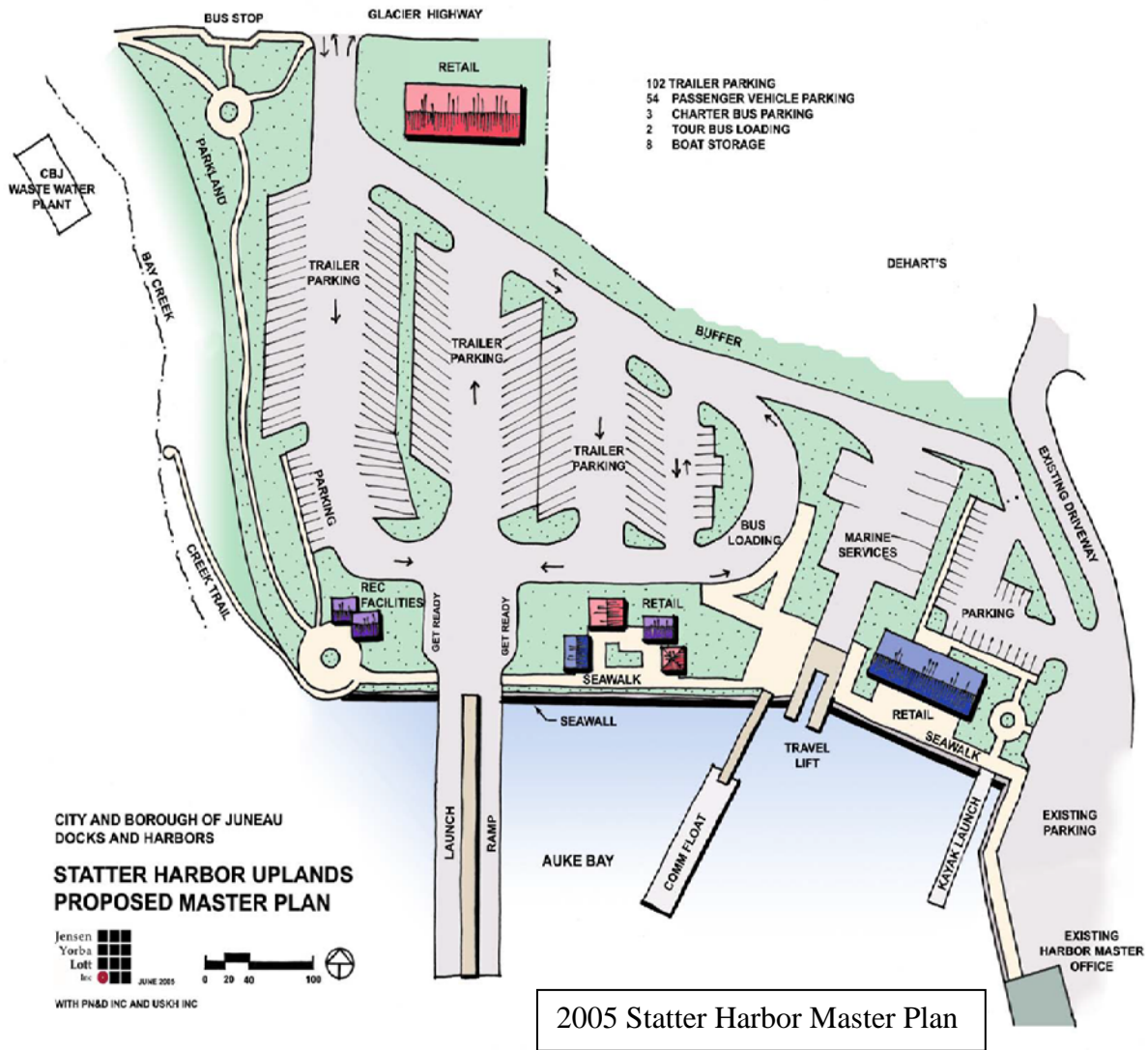
The increase in volume of this user group has exceeded the harbor's current vessel loading capacity and has impeded the free flow of vehicular (particularly cruise passenger bus) traffic in the harbor staging area and compromised passenger safety on shore and in the harbor. To ameliorate these risks to this user group, Docks and Harbors has completed significant planning efforts and proposes the *Statter Harbor "For Hire Float & Associated Uplands" Project*, to be funded primarily from marine passenger fees collected on behalf of the CBJ.¹

Background

The Don D. Statter Harbor Facility is CBJ's busiest harbor and serves a variety of users: recreational boaters, mega-yachts, commercial fishing vessels, water taxis, kayakers, charter fishing, and whale watching vessels. Keenly aware of the expanding and evolving uses of the harbor, the Docks and Harbors Board developed a long-range plan, *The Statter Harbor Master Plan*, in 2005, revised it in 2011 and again in 2016. The board has relied on the plan to guide it in undertaking specific harbor improvements, each of which contributes to the safety and efficiency of the harbor as a whole.

Even before the recent increases in charter and whale watching activities, the board envisioned the need for a separate commercial float with commensurate upland staging areas for buses ferrying passengers to and from the Port of Juneau. The image below sets forth the master plan originally adopted by the board.

¹ These sources include the State Commercial Vessel Passenger Excise Tax, the Marine Passenger fee and the Port Development fee. They are collectively referred to in this memorandum as "marine passenger fees".



Key concepts embedded in the plan included a reconfigured harbor that separated commercial fishing, charter (including whale watching) and recreational users. The board was able to construct a separate commercial loading facility away from Statter Harbor (Auke Bay Loading Facility (ABLF), for commercial freight loading users and a dedicated drive-down float to aid the commercial fishing industry. Several parcels were acquired adjacent to Statter Harbor including the aging DeHart’s Marina.

In 2013, the demolition of DeHart’s Marina and the \$9.8M construction of new floats continued the revitalization efforts envisioned in 2005. This month a \$13M Launch Ramp Facility will be completed. The board continues its efforts to relocate and build-out the Auke Bay Boatyard at the ABLF, creating the opportunity to use the Statter Harbor limited uplands to more adequately address the safety concerns and improve passenger flow from other major user groups.

The following table sets forth the expenditures implementing the plan to date:

Project Description	Amount	Funding Source
Auke Bay Loading Facility	\$12,800,000	GO Bonds, Denali Grant, TIGER Grant, CBJ Sales Tax
Statter Harbor Phase I	\$ 9,800,000	CBJ Sales Tax, Legislative Grants, ADOT Grant, CBJ Harbor Fund Balance
Statter Harbor Phase II	\$13,000,000	CBJ Sales Tax, Legislative Grants, ADOT Grant, US Fish & Game Grant, CBJ Harbor Fund Balance

In 2016, the board modified its master plan to incorporate the proposed “for hire float and related uplands project” as reflected in *Site Plan Concept No. 3*.



Need for the Proposed Project

Since 2009, market demand for charters dramatically increased:

Number of Charter Users at Statter Harbor			
Year	Inspected Vessels	Uninspected Vessels	Total
2009	34,268	Data not Collected	34,268
2010	32,427	Data not Collected	32,427
2011	34,172	Data not Collected	34,172
2012	52,206	Data not Collected	52,206
2013	52,010	Data not Collected	52,010
2014	52,043	Data not Collected	52,043
2015	57,157	8,631	65,788
2016	59,969	7,082	67,051

As is detailed in the attached *Factual Basis—Don D. Statter Harbor Facility (Statter) Charter Fleet Facility*, currently Statter Harbor is unable to safely accommodate the surge of visitors originating from downtown cruise ship docks. There is no appropriate waiting area for cruise passengers and they overburden the restrooms, bus loading areas, and the floats. We expect that cruise passenger demand at Statter Harbor will continue to grow. Recent announcements from the cruise ship industry indicate that the number of passengers coming to Alaska/Juneau will increase 2 – 3% in both 2017 and 2018 seasons. This project will alleviate the stress on, and improve safety and enhance the efficiency of, Statter Harbor facilities. It will achieve these results by:

- Safer harbor access
- Improved pedestrian access
- Adequate on-site parking and bus ingress- and egress
- Reduced congestion
- Further separation of user groups
- Adequate passenger shelter and restrooms

Proposed Funding Sources

The board retained a consultant to analyze the composition of the charter passenger cohort. The consultant determined that 86% of all charter passengers originated from a cruise ship located in the Port of Juneau. This result is consistent with staff observations and communications with charter operators. The board has used this result to fairly apportion the cost of the project:

Total Project Cost: \$10,000,000.00		
Marine Passenger Fees	\$8,600,000.00	
Allocated among:	FY 17	FY18
State CPV Excise Tax	\$4,600,000	\$4,000,000
Other Docks & Harbors Revenue	\$1,400,000	

Legal Constraints on Expenditures

There are two primary tests that arise in connection with this project:

- (1) Does the expenditure of public monies for the construction of a facility and related development that is targeted at “for-hire commercial” vessels satisfy the Alaska Constitution’s public purpose provisions?²
- (2) Does the expenditure of marine passenger fees for this project meet the requirements of 33 U.S.C. 5(b)?³

In analyzing whether an expenditure has met the public purpose requirement, the Alaska Supreme Court has looked to the character of the use to which the property or improvement will be put. *See Weber v. Kenai Peninsula Borough*, 990 P.2d 611 (Alaska 1999), *Wright v. City of Palmer*, 468 P.2d 326 (Alaska 1970), *Lien v. City of Ketchikan*, 383 P.2d 721 (Alaska 1963). The proposed project, while aiding private commercial interests (charter and whale boat operators), is intended to enhance the safety and efficiency of the public harbor overall.

The second test, the codified requirements of the Tonnage and Commerce Clauses of the United States Constitution, are also met for the same reasons. The proposed facility is in service of cruise ship passengers who have been sold “shore excursions” from on-board their respective cruise ship vessels and transported by affiliated shoreside transportation to Statter Harbor. The facility and upland staging area is planned specifically to enhance the safety and transport of cruise passengers and the fees imposed on individual travelers used in support of the project are an insignificant burden on them.

Recommendation⁴

Use marine passenger fees to pay for approximately 85% of the project costs for the Statter Harbor “For Hire Float & Associated Uplands” project because that percentage of all users of the new facility originate from cruise ships at the Port of Juneau and the facility would directly benefit cruise passengers.

Finance Committee recommend staff prepare CIP Transfer Resolution, for consideration by the full Assembly, to move \$4.6 million of FY17 State Marine Passenger Funds originally appropriated to the new cruise ship docks to Statter Harbor for Hire Float & Associated Uplands CIP.

² Article IX, section 6 of the Alaska Constitution declares: No tax shall be levied, or appropriation of public money made, or public property transferred, nor shall the public credit be used, except for a public purpose.

³ No taxes, tolls, operating charges, fees ... shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew ... except for ... reasonable fees charged on a fair and equitable basis that - (A) are used solely to pay the cost of a service to the vessel or water craft; (B) enhance the safety and efficiency of interstate and foreign commerce; and (C) do not impose more than a small burden on interstate or foreign commerce.

⁴ The CBJ Finance Committee directed the preparation of a capital projects transfer to move the FY17 State Marine Passenger Fee (SMPF) funding from the new downtown cruise dock project to the Statter Harbor Loading Facility project. There are sufficient unexpended Port Development Fee (PDF) funds available to complete the project. Docks & Harbors will also be requesting that the FY18 SMPF funds be allocated to the Statter Harbor project.