

CBJ DOCKS & HARBORS BOARD
OPERATIONS/PLANNING COMMITTEE MEETING AGENDA
For Thursday, November 12th, 2020

ZOOM Meeting
<https://bit.ly/3eAKC9q>
or Via Phone: 1-253-215-8782
Meeting ID: 937 9980 4136
Passcode: 091430

- I. Call to Order** (5:00 p.m. via Zoom)
- II. Roll Call** (James Becker, Chris Dimond, Don Etheridge, Steve Guignon, James Houck, David Larkin, Annette Smith, Bob Wostmann and Mark Ridgway).
- III. Approval of Agenda**
- MOTION: TO APPROVE THE AGENDA AS PRESENTED OR AMENDED**
- IV. Public Participation on Non-Agenda Items** (not to exceed five minutes per person, or twenty minutes total)
- V. Approval of Wednesday, October 21st, 2020 Operations/Planning Meetings Minutes**
- VI. Consent Agenda - None**
- VII. Unfinished Business**

1. Reservation Agreement with Goldbelt, Inc. for Seadrome Dock and the Merchant's Wharf Float.

Presentation by the Port Director

Committee Discussion

Public Comment

Committee Discussion/Action

MOTION: TO PURSUE AN ORDINANCE CHANGE WHICH WILL ALLOW DOCKS & HARBORS TO MANAGE RESERVATIONS AT THE SEADROME DOCK AND MERCHANTS'S WHARF FLOAT.

VIII. New Business

- 1. Visitor Industry Task Force DRAFT Review – Special Committte Recommendation
Presentation by the Port Director

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Committee Questions

Public Comment

Committee Discussion/Action

MOTION: TBD

IX. Items for Information/Discussion

1. Capital Improvement Project (CIP) Department Priorities
Presentation by the Port Engineer

Committee Discussion/Public Comment

2. Annual Letter to the Assembly
Presentation by the Port Director

Committee Discussion/Public Comment

3. Small Cruise Ship Infrastructure Master Plan – Summary of Public Meeting
Presentation by the Port Director

Committee Discussion/Public Comment

4. Centers for Disease & Prevention Control (CDC) - Conditional Sailing from U.S. Ports
Presentation by the Port Director

Committee Discussion/Public Comment

X. Staff & Member Reports

XI. Committee Administrative Matters

1. Next Operations/Planning Committee Meeting-**Wednesday, December 9th, 2020.**

XII. Adjournment

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I. Call to Order Mr. Ridgway called the meeting to order at 5:00 p.m. in a Zoom meeting at the Port Directors Office.

II. Roll Call

The following members were present telephonically or via zoom: Chris Dimond, Don Etheridge, Steve Guignon, James Houck, Dave Larkin, Annette Smith, Bob Wostmann and Mark Ridgway.

Absent: Jim Becker

Also present Carl Uchytel – Port Director, Erich Schaal – Port Engineer, Matthew Creswell –Harbormaster, John Osborn – Operation Supervisor, Ashley Bruce – Administrative Assistant, and Alicia Hughes-Skandijs – Assembly Member.

III. Approval of Agenda

MOTION by MR. ETHERIDGE: TO APPROVE THE AGENDA AS PRESENTED AND ASK UNANIMOUS CONSENT.

The Agenda was approved as presented.

IV. Public Participation on Non-Agenda Items – None

V. Approval of Wednesday, August 19th, 2020 and Wednesday September 16th, 2020 Operations/Planning Meeting Minutes

Hearing no objection, the minutes of August 19th and September 16th, 2020 were approved as presented.

VI. Consent Agenda – None.

VII. Unfinished Business –

1. Ordinance Update – CBJ 72.10.140 Use of Skateboards, roller skates, roller blades and similar devices restricted.

Mr. Uchytel said on page 13 in the packet, is the draft ordinance amending CBJ 72.10.140 Use of Skateboards, roller skates, roller blades and similar devices restricted, per request from the Board. He said at last month’s meeting, there were pictures in a presentation showing the downtown area and the expansion of the Archipelago lot with all the new infrastructure along the waterfront since 2004 when this ordinance went into effect. Mr. Uchytel said the new language is not changing any of the rules on skateboarding, the change is including areas from the downtown parking garage to the Twisted Fish, seaward of Franklin Street, and Statter Harbor. Mr. Uchytel said this change is the result of observations by the Docks and Harbor Officers over the summer and their difficulty in managing some skateboarders in the crowds of people we have

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downtown. He said there are some areas of the downtown, specifically at the Cruise Ship Terminal Dock, where skateboarders have used benches and chipped corners and used wax making it unsuitable to use. Mr. Uchytel said if the new language is approved tonight, staff would move forward with the public notice.

Committee Discussion -

Mr. Ridgway asked if the exhibit A map attached to Ordinance 92-12am is the current portion of the downtown this ordinance covers. Mr. Uchytel said yes.

Ms. Smith said she has heard from several people on this topic. The big concerns she heard are about staff being in a position to punish everyone for the actions of a few. Ms. Smith said she also heard we need to hold the people behaving irresponsibly and doing damage responsible, and this ordinance is not doing that. Ms. Smith asked Mr. Uchytel if staff has looked at ways, when we repair damages, to make the items stronger and more resistant to damage? Ms. Smith asked if staff has looked at ways to hold people who damage public property responsible?

Mr. Uchytel said our fallback position is to put skate stops on areas we do not want skateboarders to use, and some had been removed. He said as far as making them stronger than what they already are, he does not have an answer for that but certain areas of the concrete will chip when misused.

Mr. Dimond asked with the Archipelago project not completed yet, has there been any look at engineering components allowing skateboarders who are downtown skating to utilize these facilities and minimize damage and still allow for public use. Does staff have a cost estimate on what skateboarding specific damages have cost the City and Borough of Juneau at this point?

Mr. Uchytel said staff has not looked to engineer recreational facilities within the area designed for passenger traffic. He said as far as cost, he could ask our harbor staff to find out how much money we have spent on skate stops and repair but it is probably in the hundreds and not thousands of dollars.

Mr. Diamond asked what the feasibility is in installing products to prevent future damage before the project is completed?

Mr. Uchytel said he has not considered that. He said the idea last month was to modify the existing ordinance to include the new infrastructure. It was not to look at increasing the usability of the facility, but we can look into integrating this idea.

Mr. Ridgway said this does not appear to be anything more than trying to control a few bad actors who might be whipping through crowds or causing damage with their skateboards. Mr. Ridgway asked how this would come into play if someone wanted to cross the property with their skateboard when no one was there? He said the focus as he understands it is to focus on the few bad actors. Mr. Ridgway asked Mr. Uchytel if this was correct.

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Mr. Uchytal said yes, the Harbor Officers have come to the Port Director and indicated concern about being able to manage areas where we have large concentrations of passengers and a handful of skateboarders unwilling to take direction and cease and desist. Staff recognize there are no rules or violations for operating recklessly in the area we built five years ago near the tram. Mr. Uchytal said at the request of the officers managing the property in the summer, the skateboarding ordinance already in place would need to be extended another three blocks.

Mr. Ridgway said he is aware skateboarding within the current ordinance and he does not see anyone being apprehended. He believes the ordinance was an attempt to control bad actors in the middle of downtown and this proposal is just an extension of the ordinance for the same purpose. It would be different for staff of CBJ to be the potential enforcers, but it would be approached the same way.

Ms. Smith commented if we create an ordinance and our current staff is not enforcing things to the letter and being lax inappropriately, she asked what happens if management changes? Ms. Smith said she does not think this ordinance is the way to go. She said skateboarding is not a crime, but destruction of public property is and maybe that is the direction to focus on.

Mr. Ridgway asked Ms. Smith to expand on the comment staff has been inappropriately lax.

Ms. Smith replied she meant they are appropriate at enforcing the ordinance presently and are lax for example when there is no one around. Ms. Smith said this is a good thing, but if they expand the ordinance, we may not have people who are as liberal, lax, or reasonable at enforcement.

Mr. Ridgway asked Mr. Uchytal where we are in the process of expanding the existing ordinance into additional areas controlled by Docks and Harbors.

Mr. Uchytal said last month the Board looked at the evidence and was asked the question "Do we want to proceed with drafting an amendment to the existing ordinance that would include this property". It was sent to this meeting tonight to come up with an answer. This Committee can say do not go forward, or go forward and take it to the Docks and Harbors Board next Thursday night. At that point, the full Board would say yes proceed with an ordinance change and staff would use the proposed language to post publicly for 21 days. The information would go out on our website, Facebook, and be posted in libraries saying there is a proposed new amendment change to the ordinance. After a minimum 21 days, a public hearing would be held at a Docks and Harbors Board meeting where the public can come in and say we like or dislike this proposed change or offer suggestions. After the hearing, if the Board desires to continue moving forward, it would then go before the Assembly for consideration. Only the Assembly can change ordinances and regulations. The Docks and Harbors is only a empowered Board to make recommendations of changes to the Assembly but the Assembly has a final say if an ordinance is approved.

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Mr. Ridgway said regarding the new infrastructure suggestion to be installed as part of the Archipelago project, this was a very public process. In terms of discussion of additions, this would need to meet the best requirements of the industry. Mr. Ridgway asked if Mr. Dimond's suggestion about seeking engineering or design features promoting use by Skateboarder's would have to go back to the design discussion and the public meeting for the Archipelago lot?

Mr. Uchtyl asked if the question is "if a skateboard park or built in activities at the proposed site is compatible with the intended use of a bus staging area and a bus passenger zone". Mr. Uchtyl said he would not want to give an answer without discussing this with others to see if there is a way for that to work.

Mr. Dimond asked if staff knows the percentage of people in the community that are partaking in these wheeled activities that are problem makers, causing issues for the tourists, and our facilities? He asked if staff has looked at partnering or having discussions with the skateboarding community for ways to engineer equipment so it would not be a skateboarding facility but if someone is passing through, or present during the evening, they would not be damage our facilities?

Mr. Creswell said it is hard to determine a percentage because people doing the right thing and skateboarding responsibly are not noticed. It is very noticeable when people are skating unsafe or damaging property and it comes to our attention. In terms of the design and including skateboarding elements, Mr. Creswell said he does not believe anyone from the public came to the meetings and asked to add those elements to the facilities. Currently, when someone is skateboarding unsafe, staff does not have anything to tell them they can not skateboard in this area because there is no ordinance.

Mr. Ridgway asked what is done about bikes?

Mr. Creswell said with staff experience, the problem has not existed with bicycles. Mr. Creswell said the problem occasionally came up was unsafe skateboarding, but when we asked folks to move along and not do the unsafe activities we were met with resistance. If JPD was asked to get involved, JPD would say there is no ordinance prohibiting the activities.

Mr. Dimond asked Mr. Creswell if staff encountered repeat offenders?

Mr. Creswell said yes,

Public Comment -

Rob Royce – Juneau, AK

Mr. Royce said when this first came up, he was shocked and surprised this was on the books because he did not think this kind of thing should be banned in Juneau. He brought up the damaged bench that Mr. Uchtyl talked about. He said he sat on this bench just yesterday and he was able to use it quite fine. He noted on the picture in the presentation that almost every other bench has skates stops. He said he walked over the medal of honor memorial on Franklin Street and there is no skate stops and there is no boarding or grinding happening on there. He believes it is a specific spot that is good to

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use. He suggested to install skate stops. He said this reiterates the point we need a skate park downtown. I'm not a skateboarder but I think it is great. He said Mr. Dimond's comment to start putting in things to help skateboarders might be a better way to do address this issue. He said as a biker, he worries about tourists who are totally overwhelmed by the crowds or scenery and are not paying attention to what is going on around them. The issue is not the skateboarders or the bikers, or two wheeled users, the issue is the bad actors. If you have a rule or law on the books that is enforced in a capricious manner, that should not be on the books.

Bobby Jo Skibo – Juneau, AK

Ms. Skibo said she grew up in Pittsburg where skateboarding was a crime. A lot of youth were targeted for something which could have been viewed as a positive outdoor activity to engage a population of underserved youth who did not have money to do certain things. She said she looks to Juneau in Alaska as a leader to supporting our young people, and she believes this is going the wrong way. Juneau needs to find ways to support our youth and if there are bad apples, they are always going to be there. She said she is on the Seawalk as much as she can in the summer biking, walking, and she has a stroller, scooters, and she has almost been hit by tourists walking around unsafely. She said she understands they are excited about the mountains and water views. She believes there is a way to do this without putting stringent regulations in place. She said she would really like the Board to consider some of the creative ideas that came up supporting outdoor activities and bring in Skateboarders and talk about how to support this activity and not ban it. She said she would hate to not be able to go with her children on scooters, it helps to get from point A to point B a little faster and we just really enjoy the infrastructure. It is a beautiful part of our community and she would like to see this done in a way that it is inclusive. She said she really looks to Alaska as a leader in supporting our youth and I would like to see this maintained.

Tisa Becker – Juneau, Alaska

Ms. Becker said she is against this ordinance for several reasons. She said she is the president of the Fisherman's Memorial Committee and she maintain's and does the Blessing of the Fleet which is the memorial downtown. This is essentially a graveyard, and when the cruise ship companies and the City were pounding the pilings for the cruise ships to come in, there was so much damage done to the memorial and to this day the City and the Cruise Ship companies have not come together to fix it. We are not talking hundreds like you guys are talking park benches, we are talking thousands and tens of thousands of dollars of damage that was done when they were driving the pilings and all the other parts and pieces that went into that dock. She said there is not real data to support this ordinance change other than 'Oh we see this park bench and it's tore up by these skaters and this kid did this. She said she is working on her second Master's Degree in Public Administration and wanted to cite, because she said she is studying Natural Resources, and has extensively looked at the climate change predicted impacts in Juneau, the report that the CBJ did back in 2007. If you look at the climate change report and the rising sea levels, trying to get people from using their cars as much as possible should be a priority. If you look at cities like Scottsdale, AZ, they have a lot of multi-use pathways to encourage people to bike, scooter, skateboard, rollerblade, walk,

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or whatever you know. She said Juneau needs to develop Arizona's multi use pathways and not put parameters on them. Look at cities like Scottsdale where they do have ordinance's and parameters on vehicles that go over 20mph. They have an extensive multiuse pathway built in as well as a skate park which would be good for the downtown residences. She said she noticed some kids were building a biking park on Perseverance, it was a homemade deal but it would be great if the City would get behind something that would get people outside and healthy. She said putting parameters on this ordinance without any real data is ridiculous when you are talking about a bench that could have a skate stop on it. She said she is upset the City is going overboard on skating when they have not done anything to fix the memorial which the City and the Cruise Ship companies have lots of money to fix.

Mr. Ridgway said as far as data goes, the issues driving this are observational from the staff, observing what they have seen, some skateboarders potentially putting other in harm's way and this is unquantified but less than thousands of dollars' worth of damage. He asked Ms. Becker what type of data she would recommend?

Ms. Becker said when you look at data and how it's collected, observational data should be done in a way that is stringent with actual observation dates, and times, and you can actually make the call based on the median of the number and the average of what is happening. It just seems like "oh I saw this happen" but you are not really giving any real data on what you are seeing. So she said she does not know, from what she is hearing, but it just sounds like it is bias.

Wayne Smallwood – Juneau Alaska

Mr. Smallwood commented growing up in Juneau, this is not the first time the skaters have had to stop skate ordinances or worked together with CBJ to develop a skate park. Mr. Smallwood said more resources could go into the skate park or develop a new skate park. Mr. Smallwood said it is the last legal spot and the skateboarders will want to defend that.

Will Muldoon – Juneau, Alaska

Mr. Muldoon said he cannot support the resolution and echos the sentiments of previous commenters. He said he feels a biased point of view is being represented as data. Mr. Muldoon expressed strong concerns over having a law on the books that is either not enforceable or not enforced 100% of the time. Mr. Muldoon said we should keep an idea of the scope as we are discussing hundreds of dollars. When the outhouse melted, it is probably triple that cost. Mr. Muldoon said, until we can provide better citation data, he cannot support this.

Isabelle Jones – Juneau, AK

Isabelle Jones said she is a long boarder down town and is not old enough to drive. If this ordinance were passed, she would be affected and have nowhere to board, as her parents do not drive and she currently cannot take the bus.

Stewart Wood – Haines, Alaska

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Mr. Wood said he is a local videographer and skateboarder from Haines. Mr. Wood said he testified against this ordinance in Haines. Being someone who lives, works, and skateboards downtown, it is hard to make the transition to the valley just to go skateboarding. Mr. Wood also said street skateboarding has been recognized as an art form, a sport, and a mode of transportation. There could be a better way to work with one another instead of fighting one another.

Ryan Cortez – Juneau, Alaska

Mr. Cortez said, in this City, there is so much support for people who take part of activities that have high upfront costs to get into. Skateboarding is an activity anyone can do. A lot of skaters come from lower income families, and the worth of the activity is more than a bench for tourist who come for three months out of the year. It seems biased towards people of lower economic levels. Mr. Cortez said it needs to be more of a collaborative process.

Ms. Smith asked Mr. Cortez what he thought if the area was closed to skateboarding seasonally or by hours.

Mr. Cortez said it sounds like an idea but it does not prioritize people of the community.

Mr. Dimond asked when downtown is busy with tourist, how much skatable space is there when it is busy.

Mr. Cortez said it is busy and they are a nuisance to get around.

Unknown – Juneau, Alaska

This person commented that when tourist are present, it is too busy to skateboard so they save their boarding and film making for when tourists are not present.

Kayla Berger – Juneau, Alaska

Ms. Berger said she is a business owner downtown and putting a regulation on a population who has been habiting the area for a long time is not the best decision to make. It would be a better idea to encourage our community to come to the downtown area. This ordinance is a threat and transportation discrimination.

Nona Dimond – Juneau, Alaska

Ms. Dimond said she is a skate mom and would like to be able to bring her kids down town to practice their activities.

Jennifer Gross – Juneau, Alaska

Ms. Gross said she does not see how these benches became unusable and there are other places to sit. She likes the idea of installing infrastructure for skaters. She does not appreciate the skate blockers. If a time ban goes into affect, the inclusion of daylight hours would be appreciated.

Jordan Kendel – Juneau, Alaska

Mr. Kendel said adding and building in features of the architecture makes a lot more sense than prohibiting these activities and is a lot more efficient. Mr. Kendel wanted to

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advocate for the young people.

Patrick VanPool – Juneau, Alaska

Mr. VanPool said he does not think skateboarding should be banned downtown and there are more important issues.

Ty Sturgis – Juneau, Alaska

Mr. Sturgis wanted to comment in support of skateboarding.

Shawn Fishbone Williams – Juneau, Alaska

Mr. Williams wanted to call in support of skateboarding in downtown Juneau.

Angus Saya- Juneau, Alaska

Mr. Saya wanted to advocate for skateboarding through the downtown corridor.

Committee Discussion/Action

Mr. Ridgway said he would ask staff if the option of creating a narrow corridor or being specific in the package would work. Mr. Ridgway said if staff sees an unsafe situation, they are obliged and it is their duty to do something about it

Mr. Ridgway asked how the area was determined.

Mr. Uchtyl said it is the area of newly constructed infrastructure since 2015. Prior, the only area restricted was only the timber Seawalk. Now it includes the Cruise Terminals, the associated parking lots, and the Archipelago lot.

Ms. Smith asked if anyone has thought to work with Parks and Rec since they have money from Covid to create projects to accommodate those needs.

Mr. Uchtyl said George Schaaf, Parks and Rec Director, was on the call earlier, but they have not had the discussion. Handling pedestrian traffic and skateboarders are two different activities and are incompatible. But we can take a look at it.

Mr. Ridgway asked Mr. VanPool to respond to an inquiry by Ms. Smith regarding the skating community collaborating to design something to accommodate needs.

Mr. VanPool said when the skate park was built, it was part of the youth center, but then when it was transferred to Parks and Rec, communications ceased with the skaters. When skateboards were to be outlawed, Zach Gordon organized the opposition. As of now, the skaters feel they have no way to communicate with the city.

Mr. Wostman responded to the comments by saying he believes we need to step back and rethink how the Board approach's this. He said when this first came up, the significant aspect was commentary from staff regarding underlying authority and lack of support from JPD regarding reckless behavior. At this point, we need to take a step back and identify what behavior is really ok and what is frowned upon.

Mr. Larkin asked if the current ordinance, which has been in effect for 16 years, has been affective.

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Mr. Ridgway asked Mr. Creswell if in his operations if anyone has commented that the current ordinance was affective.

Mr. Creswell said he has not heard of anything as to the current ordiance because all discussion has been focused on the area around the visitor center where the ordinance does not exist.

Mr. Larkin pointed out regarding paragraph six, which only applies when a ship is in, and seven applies when there is a bus in the lot. If this were to go forward, could we apply wording to denote when a vessel is in, and not all the time.

Mr. Dimond commented on the importance of civic engagement. The Board needs to check in on other Boards and meetings to make public comment ahead of time and not after where there are contentious issues. The damages we see are real and tangible, and someone needs to bear the cost for those. Moving forward, the Board should take some of the comments and maybe create an advisory Board so the skateboarding community can take responsibility for their actions. Skateboard parks are great, but they are limited in their capacity and the downtown area will always be a draw towards skaters. We should have Harbor staff look at the issue and the people that are really causing the problems downtown. Mr. Dimond said he suspects the transient community causes more damage to the downtown area than the skateboarders do and skateboarding should not be a priority, but harbor staff should better enforce safety downtown.

Mr. Ridgway supported the idea of reviewing other options. He said we are not Parks and Rec but Docks and Harbors and we will need to table a motion on this issue for now. He asked staff to look at the issues heard tonight, discuss with downtown JPD Officers their use of the ordinance, review with Law, and develop an ordinance that better reflects comments from the public.

Mr. Uchytel said he understands Mr. Ridgway is directing staff to work on amendments to this ordinance.

Mr. Dimond requested staff to engage with more entities for discussion.

Mr. Uchytel said he will communicate with Parks and Recreation on this topic.

Mr. Dimond said as appointed chair of the Skateboarding Committee, he will work with the skateboarders as long as they reach out.

VIII. New Business –

1. Resolution in support of the Alaska Association of Harbormasters and Port Administrators (AAHPA) in Support of full funding for the State of Alaska Municipal Harbor Facility Grant Program in the FY 2022 State Capital Budget.

Mr. Uchytel said the resolution in the packet is language drafted and approved by the AAHPA. The AAHPA members are asked to take this resolution to their assembly for support for statewide approval. This grant program is important to all harbors around the state. He said staff applied for this grant earlier this month and DOT has published

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the ranking of all the projects submitted. Cordova has a tier 1, which means there harbor was previously owned by the state. This puts them ahead of the other applicants and they will receive the maximum they asked for. Mr. Uchytel pointed out that Juneau is number four out of five on the list and it is not looking good for us to receive any harbor grant money this year. He said it is important to support other harbors by supporting this resolution.

Committee Discussion – None

Public Comment – None

Committee Discussion/Action

Mr. Etheridge said it is important for us to support this resolution and move forward in support of all the harbors in the state.

MOTION By MR. WOSTMANN: TO PROVIDE FULL SUPPORT OF THIS RESOLUTION AND ASKED FOR UNANIMOUS CONSENT.

Hearing no objection, Mr. Ridgway passed the motion.

2. Regulation update of 05 CBJAC 20.044 – Active fishing vessel discount at Statter Harbor

Mr. Uchytel said when the Finance Sub-Committee met, one of the issues discussed was the active fishing vessel credit at Statter Harbor. A commercial fisherman who homeports out of Statter Harbor was displeased to find there was not a reciprocal agreement for fees downtown as there are for Statter Harbor for commercial fisherman who are also stallholders. He said the proposal is to provide a reciprocal discount for fisherman using the Harbors in a way downtown users do.

Mr. Ridgway wanted to clarify if the intent is to allow this discount for assigned or permanent stallholders.

Mr. Uchytel said this would be for a permanent assigned stall holder that wants to use the downtown harbors in the same way the fisherman downtown use the fish ticket system in Statter Harbor.

Mr. Wostman said his view is pending the review by the Law Department. This language does indicate what the Finance Sub-Committee intended it to.

Ms. Smith asked Mr. Uchytel to clarify the details and history of this request.

Mr. Uchytel said the issue has not come up before because until 2013, Auke Bay was a transient harbor with no permanent stalls. When this was crafted, no one thought there was an active fishing fleet in Statter Harbor. Currently, there are maybe three fisherman in Statter Harbor that would be eligible for this.

Public Comment –

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Dennis Watson – Juneau, Alaska

Mr. Watson asked how staff intends to verify the 6 months moorage and ensure people are not taking advantage of the program?

Mr. Uchytel said we do have an accounting system our staff uses and we would have to go back to ensure compliance. Mr. Uchytel said he is not trying to make it onerous, just something to shoot for to support fishing and we do have the ability to check that information.

Committee Discussion/Action.

Mr. Etheridge said he thinks this is a step in the right direction but commented moorage is not free. He also pointed out when they pay their moorage for one place, and head to another, we have the right to hot berth their stall.

Mr. Dimond asked if the moorage needs to be consecutive months, or any six months out of the year?

Mr. Uchytel said he would like to work with staff to ensure better wording because this was quickly put together for the meeting tonight.

MOTION By MR. ETHERIDGE: TO MOVE THE CHANGES FORWARD IN SUPPORT OF FISHING VESSELS AND ASK FOR UNANIMOUS CONSENT.

The motion passed with no objection.

IX. Items for Information/Discussion

1. Auke Bay Boatyard – Potential Reassignment of Lease

Mr. Uchytel said Mr. Duvernay, Harri Commercial Marine, is asking permission to assign his lease for the Auke Bay Boatyard to Karl's Auto and Marine. He said the reason this was not put on the agenda as an action item is because this is a substantial decision. The Board needed to be informed in advance that after discussion on this topic, they will need to make a decision to approve or not approve. Mr. Uchytel said when having other discussions with Mr. Duvernay, he mentioned selling his lease to another party but did not contact staff until Monday after the deadline for agenda items. The assignment of this lease requires approval by CBJ and in this case CBJ is the Board. He said this is a 10-year lease that started in April of 2018, with an option to renew for one additional 10-year period. The rent is \$36,000 per year and adjusted every 5 years per appraisal. The assignee will be subject to the provisions of the lease, all terms, conditions, and covenants of the underlying lease may be applicable or incorporated to the assignment. Mr. Uchytel said the lease consists of 0.83 acres at the Auke Bay Loading Facility and the items included in the lease are as follows: Sealift, a wash down containment pad, 125 boat supports, and three buildings Docks and Harbors constructed in the wake of moving the boat yard from Statter Harbor to the Auke Bay Loading Facility as part of Statter Harbor Master Plan. There is an operational plan incorporated in the lease and Jeff Duvernay or Karl Leis can answer questions as to how the transfer of the lease will affect

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what activities will be conducted. Mr. Uchtyl said there is also an ongoing request from the Alaska Department of Transportation for the right-of-way section and staff is still dealing with gaining understanding on use of some parts of the boatyard. Mr. Uchtyl said he has been assured by the State the right-of-way issues still pending will not affect use of the boat yard.

Mr. Ridgway asked about the DOT right-of-way imposed on the lease. Does this mean we need to go back and reappraise the property to reassess the lease value?

Mr. Uchtyl said yes. If DOT is not flexible, it would be fair to have a new appraisal or new lease for the property all together. Mr. Uchtyl said DOT has said because the vessels stored in the right-of-way have tanks, it makes the use of the right-of-way improper.

Mr. Ridgway asked what part of the lease is an enforceable item. If the expectation is CBJ Docks & Harbors provide an operational list of items, and the lessee decides to stop services, how does this affect the lease itself?

Mr. Uchtyl said the way he interpret the lease is, when the lease is assigned to another party, they intend to provide the services in the lease. For example, Harri's can not assign this lease to be used for other activities such as manufacturing.

Committee Discussion –

Ms. Smith asked if because she was a customer of Karl's Marine, would it be inappropriate to vote on this issue?

Mr. Uchtyl said all of us have some interest in some marine agreement and that should not prohibit or adversely affect you from rendering a judgement.

Mr. Uchtyl said this will be put on the next Board's agenda for action.

Committee Discussion Public Comment –

Mr. Duvernay said he is available to answer any questions. He said his request and intent is pretty straightforward. By transferring this lease, the intention is not to reduce the breadth of services available but to expand. Mr. Leis will be taking over operations but also providing his mechanical services. Mr. Duvernay said he would be working with Karl's Auto and Marine as a subcontractor providing services. He said the biggest challenge has been the lift and it is unreliable and can not be operated.

Mr. Wostman asked if Karl's Marine has the ability to haul boats so they are not dependent on the Sealift?

Mr. Duverney said Karl's Marine operation is to perform boat hauling with their different boat trailers and vehicles which they are very good at. Mr. Duvernay said he has worked with Karl's Auto and Marine for 25 years and they are a very good and capable operation.

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Mr. Leis said they do have a trailer and would not be dependent upon the SeaLift to operate, and they are also in the process of buying a larger boat trailer than the ones he currently owns. Mr. Leis said he has a positive working relationship with the Harbors and is confident they can get things working.

Committee Discussion/Public Comment

Mr. Ridgway asked if there would be a significant expansion of operations than what is shown in exhibit C of the lease?

Mr. Leis said no, he anticipates things to stay the same as it has been.

Mr. Etheridge requested this item be put on the next Board Agenda for action.

2. UA/ UAS Lease Agreement – Juneau Fisherman’s Terminal

Mr. Uchytel said the University of Alaska Southeast (UAS) lease for the Juneau Fisheries Terminal will expire in May of 2021. He said UAS is currently appraising the property. They will be looking at what a fair market lease rate will be to continue operations, and what the value of the property would be if they choose to sell it. Mr. Uchytel said the existing lease, included in the packet, has an option to renew for 33 years. This lease, had a \$500,000 advance payment from CBJ to UAS, which reduced the lease payment we pay to UAS. He said moving forward, once the appraisal is complete, we can expect we will be paying much more than what we do already. Mr. Uchytel said we should be thinking about the opportunity to purchase as much property as we can because the appraisal should be completed in December and we will know what UAS will be asking. The Board should be poised to renew the lease or, his recommendation is to buy the property. This will need to be discussed with the Assembly to let them know we would appreciate any allocated funding to continue this operation. Mr. Uchytel said the appraisal UAS is having done is for the entire lot, not just the parcels leased to Docks & Harbor, including the Vocational Technologies Building (Vo-Tech). If there is a way for CBJ to control this property between the Harbors it operates, it will be a valuable and integral part of what we do operationally. Mr. Uchytel said UAS could choose to let the lease run out and sell this area to another buyer. If this were the case, the boatyard would not be under Docks and Harbors purview. Presumably, this would not happen but as any good steward of property, they must act in their best interests for their agency.

Committee Discussion/Public Comment

Mr. Dimond asked if it was Mr. Uchytel’s recommendation to pursue looking for a way to work with the City to procure the property, and what future plans could he see as being funding for Docks and Harbors?

Mr. Uchytel said yes, we do not have funding to purchase this outright, but perhaps if the City Manager has monies in their waterfront acquisition fund, or pursue a revenue bond or general obligation bond. There are other ways of obtaining money for a public purpose, but the property between the two harbors is extremely valuable to our organization to acquire and obtain as much property as we can afford.

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Mr. Ridgway asked if the funding potential is an item on the Finance Committee's radar.

Mr. Wostman responded no, the Finance Committee has not discussed this yet but it needs to be. Mr. Wostman asked if it has been determined the timing needed to pursue such ideas so the Finance Committee may get started and be ready.

Mr. Uchytel said UAS is aware we would like the property and knows community waterfront property is best managed at the local level. UAS is aware of our intentions of pursuing this property.

Mr. Ridgway asked if there has been any discussion regarding any other Docks & Harbors property or other CBJ property UAS might be interested in swapping?

Mr. Uchytel said he did have the conversation with Sam Kito of UAS and it was expressed the University would prefer money over property. Mr. Kito said the welding lab is outdated and needs replaced and he suggesting UAS needs to find a way to provide trade educational training.

Mr. Wostman asked Mr. Uchytel if the School District uses part of the Vo-Tech building which is primarily used for mining technologies, and the University of Alaska, Anchorage (UAA) nursing program? If Docks & Harbors buy the entire lot, could we move the Harbor offices and still lease out the appropriate areas for the mining and nursing programs. Mr. Wostman asked if it was staff's understanding UAS wanted to continue operations in the building?

Mr. Uchytel said he understands they would like to consolidate their facilities to one campus, but like Docks & Harbors, they have resources throughout CBJ.

Mr. Uchytel said staff has to give written notice of the option to renew at least 90 days but not more than 180 days before the expiration of the term.

Mr. Wostman asked what the actual date would be to respond?

Mr. Uchytel said 100 days from May 4th would be the 1st of January.

3. Statter Harbor Passenger for Hire Fee

Mr. Uchytel said at the Finance Sub-Committee meeting regarding the for-hire fee discussion, it was recommended that the Statter Harbor for-hire float rates, which is also known as the passenger for hire rates, not change for 2021 and it would be considered for the 2022 calendar year. He said currently our Harbor fund balance is \$574,000, and the Finance Sub-Committee was given this information, but they still recommended no new fees be implemented for FY21 but to continue to work on the fee structure for FY22.

Mr. Wostman said he gave direction to staff during the upcoming season to gather statistics about the operational costs of the new floats to help establish what the final fee schedule should be once we are back into full operation. The Committee will look at what portion of the capital investment is reasonable to recover from the fleet. The Finance Sub-Committee and Board will review and consider the findings in the fall of

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2022. After the review is when the rates for FY22 can be determined. Mr. Wostman said their recommendation for no new fee was to give certainty to the charter fleet for the upcoming year and use the information gathered to provide good rational for what the fees should be.

Mr. Ridgway asked if the goal was to meet the delta between operations and revenue?

Mr. Wostman said as he understands it is yes, we would want to recover operational costs, and additionally we would want to consider recovering some portion of the capital investment, but not all. The new facility is an improvement to everyone so it would be reasonable to recover some portion of the City's match in funding.

Mr. Ridgway asked if some portion was paid with head-tax, are we required to recover some portion of that investment?

Mr. Wostman said it was not his sense of the discussion and he understood the goal was to recover some of the funds matched by the City.

Mr. Uchytel asked if the members of the Finance Sub-Committee would like to make a motion of no new fees be implemented in FY21 to signal to the operators we are not considering new fees in the short term.

Mr. Wostman said he thought this was a good idea.

Mr. Ridgway requested this item be added to the next board meeting agenda.

Public Comment --

Dennis Watson – Juneau, Alaska

Mr. Watson asked if the moorage at the University will still be available for the fleet, and what is the rate?

Mr. Uchytel clarified the Auke Bay Marine Station is not the University and he said the rate applied is the same as the rate paid in the Harbor.

4. Capital Improvement Plan (CIP) and Harbor Enterprise Funds

Mr. Uchytel said this topic culminates with the DOT matching program and what available resources and funds we have at Docks and Harbors. He wanted to have this discussion about moving forward knowing we are not going to get any match money for the north end of Aurora Harbor. He said currently we have \$461,000 in our Aurora Harbor CIP. He said we have a commitment from the City for \$1.5M from the 2017 1% sales tax. The Harbor enterprise funds were going to be our match to the DOT grant, but we are not going to get the DOT grant. He said options for this money would be; keep the \$461,000 in its account, when we learn the appraisal results for the UAS property, we could move the money into a fund to purchase the property, we have insufficient local match for Phase III of Statter Harbor, the upland phase, and we could

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proceed finishing Phase III with those funds. Mr. Uchytel said he wanted to start the discussion of how we should use the \$461,000.

Mr. Ridgway asked if we have looked at anything we can modify with Aurora Harbor to make use of those funds.

Mr. Uchytel said we need about \$8 million dollars to recapitalize the North end and we are really only have a quarter of the funds available.

Ms. Smith said she finds it hard to believe there is no low hanging fruit in Aurora Harbor and asked if that was true?

Mr. Uchytel said we could build a little with the \$2M; a head walk, one main float, maybe electrical, maybe a float with no fingers. You can spend \$2M and build some infrastructure. The question is strategically, do we hold on to the \$1.5M and try and continue our efforts in getting a harbor grant from the state which would double the amount, or we could use the money to leverage the completion of Statter Phase III, or we could use the money for the purchase of the Juneau Fisheries Terminal. Mr. Uchytel said you can certainly build something with \$1.5M dollars, but it would be a scaled back version and something would be shorted.

Mr. Wostman said on the three options, the opportunity to purchase land is a onetime deal. The other projects can be postponed and we can make due for another season. Mr. Wostman asked to have the final decision on the money be postponed until we know if we can make a bid towards the Fisherman's Terminal Property.

Mr. Ridgway asked if there was a limited installation option which would be available to support the tourism industry? Could we build one long finger that four boats could tie up to overnight if they choose and would that be justification to spend the \$1.2M left over from the Archipelago lot.

Mr. Uchytel said he did not know, but he understands the suggestion is to use head tax to build in Aurora Harbor. He said they went this round in the past and got head tax for the purpose of having a 110ft slip in Aurora for the idea it would be available for tug support. We are very careful about ensuring how the slip is used and make sure it is available for the tug only. Mr. Uchytel said he was not sure if he was comfortable using head tax in a harbor after just completing a contentious lawsuit with CLIA. He said it is appropriate to use the Aurora CIP monies in north Aurora for Trucano to remove the pilings, and for AJC to do the hauling, but our staff is funded with harbor operating funds currently. He asked the Board if it was appropriate to use CIP funds for staff hours spent completing demolition. He said using CIP money would protect the harbor expenses for this year, but at the expense of the CIP.

Mr. Ridgway asked if he had an estimate of the amount it would take for staff?
Mr. Uchytel said about \$45,000-\$50,000.

Ms. Smith said she is not fond of this method. Ms. Smith asked if we spend this money and something happens that we do get the grant, where will the matching funds come

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from? Mr. Smith said she does not support using harbor funds to provide the citizens with a commercial tourist operations. She asked if we do not use this money, does it expire, or is it fine sitting where it is.

Mr. Uchytel said it does not expire.

5. Board CY2021 Calendar

Mr. Uchytel presented the calendar staff are proposing for next year.

Mr. Ridgway asked about the Finance Sub-Committee meetings.

Mr. Wostmann said the schedule has been when needed and it would not be useful to publish a schedule.

IX. Staff and Member Reports.

Mr. Creswell reported;

- North Douglas floats were removed.
- Statter Harbor C, D, and Breakwater water connections were turned off and blown out.
- Grid water has been shut down for winter.
- We have a crew working six days a week to get the Aurora Harbor demolition finished.

Mr. Ridgway asked if there was any cost estimate for the demolition portion, and if Harbor staff were being utilized?

Mr. Creswell responded he cannot speak to an Engineer's estimate, but they have been using staff to complete the project.

Mr. Etheridge asked Mr. Schaal if we are moving forward on the Harris Harbor dredging?

Mr. Schaal said they met with the Corps and Western Marine Construction yesterday and they are moving ahead and trying to work as efficiently as possible. Western's equipment is extremely large and they want to be very specific about how they operate in the harbor. They have inquired about moving piles and finger floats for access but there have been no red flags raised.

Mr. Uchytel said we did receive the EPA permit to scuttle the Lumberman, and we plan to move forward with scuttling in the Gulf of Alaska.

XI. Committee Administrative Matters

1. Next Operations/Planning Committee Meeting – Thursday November 12th, 2020.

XII. Adjournment at 8:33pm



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
(907) 586-0292 Phone • (907) 586-0295 Fax

From: Carl J. Uchytel
Port Director

To: Assembly Human Resources Committee

Copy: Docks & Harbor Board

Date: March 13th, 2020

Re: Title 85 Authorization to Allow Reservation Management for Downtown Private Docks

1. On February 10th, the Port Director met with the Goldbelt CEO to discuss concepts to work together to improve how downtown “small vessel” moorage facilities could be improved. Goldbelt Inc owns and operates the float at the Seadrome Dock and manages a float facility along the Merchant’s Wharf. CBJ Docks & Harbors owns and manages the Intermediate Vessel Float (IVF). The Port Director and Goldbelt CEO agreed that managing a single reservation system for vessels desiring to moor in downtown Juneau could benefit both organizations. Docks & Harbors is better suited to assume the role, on a trial basis, to manage a downtown moorage reservation system.
2. Discussions with CBJ Law suggest that Docks & Harbors would not be authorized to provide a service to a private organization because Title 85 limits in the following manner:
*Docks & Harbors is responsible for the operation, **development and marketing of municipally owned** and operated port and harbors, including such facilities as boat harbors, docks, ferry terminals, boat launching ramps, and related facilities except as designated by the assembly by resolution.*
3. On February 27th, the Docks & Harbors Board approved the enclosed resolution which would allow the Assembly to approve, for the 2020 season only, the authority for Docks & Harbors staff to perform downtown reservations to include moorage services for the privately owned Seadrome Dock and adjoining Merchant’s Wharf float.
4. At the encouragement of CBJ Law, the Port Director and Goldbelt CEO met on March 11th to discuss the revenue sharing of moorage reservations which would be secured for the Seadrome Dock and adjoining Merchant’s Wharf float. It was discussed and agreed that Docks & Harbors would receive 30% of all new reservation revenues collected at the Goldbelt operated facilities.
5. Docks & Harbors recommends the Assembly provide the authority to allow small vessel moorage reservations management for Goldbelt operated facilities for the 2020 summer season.

#

Encl: Resolution Approved at the February 27th Docks & Harbor Board Meeting

Docks & Harbor Board Resolution – February 27th, 2020

Whereas, under Title 85 of the City and Borough code, Docks & Harbors is responsible for the operation, development and marketing of municipally owned and operated port and harbors, including such facilities as boat harbors, docks, ferry terminals, boat launching ramps, and related facilities except as designated by the assembly by resolution; and,

Whereas, Docks & Harbors manages a year-round reservation system for large commercial vessels, yachts and fishing vessels at the Intermediate Vessel Float and along the Statter Harbor Breakwater in Auke Bay; and,
Whereas, during the summer months, the linear foot capacity at the Intermediate Vessel Float often is exceeded by the demand from small cruise ships, yachts, large pleasure crafts and commercial fishing vessels; and,
Whereas, Goldbelt Inc owns and operates the float at the Seadrome Dock and manages a float facility along the Merchant's Wharf; and,

Whereas, Docks & Harbors staffing, with demonstrative experience in reservation management, has the capacity to maximize vessel assignments throughout the downtown waterfront; and,

Whereas, Docks & Harbors, as an enterprise, is to be operated and financed in a manner similiar to private business with the intent of the governing body to provide goods and services to the general public on a continuing basis to be recovered through user charges; and,

Whereas, Goldbelt Inc has signaled interest in developing a business plan in which Dock & Harbors could collectively manage the reservations of the publicly owned Intermediate Vessel Float and the privately owned Seadrome Dock with adjoining Merchant's Wharf Float for the 2020 summer season; and,

Whereas, Docks & Harbors views the synergistic opportunity to place the downtown reservation system under a single organization as a financial benefit to the City & Borough of Juneau, administrative personnel cost saving to Goldbelt Inc and greater customer service to mariners desiring downtown moorage.

Therefore, the City & Borough of Juneau Assembly authorizes Docks & Harbors, for the 2020 season, to perform downtown reservations to include moorage services for the privately owned Seadrome Dock and adjoining Merchant's Wharf float, as negotiated between the Goldbelt Chief Executive Officer and the CBJ Port Director.

**ASSEMBLY AGENDA/MANAGER'S REPORT
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Ordinance 2020-38 An Ordinance Authorizing Docks and Harbors to Execute a Reservation Agreement with Goldbelt, Inc. for Seadrome Dock and the Merchant's Wharf Float.

MANAGER'S REPORT:

This authorizing ordinance would allow Docks and Harbors to manage the reservations on behalf of Goldbelt, Inc. at the Seadrome Dock for the remainder of the 2020 season. Title 85 only allows Docks and Harbors "the development and marketing of municipality owned facilities", which includes the Intermediate Vessel Float, the Port Field Office Float and Statter Harbor Breakwater. This authorization would allow Docks and Harbors to evaluate, alongside with Goldbelt, whether a moorage reservation call center operated by Docks and Harbors would provide efficiencies and cost savings for the two entities.

The Docks and Harbors Board favorably recommended this matter at its meeting on February 27, 2020. The Assembly Human Resources Committee also favorably recommended this matter at its meeting on July 1, 2020.

RECOMMENDATION:

The City Manager recommends the Assembly introduce this ordinance and set it for public hearing at the next regular Assembly meeting.

ATTACHMENTS:

	Description	Upload Date	Type
D	Ord. 2020-38	7/9/2020	Non-Code Ordinance

Presented by: The Manager
Presented: 07/13/2020
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2020-38

An Ordinance Authorizing Docks and Harbors to Execute a Reservation Agreement with Goldbelt, Inc. for Seadrome Dock and the Merchant’s Wharf Float.

WHEREAS, under Title 85 of the City and Borough Code, Docks and Harbors is responsible for the operation, development, and marketing of municipally owned and operated port and harbors, including such facilities as boat harbors, docks, ferry terminals, boat launching ramps, and related facilities except as designated by the Assembly by resolution; and

WHEREAS, Docks and Harbors manages a year-round reservation system for large commercial vessels, yachts and fishing vessels at the Intermediate Vessel Float and along the Statter Harbor Breakwater in Auke Bay; and

WHEREAS, during the summer months, the linear foot capacity at the Intermediate Vessel Float often is exceeded by the demand from small cruise ships, yachts, large pleasure crafts and commercial fishing vessels; and

WHEREAS, Goldbelt, Inc. owns and operates the float at the Seadrome Dock and manages a float facility along the Merchant’s Wharf; and

WHEREAS, Docks and Harbors staffing, with demonstrative experience in reservation management, has the capacity to maximize vessel assignments throughout the downtown waterfront; and

WHEREAS, Goldbelt, Inc. has signaled interest in developing a business plan in which Docks and Harbors could collectively manage the reservations of the publicly owned Intermediate Vessel Float and the privately owned Seadrome Dock with adjoining Merchant’s Wharf Float for the 2020 summer season; and

WHEREAS, Docks and Harbors views the synergistic opportunity to place the downtown reservation system under a single organization as a financial benefit to the City and Borough of Juneau, administrative personnel cost savings to Goldbelt, Inc., and greater customer service to mariners desiring downtown moorage.

WHEREAS, Title 85 does not provide the Docks and Harbors Board with authority to execute reservation agreements for privately owned docks.

1
2 BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

3 **Section 1. Classification.** This ordinance is a non-code ordinance.

4 **Section 2. Authorization.** Despite any provision of Title 85 to the contrary, the Docks
5 and Harbors Board is authorized to execute a reservation agreement with the following
6 essential terms:

- 7 (a) **Scope.** The Docks and Harbors Department may manage reservations, including
8 moorage services, for the privately owned Seadrome Dock and adjoining Merchant's
9 Wharf Float ("Goldbelt facilities").
- 10 (b) **Priority.** Docks and Harbors shall prioritize reservations at and fill CBJ facilities
11 before making reservations at Goldbelt facilities.
- 12 (c) **Compensation.** Docks and Harbors shall receive 30 percent of all new reservation
13 revenues collected at the Goldbelt facilities.
- 14 (d) **Term.** The reservation agreement is only for the 2020 summer season.
- 15 (e) **Liability.** The City and Borough of Juneau is not assuming control, maintenance, or
16 responsibility of any of Goldbelt, Inc.'s real property. The City and Borough of Juneau
17 is not responsible for the inability to make a reservation, reservation disruptions,
18 reservation changes, market fluctuations, or vessel relocations.
- 19 (f) **Public Records.** All records received by the Docks and Harbors Department related to
20 this agreement are public records and subject to the Alaska Public Records Act and
21 CBJC 01.70.

22 **Section 3. Effective Date.** This ordinance shall be effective 30 days after its adoption
23 and terminate on December 31, 2020.

24 Adopted this _____ day of _____, 2020.

25 _____
Beth A. Weldon, Mayor

Attest:

Elizabeth J. McEwen, Municipal Clerk



MEMORANDUM

DATE: April 27, 2020

TO: Visitor Industry Task Force

FROM: Staff

SUBJECT: DRAFT Taskforce Recommendations

Note to the Visitor Industry Task Force

These Draft Recommendations are based on the Task Force discussions and written comments received. The goal of this draft is to encompass the key points that the Visitor Industry Task Force (VITF) may wish to forward to the CBJ Assembly.

Visitor Industry Task Force

The Visitor Industry Taskforce held a number of public meetings between October of 2019 and February of 2020 to advise the CBJ Assembly and advance community thinking on a range of visitor industry topics.

The VITF took public testimony on January 11, 2020 and February 1, 2020 and received 43 spoken comments and 156 written comments. The testimony reflected a diverse range of viewpoints in the community and generally provided nuanced views of the benefits and impacts of tourism.

The relationship between CBJ and the visitor industry has evolved over the past two decades. Through investments in infrastructure, management tools, and in programs like Tourism Best Management Practices (TBMP), Juneau has effectively managed tourism growth. While CBJ and the visitor industry should be proud of the success of their efforts, we have reached a point where we need to work together to develop proactive tools and strategies for tourism management over the coming years.

The VITF recognizes the work done by the community and CBJ in early 2000's that resulted in the Tourism Management Plan and the subsequent Resolution 2170. Many of the findings and recommendations in the report are still applicable today and should be considered along with this report. The vision established in the Resolution continues to guide the efforts of this committee and should guide future policy decisions:

CBJ seeks a healthy and vibrant tourism sector generating business opportunities and employment for Juneau citizens, protecting Juneau's heritage and cultural values and its natural resources, and making a positive contribution to the community's quality of life.

The VITF met during the winter and spring of 2019 and 2020 in anticipation of establishing some short-term actions for the 2020 cruise season. The task force had nearly completed its report when industry impacts and public health mandates related to COVID-19 derailed the process. This submission represents the VITF's work to date. The group may reconvene in fall of 2020 or later to discuss changes to the industry and planning for the 2021 cruise season.

Visitor Industry Task Force Report To the City & Borough of Juneau Assembly March 2020

1. Mayor's charge: Regarding Management of the Visitor Industry

1a) Is the current approach to managing the visitor industry adequate to make Juneau an attractive place to live and visit?

Since 1988, CBJ has managed tourism through plans, studies, committees, task forces, and legislation. Within the context of a growing visitor industry, the current approach needs to be evaluated, revised and reorganized. In the past, CBJ has been too reactive when issues arise. Moving forward, CBJ, the visitor industry, and the community should proactively and collaboratively plan and act to ensure Juneau remains an attractive place to live and visit.

There are numerous CBJ planning efforts underway or contemplated that would affect tourism management, opportunity and efficiency. Additionally, there are infrastructure projects that contribute to management of tourism discussed in section 1b. Listed below are CBJ planning efforts related to tourism or that have a close connection to tourism as they are located in the downtown area. Efforts that may be funded by Marine Passenger Fees are designated with an asterisk.

1. Eaglecrest Summer Development Plan
2. CBJ grant to Whale SENSE Program*
3. Blueprint Downtown
4. Housing issues downtown
5. Waterfront Museum*
6. Small vessel docking study*
7. Issues identified in the Manager's recommended Passenger Fee Memo to the CBJ Assembly*
 - a. Juneau Cruise Passenger Survey
 - b. Cruise Passenger Transportation Study/Planning

The current management approach is realized through a mix of industry best management practices, agency permits and operations, and services provided by non-profits through grants and infrastructure planning. Compliance with visitor industry regulations and best practices is voluntary at times and mandatory under federal, state, or local statute or regulation. CBJ Resolution 2170, adopted in 2002, outlines tourism industry related policies and guiding ideas that are still relevant to the community. However, the resolution has not been used consistently as a guiding tool.

CBJ does not manage tourism through a single entity or under one section of code; various CBJ Departments manage areas used by tourists and tour operators. Those management activities include:

1. Dock Scheduling – Cruise Lines Agencies of Alaska (CLAA) schedules ships into Juneau and assigns the use of CBJ's Alaska Steamship Dock and Cruise Ship Terminal, as well as the lightering float used

by ships at anchor. CBJ has no contractual relationship with CLAA or member lines governing the use of these facilities.

2. Docks & Harbors Waterfront Management
 - a. Commercial Use Permitting of Docks and Harbors
 - b. Dock Maintenance
 - c. Seawalk Maintenance
3. Docks & Harbors / CBJ Assembly
 - a. Tidelands management
4. Parks & Recreation Management
 - a. Commercial Use Permitting of Parklands and Facilities
 - b. Seawalk Maintenance
 - c. Parks Management and Maintenance
5. Community Development Department Land Use Permits (including Planning Commission reviews)
6. Engineering/Public Works Right-of-Way Management
7. DOT Management of South Franklin Street – The roadway from Main Street to the Rock Dump is owned and managed by State DOT (Marine Way and South Franklin Street). However, for over 30 years, CBJ has taken the lead on roadway improvements.
8. Tourism Best Management Practices (TBMP) – Annual funding provided by CBJ from Marine Passenger Fees; the program is operated voluntarily by tourism operators and also manages the crossing guard program which is funded by Marine Passenger Fees.

Recommendations

1. CBJ should establish a centralized tourism management function funded by CBJ with full-time staff to guide implementation of the 2002 Tourism Management Plan (TMP) where applicable. The TMP provides an example of how this could function.

Docks & Harbors does not object to CBJ standing up full time staff as an intake for all things related to tourism management. It is possible that efficiencies could be realized in the number of permits required by companies which transcend CBJ Departmental boundaries, such as Docks & Harbors, Parks & Rec, Eaglecrest and JPD. However, Docks & Harbors cautions that a one size fits all mentality for every tourism permit could be counterproductive. As an example, Docks & Harbor believes the Seawalk from Marine Park to Franklin Street Dock is managed strictly and efficiently meeting the expectations of local and tourists. Should another entity begin managing this portion of the Seawalk, Docks & Harbors would strongly advocate to be consulted on decision made on Docks & Harbors managed properties.

2. CBJ should determine community goals (emissions, shore power, congestion mitigation, etc.) and develop and implement an action plan to achieve these goals.
 - a. Complete the Blueprint Downtown sub-area plan and address land use and zoning, as well as incentivizing local business development in the downtown core.

Docks & Harbors is currently pursuing an Electrification Study through our consultant,

Haight & Associates. The study will be completed in April 2021 and will determine whether there is sufficient power in Juneau to allow more than one cruise vessel to receive shore power.

3. The TBMP program should be augmented and supported by CBJ. TBMP remains an industry driven and operated program. As an industry program, peer and industry pressure achieves compliance that would be difficult to obtain under a regulatory regime.

Docks & Harbors strongly endorses voluntary, peer led compliance governance as the preferred means to establish desired community outcome.

4. CBJ should adopt ordinances and regulations to establish consistent management of commercial tour use on all lands, including parks, docks and harbors, right-of-ways, and other lands owned by the CBJ. Management considerations should include:
 - a. Continue to charge fees to fund required services and mitigate impacts. Review and revise fee schedule to ensure fees are appropriate.
 - b. Consider whether there should be commercial tour permitting on city streets and sidewalks for commercial tours such as guided hikes or guided micromobility tours; and if so, regulations should be developed in the same way that CBJ regulates parks and trails, to determine impacts, including days, times and capacity.
 - c. Limit Parks & Recreation commercial use permits to determine facility capacity and impacts (including hours and days). This may include some areas with higher visitation and some areas with lower or no visitation.
 - d. Require all tourism operators receiving Commercial Use Permits to be active members in good standing of TBMP and comply with TBMP guidelines, and where applicable, also be active members in good standing with WhaleSENSE and comply with WhaleSENSE guidelines. Docks & Harbors requires all companies which have tour permits to be TBMP members when using CBJ owned facilities. Although Docks & Harbors concur with WhaleSENSE guidelines, the efficacy of requiring compliance is problematic as most whale watching excursions do not originate from CBJ owned facilities, the marine mammal resource is managed at the federal level and Docks & Harbors would not have the human capital to enforce violations.
 - e. Work with related agencies and partners, such as NOAA, on reducing speed and wakes from whale watching vessels in Statter Harbor, Auke Bay and other impacted areas. Docks & Harbors has established a TBMP navigational corridor through Auke Bay to better manage damage from wakes and has implemented a no wake zone through Smuggler's Cove. Statter Harbor Officers routinely reminds harbor users that vessel operators are responsible for damage to property caused by one's wake. Docks & Harbors would not have the human capital to enforce violations.
 - f. Consider researching and implementing a permitting system for whale watching operators.
 - g. Recognize operators participating in the Alaska Travel Industry Association (ATIA), program "Adventure Green Alaska", to encourage sustainability practices.
 - h. Incentivize operators to adopt environmental best management practices through local award programs, such as a Juneau Commission on Sustainability award.
 - i. Recommend operators/cruise lines adopt Travel Juneau "Juneau Pledge" and ATIA "Alaska" pledge. Cruise lines may also create their own "Alaska" pledge through CLIA (a creative method to encourage guests from around the world to embrace community respect and

positive visitor behavior).

5. CBJ should require Cruise Lines International Association (CLIA) member cruise lines to operate in the following manner:

- a. In 2020 and going forward, minimize cruise ship waste in the landfill and prohibit ships from off-loading furniture, bedding, pillows, mattresses, electronics and other similar bulky items as garbage into the Juneau landfill. Coordinate with the landfill, CLIA and CLAA to implement this recommendation and as CLAA receives notifications and picks up the offloads, ask them to assist with not accepting these items. By 2021, consider prohibiting any cruise ship waste offloads into the landfill.

Docks & Harbors concurs with the goal of reduction of bulky material into the private Juneau landfill. It does not agree with regulatory means to compel compliance.

CLAA Port Manager Andrew Green testified that several vessels have added emission scrubbers to improve air quality many, but not all, vessels previously had two incinerators. Some vessels removed an incinerator for a scrubber resulting in less room available onboard to stow trash. This resulted in an increase in trash being brought to the landfill, up to three containers of waste may be transferred off a vessel. The International Maritime Pollution Act require port facilities provide certain services such as oily waste and offloading of trash from vessels engaged in international voyages, some ports have exemption. In SE Alaska, Juneau is the only port which can accept trash off loaded from a cruise ship. Whittier and Seward also have limited ability to handle trash and no local ability. The offloaded trash is regulated and it must be hauled to USDA approved land fill. It's a very complex and an operationally necessity. Mr. Green believes that only the absolutely necessary trash is removed from the cruise ships. He had heard that mattresses had be taken to the Juneau landfill which was the result of Canada not permitting the removal of mattresses without sterilizing which was not possible. The industry would not want to lose the opportunity to offload trash in Juneau as there are no other options. He also said that the amount of material which is deposited at the landfill from cruise ship is a small percentage of the overall waste.

Holland-American Group intends to pursue, self-imposed, zero refuse discharge in Juneau.

- b. Maximize use of shore power by all cruise lines by requiring CLAA to assign shore power configured ships to electrified docks once additional shore power infrastructure is in place.

Docks & Harbors has contracted with Haight & Associates to determine Juneau's energy capacity to power additional cruise ship berths. In addition to other requirements, the study will determine anticipated rate increases if the power is provided on an interruptible or firm basis. The report is expected to be complete in April 2021. In general, Docks & Harbors does not concur with forcing CLAA to comply with operational scheduling edicts. There are many operational and contractual requirements which CLAA must juggle in the preparation of schedules. The recommendation as written could require all vessels with contractual obligations to the privately owned AJ Dock to go to the CBJ owned electrified dock.

- c. Limit water usage by ships in periods of drought.

Approximately five years ago, water rationing to cruise vessels was a concern within the community. To address the issue CLAA would consult with the CBJ Water Division to determine how much water could be provided to a vessel on a daily basis. The cruise lines were not put off that they didn't receive water during periods of rationing. Since then, head tax was used to construct the Salmon Creek Water Filtration Plant which now serves 33% of all water needs in Juneau. Providing water to the cruise ship hasn't been an issue recently and the recommendation "to limit water usage in periods of drought" is already in place. Mr. Green (CLAA) indicated the industry supported the request to solve water issues in Juneau which included building a 1.5M tank at the Last Chance Basin, which was a massive well water development in the basin. The industry also supported the UV treatment and filtration system for the Salmon Creek Dam water supply. Mr. Green indicated that it should be very difficult to run out of water. Nonetheless, the industry will throttle back water request, waste water, shore power or any other service to be equitable and meet the needs of the community. The cruise industry was successful in lobbying for funds either head tax or state marine passenger fees.

- d. Turn off large LED screens while in port in coordination with CLIA and TBMP
- e. Maximize "localism"
 - i. Encourage cruise lines to maximize partnerships with locally owned businesses.
 - ii. Continue to support and direct cruise ship passengers to local businesses.
- f. Coordinate with CLIA and CLAA on ship scheduling and berthing to minimize congestion at all docks. These recommendations should be implemented over the next three years based on feasibility and need. In 2020, strategically assign ships based on size with the goal of reducing traffic congestion downtown
 - i. In 2020 and going forward, work with CLAA and CLIA to provide more transparency and visibility for schedules and projected passenger counts, two years in advance or upon creation.
 - ii. In 2020 and going forward, should a ship wish to call in Juneau at CBJ operated facilities on a day other than what was originally scheduled due to weather or other factors, CLAA should review this request with CBJ prior to confirming this call in order to evaluate how the change affects congestion and other impacts to the community. Docks & Harbors believes this is such a rare occurrence that it merits deletion. As an example, a vessel may not be able to moor in Skagway due to high winds. No one (cruise lines, CLAA, port communities) benefits with port call uncertainty. It is not clear who in CBJ would approve this request for port changes.
 - iii. In 2021, stagger arrival times of ships by 30 minutes.

This reads as if a change is required. Currently ship arrivals are scheduled at no less than 30 minutes between vessels. There may be confusion within the community as the CLAA maintains two arrival schedules, one for the general public which is approximate and an operational schedule which is considered SSI (Sensitive Security Information) used by those who need an accurate arrival time. The latter will never schedule two cruise vessels to arrive simultaneously.

Safety is number one concern for all involved in the maritime transportation industry

and arrival times are closely aligned with the Alaska pilots. Additionally, the longshore labor pool is limited that it is virtually impossible to moor vessels any sooner than 30 minutes between arriving vessels.

- iv. In 2022 if the NCL berth is operational as the fifth dock, prohibit hot berthing as a scheduled practice.

Docks & Harbors favors a restriction to limit hot berthing of a future NCL berth and recommends this prohibition be incorporated in lease negotiations.

- 6. CBJ should clearly establish guidelines and goals for the scheduling/assigning of **municipal** docks. These recommendations should be implemented over the next three years based on feasibility and need.
 - a. In 2020 and going forward, prohibit docking or anchoring of passenger cruise ships of any size in Auke Bay, specifically Statter Harbor, except for emergency purposes.

Docks & Harbors objects to this statement as written. Docks & Harbor agrees that the existing infrastructure is woefully inadequate and currently not suitable for supporting cruise ships. However, it may be adequate and desirable for small cruise ship visits following recapitalization of the aging Statter Breakwater. There is also a concern that large yachts or mega yachts with only 12 passengers could be prevented from using Statter Harbor under these recommendations.

- b. In 2020 and going forward, work with CLAA and CLIA to provide more transparency and visibility for schedules and projected passenger counts, two years in advance or upon creation.
- c. In 2021, stagger arrival times of ships by 30 minutes.

This reads as if a change is required. Currently ship arrivals are scheduled at no less than 30 minutes between vessels. There may be confusion within the community as the CLAA maintains two arrival schedules, one for the general public which is approximate and an operational schedule which is considered SSI (Sensitive Security Information) used by those who need an accurate arrival time. The latter will never schedule two cruise vessels to arrive simultaneously.

Safety is number one concern for all involved in the maritime transportation industry and arrival times are closely aligned with the Alaska pilots. Additionally, the longshore labor pool is limited that it is virtually impossible to moor vessels any sooner than 30 minutes between arriving vessels.

- d. In 2022 if the NCL berth is operational as the fifth dock, prohibit hot berthing as a scheduled practice.

Docks & Harbors favors restriction to limit hot berthing of a future NCL berth and recommends this prohibition be incorporated in lease negotiations.

- e. Prioritize berthing for shore power configured ships once additional shore power infrastructure is in place.
In general, Docks & Harbors does not concur with forcing CLAA to comply with operational

scheduling edicts. There are many operational and contractual requirements which CLAA must juggle in the preparation of schedules. Not only does CLAA schedule the Juneau berths but berths throughout SE Alaska. Mandating unilateral direction within the Port of Juneau may have unintended consequences throughout the region. The recommendation as written could require all vessels with contractual obligations to the privately owned AJ Dock to go to the CBJ owned electrified dock.

7. Incentivize Juneau as a turn port for smaller ships.
Docks & Harbors strongly concurs with incentivizing Juneau as small cruise ship turn port and is in the process of conducting Small Cruise Ship Infrastructure Master Plan. This plan will determine opportunities to support the smaller cruise ship industry needs, defined as vessels under 275 feet in length. Encouraging Juneau as a turn port would be an economic boom for many small local businesses.
8. Juneau should establish a marketing identity through their destination marketing organization, Travel Juneau. Integrate this marketing identity across the community (conceptual draft – Juneau is proud of its cultural heritage, support of the arts, love of the natural environment, and finds its identity as an ocean and mountain town).

1b) Is the approach adequate within the existing dock infrastructure and within other foreseeable public or private infrastructure projects for the growth anticipated?

The current management approach within the existing and foreseeable infrastructure projects is not adequate. Many of the current projects address important issues, but the approach needs to be consistently coordinated among city, state, and federal partners. Additional work should be continued to mitigate current impacts and anticipate future impacts. Numerous upgrades to downtown infrastructure are underway and some may be impacted by reduced Marine Passenger Fee revenue. These projects increase Juneau’s ability to host large numbers of visitors. The upgrades, with completion dates, include:

1. Egan Drive improvements (2020) – ADOT reconstruction of Egan Drive from Main Street to 10th Street.
2. Small bus staging at the Archipelago area (2022) – Deckover of tideland area close to the Marine Parking Garage to provide space for passenger bus loading.
3. Open space at the Archipelago area (2022) – Private project adjacent to the Marine Parking Garage to develop commercial and open space on the waterfront.
4. Sidewalk stanchions (2020 - 2022) – Continue installing barriers at the edge of sidewalk along S. Franklin Street to separate pedestrians and vehicles.
5. Warner’s Wharf Alley Improvements (2020-2021) – Safety and pedestrian improvements to the Seawalk access on Warner’s Wharf, adjacent to Pier 49.
6. Dock Electrification planning (ongoing).
7. Seawalk Infill at Marine Park (2021) – Install Seawalk decking over the area where the lightering ramp and float was removed. This will extend the Seawalk to connect to Marine Park.
8. Seawalk expansion South to AJ Dock planning (ongoing).
9. Marine Park Upgrades (2023) – Park reconstruction project to improve pedestrian flow and user

amenities on the waterfront.

10. Marine Way Seward Street Crosswalk (2021) – Evaluate location of crosswalk and utility of left turning movement at Seward Street.
11. Cruise Ship Real Time Wastewater Monitoring (2021) - Install instrumentation and control systems to track strength and flow rate of discharges to allow for efficient plant management.
12. Franklin Dock Floating Berth (2021) – Private project evaluating replacing the current cruise ship dock with a floating berth.

Recommendations

1. Additional infrastructure development should be considered in the downtown area to accommodate current volumes and potential growth. Continued efforts to move people and vehicles through downtown efficiently and safely are necessary.
 - a. Traffic congestion on S. Franklin is a critical infrastructure issue that needs to continue to be addressed through planning, design, and construction to separate pedestrian and vehicular flow. CBJ and DOT should coordinate to accomplish this work. Considerations should include:
 - i. Maximize right-of-way space for pedestrians.
 - ii. Minimize required stops for vehicles.
 - iii. Extension of pedestrian stanchions.
 - iv. Minimize and consolidate turning movements.
 - v. Focus pedestrian flow to crosswalks and desired destinations.
 - vi. Improve pedestrian flow by creating better access between Seawalk and S. Franklin Street.
 - vii. Consider staging areas outside of downtown for cargo deliveries and incentivize companies to deliver outside of times when cruise ships are in port.
 - viii. Encourage and incentivize electrification of tourism vehicles.

Docks & Harbors has coordinated with AELP and has installed the necessary electrical vaults and conduit to provide electrical charging stations at the newly constructed Archipelago Lot. Currently there are no small electrical busses in Juneau but Docks & Harbors will be prepared to support when the need is requested.
2. Research and develop efforts to move people on and off the right-of-way, including circulators, electric ferries, Seawalk extension, connections between S. Franklin Street with the Seawalk, and other alternative pedestrian routes.
3. Prioritize dock electrification and continue to work with the electrical utility to monitor electrical capacity available for purchase on either an interruptible or firm basis.

Docks & Harbors has contracted with Haight & Associates to determine Juneau's energy capacity to power additional cruise ship berths. In addition to other requirements, the study will determine anticipated rate increases if the power is provided on an interruptible or firm basis. The report is expected to be complete in April 2021.

4. Limit expansion of downtown dock infrastructure to allow for no more than one additional larger cruise ship.

Docks & Harbors does not object to limiting the downtown large cruise ship capacity to five. It is recommended that the limitation be negotiated contractually during tideland lease discussions.

5. Wastewater, water, and air quality should continue to be evaluated by the City and State to reduce impacts on the health of the community and environment. Responsible agencies should evaluate and plan to analyze capacity and impacts of increased cruise ship visitation. Air quality should be monitored regularly for adherence to strict standards, including compliance with the Marine Vessel Visible Standards (18 AC 50-.070) and all available and reasonable steps to minimize visible stack emissions while in port should be taken.
6. Plans for infrastructure development including design standards and analysis of growth and impacts should be completed for other areas outside of the downtown waterfront where tourism growth is occurring or could occur, such as Auke Bay and North Douglas (Eaglecrest).
Docks & Harbors has proactively studied and advanced ideas to reduce congestion in the Auke Bay vicinity. This includes the acquisition of the Auke Bay Marine Station and steadfast efforts to execute the multi-phase Statter Harbor improvements. Docks & Harbors is open for innovative ideas encouraging large water taxis or ferry shuttles to transport visitors from the downtown core to Douglas Harbor or the eventual NCL dock.
7. Support public and private development ventures that alleviate pressure on existing infrastructure.
8. Ensure recreational facilities such as trails for hiking and biking are developed to maintain Juneau as a top recreational place to live and visit.
9. Recognize the contributions of Native Alaska organizations to the downtown core and support continued growth of cultural tourism and installation of Native Alaska art in public spaces.

2. Mayor's charge: Regarding reviewing and updating the Long Range Waterfront Plan

The Long Range Waterfront Plan (LRWP) has guided CBJ thinking and actions on the development of waterfront infrastructure for the last 15 years. The LRWP was the culmination of a great deal of planning work in the early 2000's. Writing, considering, and adopting the LRWP was very time consuming, and required extensive and sustained public engagement. Updating or re-writing the Plan would be similarly difficult and time intensive.

2a) What are the pros and cons of updating the LRWP?

Pros

1. The LRWP is an infrastructure development plan for the waterfront land between the Juneau - Douglas Bridge and the Little Rock Dump. The extent of tourism reach in Juneau has expanded beyond the downtown waterfront; updated planning could be done in areas outside the scope of the LRWP, including harbors and transportation corridors.
2. Proactive planning instead of a reactive approach is needed on infrastructure and tourism issues.
3. In 2004, the work on the LRWP was a positive step in bringing the community together on tourism issues.

Cons

1. The effort and cost of the LRWP was very high.

2. It is uncertain whether the community has the capacity to focus on a yearlong waterfront planning process.
3. The current plan is still functional and valid for the waterfront area.
4. There are many neighborhood, harbor, and park plans that inform zoning and infrastructure development.

2b) If the LRWP was updated, should it be an infrastructure update or should that update consider other policy or operational issues?

1. The LRWP horizon extends to 2026. Currently, the concept design approaches and recommendations within the plan are still valid and can be used as a foundation for continued development along the downtown waterfront. Approximately 50% of the tasks outlined in the LRWP are complete; progress should continue to complete the remaining viable tasks by 2026.
2. Updates on completed projects along the downtown waterfront should be made and communicated to the public through a conceptual five-year Capital Improvement Program (CIP).
3. Regarding considerations of policy and operational issues, recommendations in Task Force charging question #1 respond to this need.

Recommendations

1. Do not expend the effort necessary to update the LRWP. The CBJ Assembly should maintain focus on better tourism management and rely on the finer detailing from the ongoing Blueprint Downtown planning efforts.
Docks & Harbors agrees that the LRWP has proven to be a significant guiding principal in developing the downtown waterfront. Numerous improvements can be attributed to the LRWP and it is not recommended that a revision is necessary. More recent studies such as the Urban Design Plan (Taku Dock to Marine Park) and the ongoing Blueprint Downtown and Small Cruise Ship Infrastructure Master Plan appear to provide a community vision of appropriate and sustainable planning documents.
2. Complete development of the Seawalk.
Docks & Harbors strongly supports the completion of the Seawalk from the Douglas Bridge to AJ Dock. One of the Small Cruise Ship Infrastructure Master Plan preliminary alternatives encourages development along the Coast Guard/NOAA Dock which would provide linkage from Gold Creek to the Merchant's Wharf.

3. Mayor's charge: Regarding the persistent idea of a restriction on the number of visitors

1. Consider and research whether a restriction on the number of visitors arriving in Juneau would be legal, enforceable or practical.
2. If found to be legal and enforceable, advise on the pros and cons of the concept of restricting the number of visitors and whether a restriction strategy might be:
 - a. A concept that would apply to annual/seasonal visitation numbers?
 - b. A concept that would apply to daily visitation numbers?

3. Consider whether changes to ship scheduling (daily arrivals and departures) might address community concerns and impacts.
4. Consider the pros and cons of CBJ becoming involved in dock scheduling.

Legal Considerations

The City Attorney provided the task force with a memo on January 21, 2020 that broadly outlined the numerous legal hurdles that could oppose a legal limitation on the number of cruise ship passengers that visit Juneau.

Practical Considerations

As a practical matter, limitation of cruise ship passenger visitation can be achieved by the following methods:

1. Limit by Infrastructure

Whether or not to lease tidelands for a new dock (or docks) to accommodate larger cruise ships is the most pressing capacity question that Juneau will face in the foreseeable future. The CBJ Assembly should spend a significant amount of time studying this issue. A new dock may or may not supplant the existing anchoring and lightering and may or may not result in significant ship visitation growth. However, that analysis is greatly over simplified.

2. Limits on Ship Scheduling

The revenue bonds that financed the construction of CBJ owned cruise ship docks and lightering float (commonly known as 16B) requires that the debt service not be placed in jeopardy. The bonds are scheduled to be paid off in 2034, but the CBJ can prepay the bonds as early as March 1, 2026. Limitation on dock availability (such as instituting “no ship days” at CBJ facilities) at the municipal docks may cause such jeopardy.

CBJ does not have the authority to limit scheduling/berthing at the two privately owned docks. If, over time, the municipality acquired the private docks, it would eventually have more control of scheduling once the debt incurred in the acquisition was retired. Note, however, that neither private dock is for sale.

To limit ships anchoring and lightering, CBJ could consider limiting availability of its owned lightering docks. However, private lightering options could become available.

Daily or hourly limits could also be considered on the availability of commercial activity on CBJ lands and harbors.

3. Limit by Negotiation

CBJ effectively ended years of litigation with CLIA by negotiating a Memorandum of Agreement that satisfies the needs of Juneau and the industry. A best course of action should include determining community goals and directly negotiating to achieve them.

4. Financial Incentives/Disincentives

Different ship berthing protocols can result in less congestion, but there are barriers to adjustments to the assigned berthing locations. Issues include cruise lines’ historical preference and the economic disparity between the rates charged at less expensive CBJ facilities and the

costlier private berth options.

Recommendations

1. At this time, the CBJ should not pursue a hard numerical “cap” on numbers of visitors because it is legally questionable and logistically impractical. Limitations can be achieved through other measures, including port infrastructure capacity to better manage the impacts of visitors.
Docks & Harbors concurs with not pursuing numerical caps to manage industry growth. It would be preferable to impose limits through negotiations such as through CLIA annually or through a tideland lease process for the NCL Dock.
2. Request CBJ Law to research how other U.S. communities have instituted a numerical visitor cap and /or other possible methods of limitations.
3. CBJ has traditionally left scheduling of the port and assigning of the City docks to CLAA, but should take a more active role to achieve its management goals. See section 1a of this report for specific recommendations.
Docks & Harbors respectfully disagrees that a more proactive role in scheduling would lead to greater efficiencies or quality of life improvements. CLAA orchestrates a very complex scheduling of ships throughout SEAK and even the best intentions of local demands could be detrimental to the overall regional scheduling scheme. Docks & Harbors does, however, recommend that its staff meet annually with CLAA to discuss Juneau-specific concerns. This could include ensuring CLAA is aware of events such as the Blessing of the Fleet, Maritime Festival and 4th of July impacts.
4. CBJ should negotiate changes that would promote more efficient ship scheduling, berthing and managing congestion, such as assigning larger capacity ships to the City docks and reducing traffic on South Franklin.
Docks & Harbors respectfully disagrees that a more proactive role in scheduling would lead to greater efficiencies or quality of life improvements. CLAA orchestrates a very complex scheduling of ships throughout SEAK and even the best intentions of local demands could be detrimental to the overall regional scheduling scheme. Docks & Harbors recognizes that the private docks have contractual relationships with individual cruise ship companies which could adversely imperil those legal obligations. CBJ has successfully managed the two city-owned cruise ship docks for several decades without contractual agreements. Docks & Harbors does not see the necessity to make recommended changes.
5. By 2023, CBJ should negotiate a formal agreement with the industry to limit the number of ships to five larger ships per day, one ship at each dock or four ships at docks and one at anchor (if the fifth dock is not built or if a fifth ship chooses to anchor instead of dock). This would give the industry time to adjust to recommendations.
Docks & Harbors agrees with pursuing non-regulatory agreements which limit the number of large cruise ship vessels to five per day.
6. CBJ should work with cruise lines to attempt to “get the peak out of the week” and balance the numbers of visitors across days of the week. There are more docks being constructed throughout Southeast; CBJ and other Southeast communities should work with the cruise lines to manage visitation throughout the region.
Docks & Harbors agrees that in a perfect situation, the number of vessels and passengers arriving daily would be constant throughout the season. Unfortunately, market forces and traveler preference dictate most cruise ships depart from Seattle or Vancouver over the

weekend resulting in peak arrivals in Juneau early in the week. Docks & Harbors agrees with working together with the industry to improve the passenger experience constructively.

7. CBJ should work with the various agencies including CLAA, CLIA and individual ship lines to discourage or prohibit anchoring and lightering by larger ships if an additional dock is constructed. If a Subport dock is constructed, the CBJ should more thoroughly investigate and completely understand under what circumstances the USCG would remove or restrict the current anchorage.

Docks & Harbors agrees with the goal of limiting the number of large cruise ships to five per day using non-regulatory or negotiated agreements.

8. The Visitor Industry Task Force did not reach consensus on the issue of a ship free day or “no ship days” at one CBJ dock per day. One option could be instructing CLAA to cease assigning one of the city docks on certain Saturdays, alternating between Alaska Steamship Dock and Cruise Ship Terminal. Issues discussed included:
 - a. Economic impacts
 - b. Region-wide scheduling considerations
 - c. Inability to control assigning of private docks
 - d. Legal and debt service concerns (16B docks)

Docks & Harbors does not concur with limiting the Docks Enterprise opportunity for revenue generation. Docks & Harbors does not receive general funds supported by property tax or sales tax and revenue reductions do affect its operational budget.

4. Mayor’s Charge: Considering methods for collecting public opinion

Consider the pros and cons of collecting public opinion through formal surveys, including researching survey costs. Public opinion is always important for the CBJ Assembly to determine and collect; however, asking simple yes/no questions on nuanced issues can be polarizing and can be difficult to get the public to understand all of the details necessary for formation of well-founded policy decisions.

In the 1990’s and 2000’s, CBJ commissioned a number of surveys of public perceptions on tourism. The 2002 Juneau Tourism Management Plan identifies survey results as the primary indicator for activating “safety valves” – constructing an additional port separate from Juneau, but within the Borough to disperse the CBJ’s visitor load. Public surveys can be a useful community engagement tool, because they make it possible to get results from a broader cross section of the community than with other public engagement methods. However, it is important for survey questions to be well designed. It is also important to have a clear understanding of the purpose of the public survey. Such a survey could be focused on general public perception (i.e. “has Juneau reached its capacity for cruise tourism?”) or focused on measuring community impacts in specific areas. It would also be important to consider who would use the survey results and for what purpose.

Recommendations

1. Engage a third party contractor to complete a public opinion survey of Juneau residents at the end of the 2021 cruise season.

Docks & Harbors concurs that surveying the public is a useful exercise in developing metrics to

meet expectations.

2. Depending on the utility of a survey, additional surveys should be planned to gauge how management strategies are influencing public perception.
3. Consider collecting data on the effects of hot berthing.

Additional Task Force Discussion Issues

Subport Development/Upcoming Norwegian Cruise Line Dock Proposal

Whether or not to support an upcoming Subport development proposal is a CBJ Assembly decision. The USCG and/or NOAA also have important roles. Future discussions should consider allowing, limiting or prohibiting anchoring in the Juneau Harbor. The use of dynamic positioning navigational systems, which when in use, designate vessels as “underway” vs. “anchor” should also be discussed as this may change the ability of agencies to utilize certain management tools to control the anchorage.

A shift in docking or anchoring of cruise ships may alter spending patterns of passengers and affect the local economy. In addition, a dock at the Subport could leverage other community goals such as:

1. Seawalk
2. Small Boat Harbor
3. Ocean Center
4. Berthing for small cruise ships (The Task Force does not yet have an accepted definition of “smaller ships”)
5. Homeporting of “small ships”
6. Economic and/or Housing Development
7. Pedestrian management such as a walkway crossing over Egan
8. Reducing vehicle congestion on S. Franklin Street

Recommendation

Support a Subport dock if the following conditions are met, recognizing that some of these conditions are beyond NCL or any other developer’s control. However, the Task Force submits these items for Assembly consideration in making policy decisions:

1. One larger ship per day using one side of the facility;
2. Maximum of five larger ships in port per day;
3. No hot berthing at the new facility;
4. No larger ships allowed to anchor as the sixth ship in town. Larger ships may anchor but the number of larger ships in port would still be limited to five (CBJ to consider legal ramifications of limiting size of ships at anchor);

5. High quality uplands development for community and visitors;
6. Year round development orientation;
7. CBJ manages dock to some extent through a public private partnership or management agreement;
8. Dock is electrified.

Docks & Harbors generally concurs with these recommendations and is not opposed to opportunities to manage other facilities as a public private partnership. We believe the community is best served with the waterfront in local control. As stated elsewhere Docks & Harbors does not object to non-regulatory limitations of no more than five large cruise ship per day.

Cruise Ship Size Discussion

The task force report includes many recommendations related to cruise ship size, especially as related to a potential new NCL dock and anchoring of ships. In the report, the term 'larger' cruise ship is used and a specific definition of larger ship is not given for the following reasons:

1. The length of a ship does not necessarily determine the number of passengers.
2. Limiting ships by number of passengers may require additional legal analysis.
3. The concern on ship size is related generally to the amount of impacts it creates in the community on the environment, traffic and congestion, and infrastructure. The Assembly may have to define a 'larger ship' as it proceeds with tourism management, but this definition will likely include a deeper analysis of impacts, expected fleet of ships, and ongoing and planned infrastructure development. The committee suggests that 'small ships' are those with 500 or fewer passenger capacity. 'Larger' ships are those that exceed these a 500 passenger capacity.

Docks & Harbors is using the overall length of 275 linear feet as the upper limit in the Small Cruise Ship Infrastructure Master Plan. This length was selected because American Cruise Lines maintains a vessel which operates a 273 foot vessel in SE Alaska named the CONSTELLATION. American Cruise Lines would like to utilize downtown facilities but the CONSTELLATION is too large for any of the small vessel moorage locations.

DEPARTMENT CAPITAL IMPROVEMENT PLAN 6 YEAR PRIORITIES

Department: Docks & Harbors

Date: _____

Compiled by: E. Schaal

Phone number: _____

estimated project cost (nearest thousand dollars)

	Project	Priority	FY22	FY23	FY24	FY25	FY26	Future
Docks	Dock Waterside Safety Railings	1	\$1,000,000					
	Small Cruise Ship Infrastructure	2						\$25,000,000
	NOAA Dock Acquisition	3						\$3,000,000
	Downtown Waterfront Improvements Ph II (Restrooms)	4				\$3,000,000		
	Shore Power at Cruise Ship Berths	5		\$1,000,000				\$25,000,000
	Deck Over at People's Wharf	6						\$3,000,000
	Lightering Float Replacement	7						\$650,000
Harbors	Harris Harbor Anode Installation - Matching Funds	1	\$125,000					
	Auke Bay Passenger for Hire Ph IIIC	2		\$4,000,000				
	Aurora Harbor Rebuild - Ph III	3		\$4,000,000				
	Harbor Security Upgrades	4	\$100,000					
	Aurora Harbor Rebuild - Ph IV	4			\$5,000,000			
	Statter Breakwater - Deferred Maintenance	5	\$100,000					
	UAS Downtown Property Purchase	5		\$3,000,000				
	Juneau Fisheries Terminal Development	6						\$25,000,000
	Marine Service Center	7						\$25,000,000
	Auke Bay Non-Motorized Coastal Transportation Link	8						\$12,500,000
	Cost Share w/ ACOE - Statter Breakwater Feasibility Study	9						\$500,000
	Aurora Harbor Dredging - Tug Slips	10						\$350,000
	Wayside Float Maintenance Dredging	11						\$350,000
	Auke Bay Net Repair Float	12						\$300,000
	North Douglas Boat Ramp Improvements	13						\$5,000,000
	Aurora Harbormaster Building and Shop Replacement	14						\$3,000,000
	Douglas Harbor Uplands Improvements	15						\$2,000,000
	Statter Harbor Shop/Garage/Storage Facility	16						\$1,500,000
Fish Sales Facility - Harris Harbor	17						\$1,000,000	
Taku Harbor/Stockade Point Float Replacement	18						\$300,000	

Totals: \$1,325,000 \$12,000,000 \$5,000,000 \$3,000,000 \$0 \$133,450,000



Port of Juneau

155 S. Seward Street • Juneau, AK 99801
 (907) 586-0292 Phone • (907) 586-0295 Fax

From: *Carl J. Uchytel*
 Port Director

To: Assembly

Thru: (1) Docks & Harbor Board
 (2) City Manager

Date: November 21th, 2019

Re: FY2019 Review - Docks & Harbors Operations

1. In accordance with 85.02.045, Docks and Harbors Board shall, no later than November 30 each year, provide the assembly with a written review of docks and harbors department operations during the preceding fiscal year.

2. The FY19 end of year financial report shows the department is operating with positive cash flow:

	Harbor Enterprise	Docks Enterprise
Revenue	\$ 4,345,600	\$2,020,500
Expenditure	\$ 4,002,700	\$1,453,500
FY19 Net	\$ 342,900	\$567,000
Fund Balance	\$ 684,702	\$ 2,308,978

Enclosure (1) indicates a significant reduction in Harbor Fund Balance due to numerous projects being completed in recent years. The graph also suggest the difference between Harbor revenue and Harbor expenditures is shrinking.

3. The number of cruise ship passengers who arrived to the Port of Juneau continues to increase:

	2013	2014	2015	2016	2017	2018	2019
Large Cruise Ships ¹	940,447	944,239	965,731	992,092	1,046,587	1,118,897	1,273,741
Small Cruise Ships	5,459	10,216	11,426	8,727	8,658	9,729	10,112
Total	945,906	954,455	977,157	1,000,819	1,055,245	1,128,626	1,283,857

4. Docks & Harbor has been engaged in several capital improvement projects in the course of FY19.

a. Marine Park Retaining Wall Cathodic Protection complete. This \$260K project recoated the retaining wall at Marine Park and was the third phase of efforts to maintain our downtown infrastructure from the corrosive marine environment.

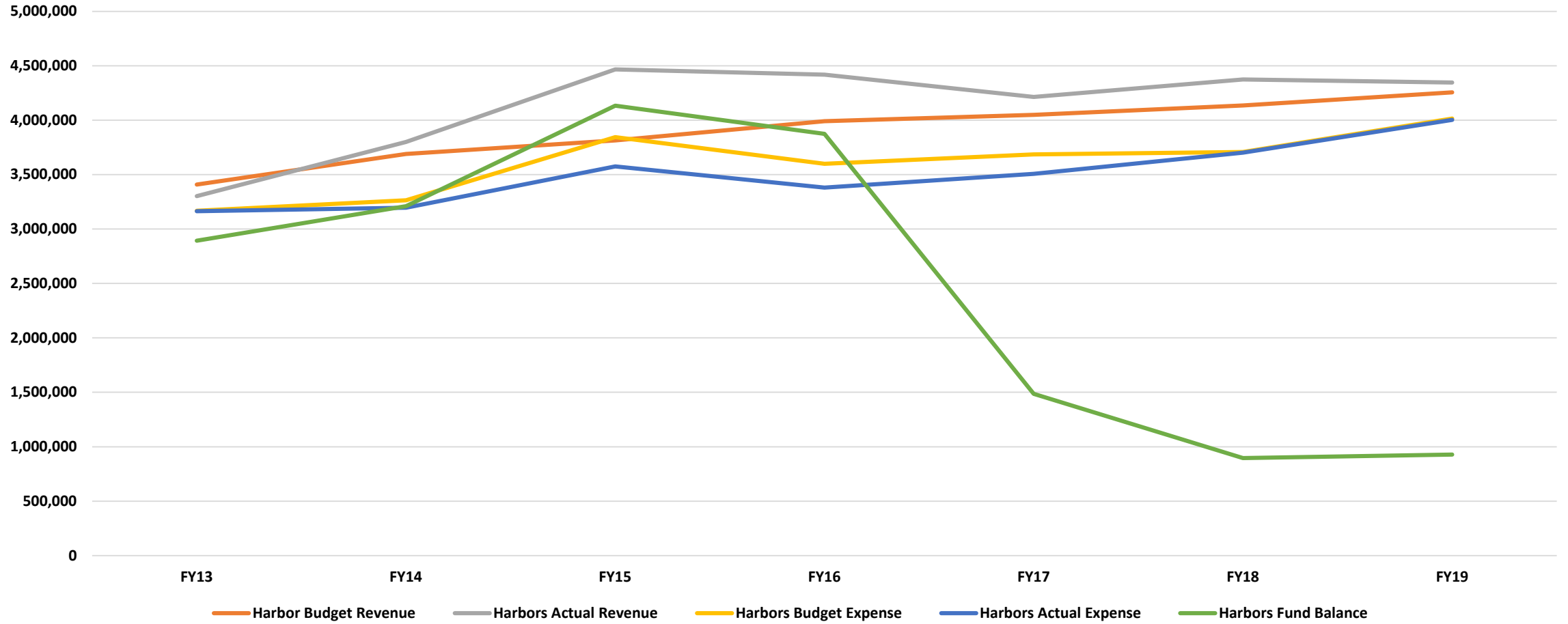
¹ Revenue producing cruise ship passenger data only which is less than the total passenger embarkation

- b. Statter Harbor Phase III (For Hire Commercial Float and associated uplands). After nearly two-years of permitting efforts, the necessary Incidental Harassment Authorization (IHA) permit was secured. A contract was awarded to Pacific Pile & Marine for \$4.1M in July 2019.
 - c. Downtown Waterfront Improvement Phase I. This \$12.4M bus staging and deck-over project will expand the pedestrian area along the Seawalk and provide small bus parking for 12 vehicles. A contract was awarded to Trucano Construction in July 2019 and substantial completion is scheduled for August 2020.
5. Other ongoing CIP planning efforts include:
- a. Downtown Waterfront Improvement Phase II (\$4M) – This project would construct a covered shelter waiting area with restrooms for tourists awaiting transportation.
 - b. Statter Harbor Phase IIIB – This \$4M project phase will install the For Hire floats.
 - c. Aurora/Harris Harbors maintenance dredging coordination with USACE (\$3M) – Western Construction Marine has been awarded the contract which will provide maintenance dredging for portions of the Aurora/Harris Harbor and maintenance on the two breakwaters.
 - d. Aurora Harbor Phase III (\$4M) – Docks & Harbors has applied for an ADOT Harbor Grant.
6. Docks & Harbors completed several important but relatively unheralded projects in FY19:
- a. Douglas Harbor Sewage Barge – This \$12,000 in-house design and construction project installed a 500 gallon sewage holding tank in Douglas Harbor. This enables a mobile pump-out cart to service vessels in an environmentally compliant manner.
 - b. New Visitors Center Kiosk – This \$189K construction project replaced an old, inefficient building.
 - c. Amalga Harbor Fish Cleaning Float – This ADFG funded project was cancelled due to lack of support.
7. In July, Docks & Harbors submitted three federal BUILD (Better Utilizing Investments to Leverage Development) grant applications:
- a. \$25M for Marine Services Yard
 - b. \$25M for Juneau Marine Fisheries Terminal
 - c. \$12M for an elevated “bay-walk” between Statter Harbor and ABMS
- On November 12th, Docks & Harbors was notified that we were unsuccessful in the application.
8. In May, Docks & Harbors submitted a FEMA Port Security grant application for \$450K to install new Dock Security Structures. In August, we notified that we were unsuccessful for the grant and funds were made available from Marine Passenger Fees.
9. The derelict tug LUMBERMAN remains on ADNR managed lands. Docks & Harbors is in contact with stakeholders and has led efforts to pump the vessel out, installation of a second anchor, reset the anchors, ensuring a tracking device was operational and testing for lead/asbestos.
10. The Port Director has met senior level NOAA officials with the goal to encourage homeporting NOAA vessels in Juneau.
11. Juneau held the Alaska Association of Harbormaster and Port Administrators annual conference from September 30th to October 4th, 2019.
12. The fee schedule for FY20 is attached as enclosure (2).
13. The Board looks forward to a joint meeting with the Assembly in the very near future.

#

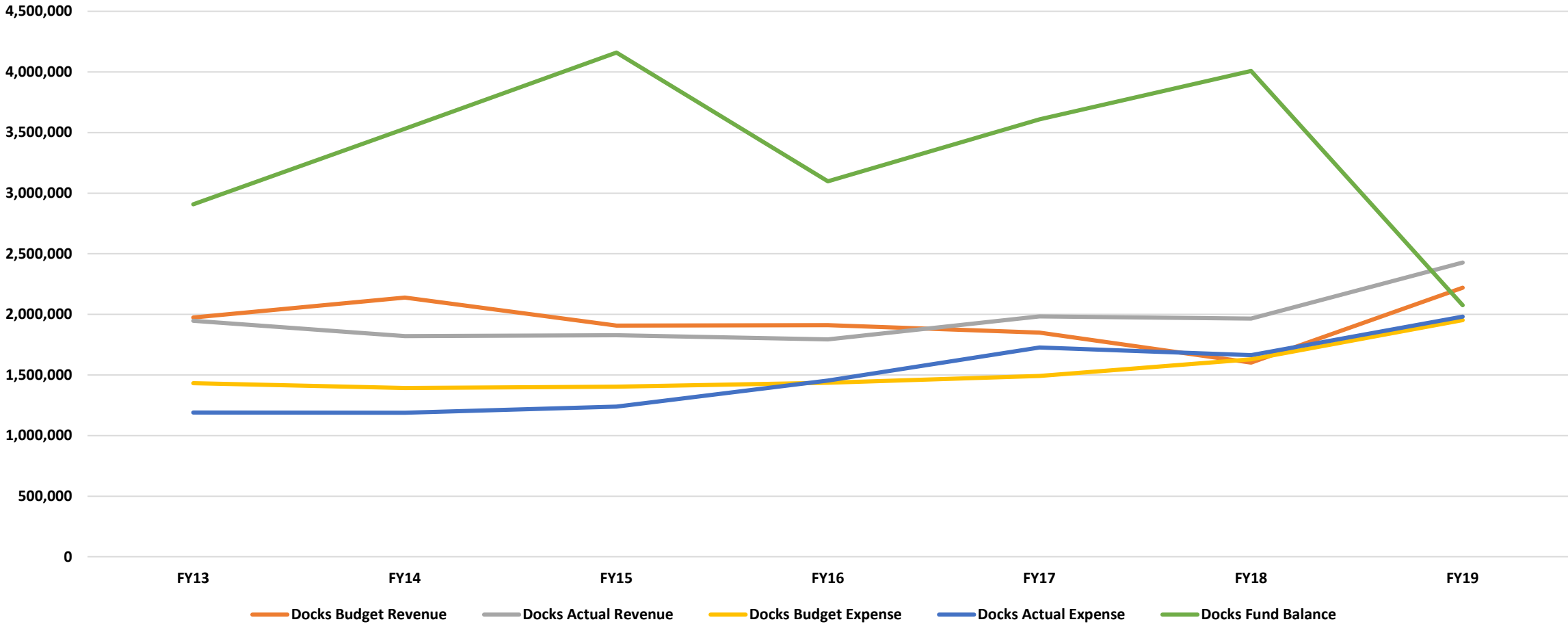
Encl: (1) Docks & Harbors Funds Overview
 (2) FY2019 & FY2020 Fee Schedule

Harbors Funds Overview



	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Harbor Budget Revenue	3,408,942	3,689,400	3,813,300	3,990,400	4,047,900	4,134,900	4,254,900
Harbors Actual Revenue	3,301,200	3,800,400	4,466,300	4,418,400	4,213,000	4,374,735	4,345,600
Harbors Budget Expense	3,168,590	3,264,000	3,843,800	3,598,600	3,685,700	3,707,100	4,015,500
Harbors Actual Expense	3,163,500	3,195,000	3,574,700	3,380,634	3,507,112	3,702,155	4,002,700
Harbors Fund Balance	2,893,416	3,210,757	4,133,190	3,874,843	1,485,483	895,149	926,900

Docks Funds Overview



	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Docks Budget Revenue	1,974,600	2,139,400	1,906,600	1,911,500	1,849,500	1,601,900	2,220,200
Docks Actual Revenue	1,946,900	1,820,000	1,828,400	1,792,800	1,983,100	1,964,484	2,428,400
Docks Budget Expense	1,431,592	1,392,300	1,403,500	1,436,800	1,492,000	1,629,300	1,952,000
Docks Actual Expense	1,189,800	1,188,500	1,238,600	1,454,100	1,727,600	1,663,167	1,982,400
Docks Fund Balance	2,907,240	3,531,061	4,159,525	3,098,254	3,609,037	4,009,076	2,075,400



DOCKS & HARBORS
 155 S. Seward St.
 Juneau, AK 99801
 (907) 586-5255 tel
 (907) 586-2507 fax
 www.juneau.org/harbors

FY20 Moorage Rates

DOUGLAS, HARRIS AND AURORA HARBORS		
	Effective thru June 30, 2019	Effective July 1, 2019
Skiff	\$300 per calendar year	\$300 per calendar year
Daily	55¢ per foot	57¢ per foot
Calendar Month	\$4.25 per foot	\$4.40 per foot
Bi-Annual (July 1 – Dec 31) & (Jan 1 – June 30) Annual (July 1 – June 30)	5% discount on 6-month advance payment 10% discount on 12-month advanced payment	5% discount on 6-month advance payment 10% discount on 12-month advance payment

STATTER HARBOR		
	Effective thru June 30, 2019	Effective July 1, 2019
Skiff	\$300 per calendar year	\$300 per calendar year
Daily	55¢ per foot	57¢ per foot
Calendar Month	\$7.15 per foot	\$7.30 per foot
Bi-Annual (July 1 – Dec 31) & (Jan 1 – June 30) Annual (July 1 – June 30)	5% discount on 6-month advance payment 10% discount on 12-month advanced payment	5% discount on 6-month advance payment 10% discount on 12-month advance payment
Reservations (May 1 – Sept 30)	Fishing Vessels Other Vessels <65' Other Vessels ≥ 65' Other Vessels ≥200'	\$0.75 per foot \$1.50 per foot per day \$2.50 per foot per day \$3.00 per foot per day

INTERMEDIATE VESSEL FLOAT (IVF)		
	Effective thru June 30, 2019	Effective July 1, 2019
Daily (Oct. 1 – Apr. 30)	55¢ per foot	57¢ per foot
Monthly (Oct. 1 – Apr. 30)	\$4.25 per foot	\$4.40 per foot
Reservations (May 1 – Sept 30)	Fishing Vessels Other Vessels <65' Other Vessels ≥ 65' Other Vessels ≥200'	\$0.75 per foot \$1.50 per foot per day \$2.50 per foot per day \$3.00 per foot per day

Residence Surcharge

Per Month	\$69 +\$23/person above four persons
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- A 5% City & Borough of Juneau sales tax may apply to all fees

Launch Ramp Rates

Recreational – Calendar Year (includes Kayaks) Matching registrations are required to obtain two additional permits. Please see 05 CBJAC 20.060 – Recreational Boat Launch Fees.	\$90 \$5 per additional permit
Recreational – Day	\$15
Commercial – Calendar Year	\$250 per trailer
Commercial – Day	\$30
Freight Use – Commercial	Up to 1 hour \$60 Over 1 hour \$30 for each additional hour

Parking Rates

Douglas, Harris, Aurora Harbors	Free w/ permit (permits available at Aurora Harbormaster’s office)
Statter Harbor – Summer (May, June, July, August, September)	\$1 per hour/\$5 per calendar day
Statter Harbor – Winter (October through April)	Free w/permit (permits available at Statter Harbor office)
Downtown Taku Lot - Summer	\$2 per hour/3 hour limit

Shorepower

Connection Type	Daily Fee
20 amp (120V, 1 phase)	\$6.00
30 amp (120V, 1 phase)	\$9.00
50 amp (208V, 1 phase)	\$25.00
100 amp (208V, 3 phase)	\$86.00
100 amp (480V, 3 phase)	\$198.00

Connection Type	Summer Liveaboard Monthly	Summer Non-Liveaboard Monthly
20 and 30 amp	\$90.00	\$54.00
50 amp	\$180.00	\$108.00
100 amp/208 volt	\$420.00	\$252.00

Connection Type	Winter Liveaboard Monthly	Winter Non-Liveaboard Monthly
20 amp	\$120.00	\$72.00
30 amp	\$162.00	\$96.00
50 amp	\$300.00	\$180.00
100 amp/208 volt	\$720.00	\$420.00

Services Provided

Power

- Potable water (Year round downtown and Statter A&B Floats)
- Restrooms (Aurora Harbor, Harris Harbor & Statter Harbor)
- Showers (Harris Harbor & Statter Harbor)
- Free Sewage pump-out (Aurora, Douglas, Harris, and Statter)
- Sewage pump-out cart available at Aurora Harbor & Douglas Harbor
- Harris Harbor Grid (Fee: \$1.00 per foot per day)**
- Please make Grid reservation at Aurora Harbor Office***

**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)**

**ORDER UNDER SECTIONS 361 & 365
OF THE PUBLIC HEALTH SERVICE ACT (42 U.S.C. 264, 268) AND
42 CODE OF FEDERAL REGULATIONS
PART 70 (INTERSTATE) AND PART 71 (FOREIGN):**

**FRAMEWORK FOR CONDITIONAL SAILING AND
INITIAL PHASE COVID-19 TESTING REQUIREMENTS
FOR PROTECTION OF CREW**

Executive Summary

The Centers for Disease Control and Prevention (CDC), a component of the U.S. Department of Health and Human Services (HHS), announces this framework for a phased resumption of cruise ship passenger operations. Considering the continued spread of COVID-19 worldwide and increased risk of COVID-19 on cruise ships, a careful approach is needed to safely resume cruise ship passenger operations. CDC is establishing requirements to mitigate the COVID-19 risk to passengers and crew, prevent the further spread of COVID-19 from cruise ships into U.S. communities, and protect public health and safety. After expiration of CDC's No Sail Order (NSO) on October 31, 2020, CDC will take a phased approach to resuming cruise ship passenger operations in U.S. waters.

The initial phases will consist of testing and additional safeguards for crew members. CDC will ensure cruise ship operators have adequate health and safety protections for crew

members while these cruise ship operators build the laboratory capacity needed to test future passengers. Subsequent phases will include simulated voyages to test cruise ship operators' ability to mitigate COVID-19 risk, certification for ships that meet specific requirements, and a phased return to cruise ship passenger voyages in a manner that mitigates COVID-19 risk among passengers, crew members, and U.S. communities. These phases are subject to change based on public health considerations and cruise ship operators' demonstrated ability to mitigate COVID-19 risk. CDC will issue additional orders as needed that will be published in the Federal Register and technical instructions that will be subsequently posted on CDC's website.

This Order additionally announces requirements for the initial phases relating to crew testing. CDC considers adequate crew safeguards as demonstrated through laboratory testing for SARS coronavirus 2 (SARS-CoV-2), the virus that causes COVID-19, an integral part of the initial phases prior to resuming passenger operations.

Previous Orders and Incorporation by Reference

The findings and other evidence relied upon in issuing the No Sail Order and Other Measures Related to Operations signed by the CDC Director on March 14, 2020,¹ as further

¹ No Sail Order and Suspension of Further Embarkation.
<https://www.federalregister.gov/documents/2020/03/24/2020-06166/no-sail-order-and-suspension-of-further-embarkation>. Last accessed October 19, 2020.

modified and extended effective April 15, 2020,² July 16, 2020,³ and September 30, 2020⁴—are incorporated herein by reference.

Statement of Intent

This Order shall be interpreted and implemented in a manner as to achieve the following paramount objectives:

- Preserving human life;
- Preserving the health and safety of cruise ship crew members, port personnel, and communities;
- Preventing the further introduction, transmission, and spread of COVID-19 into and throughout the United States;
- Preserving the public health and other critical resources of Federal, State, and local governments;
- Preserving hospital, healthcare, and emergency response resources within the United States; and
- Maintaining the safety of shipping and harbor conditions.

Acronyms, Initialisms, and Definitions

² No Sail Order and Suspension of Further Embarkation; Notice of Modification and Extension and Other Measures Related to Operations. <https://www.federalregister.gov/documents/2020/04/15/2020-07930/no-sail-order-and-suspension-of-further-embarkation-notice-of-modification-and-extension-and-other>. Last accessed October 19, 2020.

³ No Sail Order and Suspension of Further Embarkation, Second Modification and Extension of No Sail Order and Other Measures Related to Operations. <https://www.federalregister.gov/documents/2020/07/21/2020-15810/no-sail-order-and-suspension-of-further-embarkation-second-modification-and-extension-of-no-sail>. Last accessed October 19, 2020.

⁴ No Sail Order and Suspension of Further Embarkation; Third Modification and Extension of No Sail Order and Other Measures Related to Operations. <https://www.federalregister.gov/documents/2020/10/05/2020-22030/no-sail-order-and-suspension-of-further-embarkation-third-modification-and-extension-of-no-sail>. Last accessed October 19, 2020.

(a): The acronyms and initialisms below will have the following meaning:

aCLI means additional COVID-like illness signs and symptoms as defined by the Council of State and Territorial Epidemiologists (CSTE) and that are not included in the definitions of ARI, ILI, or pneumonia, or as defined by CDC in technical instructions. CDC will use the most current CSTE definition in effect, which may be found at:

<https://www.cdc.gov/nndss/conditions/coronavirus-disease-2019-covid-19/>

ARI means Acute Respiratory Illness defined as the presence of cough, sore throat, or runny nose (rhinorrhea) in the absence of fever and in the absence of a non-infectious diagnosis (e.g., allergies) as determined by the ship's medical provider, or as defined by CDC in technical instructions.

CLI means COVID-like Illness.

CDC means U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, or an authorized representative acting on its behalf.

EDC means Enhanced Data Collection.

ILI means influenza-like illness defined as fever (≥ 100.4 °F [38 °C]) plus either cough or sore throat or as defined by CDC in technical instructions.

USCG means United States Coast Guard, Department of Homeland Security.

(b): The terms below will have the following meaning:

Controlled Free Pratique has the same meaning as under 42 C.F.R. § 71.1.

COVID-19 means the disease caused by the coronavirus SARS-CoV-2.

COVID-like Illness means ARI, ILI, pneumonia, aCLI, or other signs or symptoms of COVID-like illness as defined by CDC in technical instructions.

Crew or Crew member means any individual serving on board a cruise ship who is assigned to perform regular duties or tasks on behalf of a cruise ship operator in exchange for compensation.

Cruise ship means any commercial, non-cargo, passenger-carrying vessel operating in U.S. waters with the capacity to carry 250 or more individuals (passengers and crew) with an itinerary anticipating an overnight stay onboard or a twenty-four (24) hour stay onboard for either passengers or crew.⁵

Cruise ship operator means the master of the vessel (cruise ship) and any other crew member responsible for cruise ship operations and navigation, as well as any person or entity (including a corporate entity) that authorizes or directs the use of a cruise ship (e.g., as owner, lessee, or otherwise). A cruise ship operator may also include the cruise ship captain or the cruise line to which the cruise ship belongs, and the officers and directors of the cruise line.

Director means the Director of the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, or an authorized representative.

Isolation means measures taken by a cruise ship operator to ensure the onboard or onshore separation of passengers or crew displaying signs or symptoms of COVID-19, or who have tested positive SARS-CoV-2, from other passengers or crew who do not display such signs or symptoms or have not tested positive for SARS-CoV-2.

Laboratory Testing or Laboratory Test Results means testing performed in a laboratory certified as meeting the standards of the Clinical Laboratory Improvement Amendments (CLIA)

⁵ Cruise ships are defined in the same manner as in CDC's No Sail Orders, as extended and modified, that were issued between March 14 and September 30, 2020. CDC continues to define cruise ships in this manner based on substantial epidemiologic evidence related to congregate settings and mass gatherings. While evidence shows that outbreaks can occur in small settings such as nursing homes, as the numbers of passengers and crew on board a ship increase, certain recommended mitigation efforts such as social distancing become more difficult to implement. Considering the demonstrated rapid spread of COVID-19, the application of this framework to cruise ships carrying 250 or more passengers and crew remains prudent and warranted.

of 1988 (42 U.S.C. 263a) and 42 CFR 493 or CLIA-waived point-of-care testing or the results of such testing. Testing must be performed using tests that are approved, cleared, or authorized for emergency use by the U.S. Food and Drug Administration (FDA) as specified by CDC in technical instructions or orders.

Operate or Operating in U.S. waters means any action by a cruise ship operator to bring or cause a cruise ship to be brought into or transit in or between any waterways (e.g., shifting berths, moving to anchor, discharging waste, making port, or embarking or disembarking passengers or crew) subject to the jurisdiction of the United States.

Passenger means any individual being transported or offered transport on board a cruise ship who is not a crew member, excluding U.S. government personnel.

Passenger operations means any action by a cruise ship operator to cause passengers to embark or disembark a cruise ship.

Person means any individual or partnership, firm, company, corporation, association, organization, or other legal entity.

Quarantine means measures taken by a cruise ship operator to ensure the onboard or onshore separation and restriction of movement of passengers or crew who were potentially exposed to a person with COVID-19 while that person was considered infectious.

Responsible officials means the Chief Executive Officer (or equivalent) of the operating cruise company and all parent companies, the Chief Compliance Officer (or equivalent) of the operating cruise company and all parent companies, and the highest-ranking Medical Officer of the operating cruise company and all parent companies.

Simulated voyage means a mock voyage or series of mock voyages designed and implemented in so far as possible to replicate real world onboard conditions of cruising with measures in place to mitigate the risk of COVID-19.

Social distancing means maintaining a distance of at least 6 feet between one individual and another individual, not gathering in groups, and avoiding crowded places and mass gatherings.

U.S. waters means any international, interstate, or intrastate waterways that are subject to the jurisdiction of the United States.

Background and Need to Establish a Framework for Mitigating the Risk of COVID-19

Onboard Cruise Ships Prior to Resuming Passenger Operations

The coronavirus disease 2019 (COVID-19) pandemic continues to spread rapidly around the world with no U.S. Food and Drug Administration (FDA) authorized vaccine. As of October 30, 2020, a cumulative total of over 44 million cases and nearly 1.2 million confirmed deaths have now been reported worldwide. Even in countries that have managed to slow the rate of transmission, the risks for COVID-19 resurgence remains. In the United States, as of October 29, 2020, there have been over 8.8 million cases and over 227,000 confirmed deaths. Based on the evidence gathered and explained in the No Sail Order issued on March 14, as modified and extended on April 15, July 16, and September 30, 2020, there is ample reason to believe that absent mitigation measures of the type needed to prevent further transmission, cruise ship travel has the potential to exacerbate and amplify the spread of SARS coronavirus 2 (SARS-CoV-2) the virus that causes COVID-19.

Unrestricted cruise ship travel would likely exacerbate and amplify the spread of SARS coronavirus 2 (SARS-CoV-2) the virus that causes COVID-19. On January 20, 2020, the *Diamond Princess* cruise ship departed Yokohama, Japan. On January 25, 2020, a symptomatic passenger departed the ship in Hong Kong, where he was later confirmed to have COVID-19. Upon the ship's return to Yokohama, Japanese authorities quarantined all passengers and crew

on board the ship. Among the 3,711 *Diamond Princess* passengers and crew, 712 (19.2%) were subsequently confirmed to have COVID-19, 37 required intensive care, and nine died. Following this outbreak, two voyages of the *Grand Princess* cruise ship were ultimately associated with 159 confirmed COVID-19 cases, including eight deaths.⁶

Because of these events, and the increased risk of transmission on cruise ships, on March 14, 2020, the CDC Director issued a *No Sail Order and Other Measures Related to Operations* directing cruise ships not voluntarily suspending operations to comply with certain measures (85 FR 16628). This followed a March 13, 2020, announcement by Cruise Line International Association (CLIA), the leading industry trade group, that its members would voluntarily suspend cruise ship operations. On March 17, 2020, CDC issued a Level 3 Travel Health Notice warning all travelers to defer cruise travel worldwide based on widespread ongoing transmission of COVID-19.⁷ Despite the announcement by CLIA, the application of the March 14, 2020 Order, and the Level 3 Travel Health Notice, cruise ships continued to be associated with new COVID-19 outbreaks. Between March 14 and April 15, 2020, COVID-19 outbreaks were reported on several additional cruise ships with passengers (85 FR 21004).

Accordingly, to protect public health and safety and prevent the further introduction, transmission, and spread of COVID-19 into and throughout the United States, the CDC Director issued *No Sail Order and Suspension of Further Embarkation; Notice of Modification and Extension and Other Measures Related to Operations*, modifying and extending the previous March 14, 2020 Order, which became effective on April 15, 2020 (85 FR 21004). Under the

⁶ Moriarty LF, Plucinski MM, Marston BJ, et al. Public Health Responses to COVID-19 Outbreaks on Cruise Ships — Worldwide, February–March 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:347-352. <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e3.htm>. Last accessed June 25, 2020.

⁷ CDC Travel Health Notice, *COVID-19 and Cruise Ship Travel*, at: <https://wwwnc.cdc.gov/travel/notices/warning/coronavirus-cruise-ship> (originally posted, March 17, 2020). Last accessed June 25, 2020.

April 15, 2020 Extension, as a condition of obtaining controlled free pratique⁸ to continue to engage in cruise ship operations in any international, interstate, or intrastate waterways subject to the jurisdiction of the United States, cruise ship operations were limited, and cruise lines were required to submit plans to prevent, mitigate, and respond to the spread of COVID-19 on board to ensure a safe work environment and disembarkation for crew members. A cruise ship operator's No Sail Order response plan had to minimize to the greatest extent possible any impact on U.S. Government operations or the operations of any State or local government, or the U.S. healthcare system. While working with cruise ship operators to ensure the completeness and accuracy of these response plans, CDC allowed crew members to disembark from cruise ships in U.S. waters and return home if cruise ship operators formally attested, in writing, to complying with requirements to disembark crew members in such a manner as to minimize the risk to other travelers and communities.

Following the April 15, 2020 Extension, CDC published its *Interim Guidance for Mitigation of COVID-19 Among Cruise Ship Crew* to assist cruise ship operators in preventing, detecting, and medically managing confirmed and suspected SARS-CoV-2 infections and exposures among crew members.⁹ During this period, CDC also further assisted cruise ship operators with humanitarian medical evacuations for people in need of lifesaving support. Under the April 15, 2020 Extension, CDC established an enhanced surveillance process to provide a more complete picture of COVID-19 activity on cruise ships through a requirement for weekly submission of the "Enhanced Data Collection (EDC) During COVID-19 Pandemic Form (OMB Control Number 0920-0134, exp. 03/31/2022)". Since then, the EDC form has been used to

⁸ Under 42 C.F.R. § 71.1, controlled free pratique means permission for a carrier to enter a U.S. port, disembark, and begin operation under certain stipulated conditions.

⁹ CDC, *Interim Guidance for Mitigation of COVID-19 Among Cruise Ship Crew* at: <https://www.cdc.gov/quarantine/cruise/management/interim-guidance-no-sail-order.html>

conduct surveillance for COVID-19 among crew who remained on board cruise ships based on cumulative reports of acute respiratory illness (ARI),¹⁰ influenza-like illness (ILI),¹¹ pneumonia, and other clinical indicators of COVID-19 (85 FR 62732).

As of October 30, 2020, EDC reports have shown a total of 6,725 polymerase chain reaction (PCR) tests performed, 296 (4%) of which were positive; 24 hospitalizations; 2 instances of mechanical ventilation; and 15 medical evacuations for crew on ships within U.S. jurisdiction since April 15, 2020. CDC also recommended that ships' surveillance include routine testing for SARS-CoV-2 infection, including intermittent testing of a random sample of symptomatic and asymptomatic crew members.

In addition to reviewing the No Sail Order response plans, CDC continued to update its *Interim Guidance* as new information became available; provided technical expertise to ships with ongoing outbreaks; created cruise ship-specific websites to inform crew members, the public, and partners; and reviewed hundreds of written attestations submitted by cruise operators for safe disembarkation and transfer of crew members.

CDC established a "COVID-19 Color Coding System" for ships applicable to cruise ship operators with an appropriate No Sail Order response plan for crew management. Classification of ships under this system requires cruise company officials to sign an acknowledgment of the completeness and accuracy of their No Sail Order response plans upon completion of CDC review of the plan. CDC assesses the status of a ship by reviewing surveillance data from the weekly EDC form as well as recent embarkations or crew transfers. Additional details regarding the color-coding system and color coding status for individual ships (which is updated weekly)

¹⁰ Acute Respiratory Illness (ARI) is defined as the presence of cough, sore throat, or rhinorrhea in the absence of fever.

¹¹ Influenza-like Illness (ILI) is defined as fever (100.4 °F [38 °C]) plus either cough or sore throat.

may be found at <https://www.cdc.gov/coronavirus/2019-ncov/travelers/crew-disembarkations-commercial-travel.html>.

To continue to protect public health and safety, and prevent the further introduction, transmission, and spread of COVID-19 into and throughout the United States, the CDC Director signed a *Second Modification and Extension of No Sail Order and Other Measures Related to Operations* on July 16, 2020, (85 FR 44085), and *Third Modification and Extension of No Sail Order and Other Measures Related to Operations* on September 30, 2020, (85 FR 62732). This last order, among other things, continued to suspend passenger operations on board cruise ships through October 31, 2020.

Current scientific evidence suggests that, absent mitigation measures of the type needed to prevent further transmission, cruise ships would continue to pose a greater risk of COVID-19 transmission than other settings. A recent article published in the *Journal of Travel Medicine* by Rocklöv et al. demonstrated that the *Diamond Princess* cruise ship experienced an onboard R_0 (basic reproduction rate) for COVID-19 of 14.8 before ship-wide quarantine was enacted.¹² This means that each case onboard the *Diamond Princess* transmitted COVID-19 to approximately 15 other people. This reproduction rate is approximately four times higher than the R_0 of the original epicenter of the outbreak in Wuhan, China, which was 3.7, meaning that each person with COVID-19 in the early days of the outbreak in Wuhan transmitted the disease to approximately four other people. In late February/early March, 149 cases of PCR-confirmed COVID-19 (of 589 tour participants) were found among U.S. residents linked to Egyptian Nile Cruises. This heightened rate of transmission onboard cruise ships has also been documented in

¹² Rocklöv J, Sjödin H, Wilder-Smith A. COVID-19 Outbreak on the Diamond Princess Cruise Ship: Estimating the Epidemic Potential and Effectiveness of Public Health Countermeasures. *J. Travel Med.* 2020; 18;27(3):taaa030. doi: 10.1093/jtm/taaa030.

other academic publications.^{1,13} Absent appropriate interventions to mitigate the spread of COVID-19, cruise ship conditions would likely amplify the spread of an already highly transmissible disease.

Rocklöv et al. surmised that this heightened rate of transmission is due to the high population density on board ships, which are typically more densely populated than cities or most other living situations. While this is one contributing factor, CDC's surveillance data collected through the EDC form and acquired during the period of the No Sail Order show that drastically decreasing population on board, absent other interventions, is not enough to extinguish transmission. Other factors likely contributing to onboard transmission are crews' living and working in close quarters, in a partially enclosed environment, and where social distancing may prove challenging even with a limited number of people onboard.

In addition, the recent investigation by Payne et al. of transmission onboard a U.S. Navy ship demonstrated high transmission rates and high rates of mild disease and asymptomatic infection among crew.⁸ These mild presentations and asymptomatic cases make case detection and isolation and quarantine practices based on clinical presentation alone challenging. Thus, covert spread of infection among crew may keep the virus circulating from one voyage to the next. This again stresses the need for appropriate interventions, including routine laboratory testing of crew, prior to restarting passenger operations.

Several cruise ship operators have taken steps to improve their public health response to COVID-19. For example, under the co-chairmanship of former Health and Human Services Secretary, Michael O. Leavitt, and former FDA Commissioner, Dr. Scott Gottlieb, two cruise lines, Royal Caribbean Group and Norwegian Cruise Line Holdings, assembled a "Healthy Sail

¹³ Payne DC, Smith-Jeffcoat SE, Nowak G, et al. SARS-CoV-2 Infections and Serologic Responses from a Sample of U.S. Navy Service Members — USS Theodore Roosevelt, April 2020. *MMWR Morb Mortal Wkly Rep* 2020;69:714–721. DOI: <http://dx.doi.org/10.15585/mmwr.mm6923e4>.

Panel” of subject-matter experts from a variety of disciplines. The World Travel & Tourism Council (WTTC) and Carnival Corporation also recently hosted a global science summit on COVID-19 designed, “to inform practical, adaptable and science-based solutions for mitigating and living with COVID-19.” MSC Cruises further established its own industry-led panel with “competency to review policy initiatives, technical innovations, or operational measures related to COVID-19.”

To gather more information regarding industry-led efforts to respond to COVID-19 and solicit public input, on July 20, 2020, CDC published a Request for Information (RFI) in the Federal Register related to cruise ship planning and infrastructure, resumption of passenger operations, and additional summary questions (85 FR 44083). The document had a 60-day comment period that ended on September 21, 2020 and nearly 13,000 comments were received.

Respondents to the RFI included members of the public, the cruise industry, seaport authorities, and the travel and hospitality industries. A majority of respondents (approximately 75%) expressed support for the resumption of passenger cruising in the U.S. Most of these commenters, however, expressed the need for increased public health measures, including health screening, testing, mask use, social distancing, travel insurance, refunds, and shipboard public health capacity as important steps to take before cruising resumes. Approximately 25% of respondents, including many previous cruise passengers, were in favor of delaying the resumption of passenger cruising because of the current state of the pandemic, and supported waiting until a vaccine is widely available.

Comments received related to the reduction of number of passengers, the need for routine testing of passengers and crew, social distancing, coordination between CDC and the cruise industry, limiting ports of call to private islands, agreements with local public health and medical facilities, and the economic benefits of cruising. Approximately 98% of respondents supported

cruise ship operators denying boarding to passengers with COVID-like illness or confirmed COVID-19 infection, while approximately 65% of respondents supported denying boarding to passengers with known COVID-19 exposure in the previous 14 days before embarkation. A majority of respondents (74%) also supported requiring that cruise ship operators test passengers and crew prior to embarkation. Furthermore, approximately 90% of respondents supported cruise ship operators reducing passenger and crew loads to reduce the risk of COVID-19 transmission, while approximately 85% supported the wearing of face masks by passengers. While CDC bases its public health determinations on the best available science and not on public opinion, the willingness of the public to accept measures to mitigate the risk of transmitting COVID-19 onboard cruise ships is noteworthy. Accordingly, CDC carefully considered these comments in drafting this framework.

CDC also considered alternatives to this framework. One alternative considered was allowing cruise ship operators to return to unrestricted passenger operations without any public health oversight. This alternative was deemed unacceptable because cruise ship travel is known to contribute to COVID-19 transmission. Furthermore, mild presentations and asymptomatic cases make case detection and isolation and quarantine practices challenging absent robust testing. Thus, covert spread of infection among crew may keep the virus circulating from one voyage to the next and passengers infected on cruise ships could further spread COVID-19 into U.S. communities by traveling interstate after cruising. This would have the effect of increasing morbidity and mortality, and burdening federal, state, and local medical and public health infrastructure. This again stresses the need for appropriate public health oversight.

Public health oversight is further needed to correct a market failure stemming from information asymmetry, i.e., the public is often not fully informed in such a way to adequately determine the extent to which any given measure mitigates their personal risk, particularly in

light of asymptomatic cases. CDC is therefore overcoming this market failure by ensuring that the measures taken by cruise ship operators are those that are most likely to adequately mitigate such risks.

Another alternative considered was continuing to issue No Sail Orders as occurred between March 14 and September 30, 2020. However, this alternative was not found to be as optimal as the current framework. The benefits of this framework outweigh the costs of not allowing cruise ships to sail because it allows for flexibility where cruise ships have taken the necessary precautions to mitigate risk, while continuing to prohibit passenger operations onboard ships that have failed to implement such precautions. As such, the current framework represents a tailored approach that was determined to be preferable to the status quo No Sail Order. This framework allows for individual cruise lines to progress through phases at variable paces. This enables cruise lines successfully implementing public health measures to return to passenger operations more quickly while others by necessity may move more slowly. The framework not only encourages cruise lines that are more successful at mitigating the spread of COVID-19 but provides a realistic timeline that anticipates COVID-19 continuing to be present and affecting cruise ship travel.

While the actions taken by some cruise ship operators to improve their public health response to COVID-19 are encouraging, ongoing public health oversight is needed to ensure uniform standards for mitigating the communicable disease risk to crew and prospective passengers. The public health measures in this framework reflect CDC's considered views as to the minimum standards that must be in place prior to resuming passenger operations in a way that will mitigate the risk of COVID-19.

CDC intends to take a phased approach to resuming passenger operations. These phases include: (1) establishment of laboratory testing of crew onboard cruise ships in U.S. waters; (2)

simulated voyages designed to test a cruise ship operators' ability to mitigate COVID-19 on cruise ships; (3) a certification process; and (4) a return to passenger voyages in a manner that mitigates the risk of COVID-19 introduction, transmission, or spread among passengers and crew onboard ships and ashore to communities. These phases will be further determined based on public health considerations including the trajectory of COVID-19 transmission and the demonstrated ability of cruise ship operators to successfully employ measures that mitigate the risk of COVID-19.

As part of the initial crew testing phases, this Order additionally contains requirements for: (1) shoreside COVID-19 laboratory screening testing of all crew currently onboard; (2) onboard diagnostic testing capabilities for symptomatic travelers (crew and future passengers); (3) shoreside COVID-19 laboratory screening testing of all newly embarking crew; and (4) continued compliance by cruise ship operators with their complete, accurate, and acknowledged, No Sail Order Response Plans.

Findings and Immediate Action

The continued spread of the COVID-19 pandemic worldwide, risk of resurgence in countries that have suppressed transmission, and ongoing concerns related to the restart of cruising, supports the establishment of a framework designed to mitigate the risk of COVID-19 onboard cruise ships.

Accordingly, and consistent with 42 CFR §§ 70.2, 71.31(b), and 71.32(b), the Director of CDC ("Director") continues to find that absent measures of the type needed to mitigate further transmission, cruise ship travel exacerbates the global spread of COVID-19, that the scope of this pandemic is inherently and necessarily a problem that is international and interstate in nature, and such transmission has not been controlled sufficiently by the cruise ship industry or

individual State or local health authorities. As described in the March 14, 2020, Order, as further modified and extended on April 15, 2020, July 16, 2020, and September 30, 2020, cruise ship travel markedly increases the risk and impact of the COVID-19 disease epidemic within the United States. If unrestricted cruise ship passenger operations were permitted to resume, infected and exposed persons disembarking cruise ships would place federal partners (e.g., Customs and Border Protection and the U.S. Coast Guard), healthcare workers, port personnel, and communities at substantial unnecessary risk. Unrestricted cruise ship travel would also divert and overburden scarce federal, state, and local, public health and healthcare resources during a pandemic.

The Director also continues to find evidence to support a reasonable belief that cruise ships are or may be infected or contaminated with a quarantinable communicable disease.¹⁴ This reasonable belief is based on information from epidemiologic and other data included in this document and the information described in the March 14, 2020, Order and the April 15, July 16, and September 30 2020, modifications and extensions. As a result, absent measures of the type needed to mitigate further transmission, persons on board or seeking to board cruise ships may likely be or would likely become infected with or exposed to COVID-19 by virtue of being on board at a time when cases of COVID-19 continue to be reported in increasingly significant numbers globally.¹⁵ Additionally, persons infected on cruise ships would be likely to transmit COVID-19 to U.S. communities by traveling interstate after cruising.

¹⁴ COVID-19 is a communicable disease for which quarantine is authorized under Section 361 of the Public Health Service Act (42 U.S.C. § 264) and 42 CFR §§ 70.1, 71.1, as listed in Executive Order 13295, as amended by Executive Orders 13375 and 13674.

¹⁵ Since the March 14, 2020, Order, the number of global cases of COVID-19 reported by the World Health Organization (WHO) has risen from 142,534 to more than 44 million as of October 30, 2020, with nearly 1.2 million deaths. *See* Situation Reports, WHO, <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports>.

Accordingly, under 42 CFR § 70.2, the Director determines that measures taken by State and local health authorities regarding COVID-19 onboard cruise ships are inadequate to prevent the further interstate spread of the disease. Cruise ships by their very nature travel interstate and internationally and can move beyond the jurisdictional boundaries of any single state or local health authority. Furthermore, local transmission of COVID-19 onboard a cruise ship can escalate quickly into additional interstate and international transmission when infected persons travel. Therefore, federal intervention is needed to require public health measures to prevent the further introduction, transmission, or spread of COVID-19 via cruise ships globally and into U.S. communities.

This Order is not a rule within the meaning of the Administrative Procedure Act (“APA”), but rather an emergency action taken under the existing authority of 42 CFR §§ 70.2, 71.31(b), and 71.32(b). CDC published a Request for Information (RFI) in the Federal Register that solicited and obtained public comment related to cruise ship planning and infrastructure, resumption of passenger operations, and additional summary questions (85 FR 44083). In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because CDC has already obtained public comment and good cause exists to dispense with prior public notice and the opportunity to further comment on this Order.¹⁶ Considering the public health emergency caused by COVID-19 based on, among other things, its potential for spread on board cruise ships, it would be impracticable and contrary to the public’s health, and by extension the public’s interest, to delay the issuance and effective date of this Order. Similarly, if this Order qualifies as a rule per the definition in the APA, the Office of Information and Regulatory Affairs has determined that it would be a major rule, but there

¹⁶ See 5 U.S.C. §§ 553(b)(B), (d)(3).

would not be a delay in its effective date as the agency has invoked the good cause provision of the APA.

If any provision in this Order, or the application of any provision to any carriers, persons, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any carriers, persons, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

In accordance with 42 U.S.C. § 264(e), this Order shall supersede any provision under State law (including regulations and provisions established by political subdivisions of States), that conflict with an exercise of Federal authority, including instructions by U.S. Coast Guard or HHS/CDC personnel permitting ships to make port or disembark persons under stipulated conditions, under this Order.

This Order shall be enforceable through the provisions of 18 U.S.C. §§ 3559, 3571; 42 U.S.C. §§ 243, 268, 271; and 42 CFR §§ 70.18, 71.2.

Therefore, in accordance with Sections 361 and 365 of the Public Health Service Act (42 U.S.C. §§ 264, 268) and 42 CFR §§ 70.2, 71.31(b), 71.32(b), for all cruise ships described above for the period described below, it is **ORDERED**:

Framework for Conditional Sailing

Purpose and Scope.

(a) *Purpose.* The purpose of this framework is to prevent the further introduction, transmission, and spread of COVID-19 into and throughout the United States via cruise ships. These requirements are in addition to other requirements in regulations or actions taken by HHS/CDC to prevent the introduction, transmission, and spread of communicable diseases under 42 U.S.C. § 264 and 42 CFR part 70 and 42 CFR part 71.

(b) *Scope*. This framework applies to any person operating or intending to operate a cruise ship in U.S. waters and to any person operating a cruise ship outside of U.S. waters if the cruise ship operator intends for the ship to return to operating in U.S. waters while this Order remains in effect.

(1) Upon request, cruise ship operators must make their properties and records available for inspection to allow CDC to ascertain compliance with this framework. Such properties and records include but are not limited to vessels, facilities, vehicles, equipment, communications, manifests, list of passengers, and employee and passenger health records.

(2) CDC may enforce any of the provisions of this framework through additional orders published in the Federal Register and issue additional technical instructions as needed.

(3) Nothing in this framework supersedes or preempts enforcement of emergency response requirements imposed by statutes or other regulations.

(4) Cruise ship operators may use the services of professionally licensed and accredited third-party auditors to assist them in meeting the requirements of this framework.

Notwithstanding, the cruise ship operator's responsible officials maintain an overall duty and responsibility for meeting the requirements of this framework, including the requirements of any technical instructions or orders. Third-party auditors are prohibited from interfering with CDC's ability to inspect and conduct oversight under this framework, including but not limited to interfering with CDC's ability to interview cruise ship crew and personnel or visually inspect and oversee collection of laboratory specimens and laboratory testing.

Requirements for Protection of Crew for Cruise Ship Operators Operating or Intending to Operate Cruise Ships in U.S. Waters.

(a) A cruise ship operator subject to this Order must meet the requirements of this framework as a condition of obtaining or retaining controlled free pratique for operating a cruise ship in U.S. waters or if the cruise ship operator is operating a cruise ship outside of U.S. waters and intends for the ship to return to operating in U.S. waters while this Order remains in effect. These requirements must additionally be met as a condition of obtaining or retaining controlled free pratique for conducting a simulated voyage or applying for a COVID-19 Conditional Sailing Certificate.

(1) The cruise ship operator must have received a determination by CDC that a plan submitted in response to the No Sail Order and Suspension of Further Embarkation; Notice of Modification and Extension and Other Measures Related to Operations published at 85 FR 21004 (April 15, 2020) (i.e., “No Sail Order response plan”), as modified and extended July 16, 2020 (published at 85 FR 44085 (July 21, 2020)), and September 30, 2020 (published at 85 FR 62732 (October 5, 2020)) is complete and accurate, including having submitted to CDC a signed Acknowledgment of No Sail Order Response Plan Completeness and Accuracy.

(2) Cruise ships operating in U.S. waters must continue to submit the EDC form as specified in CDC technical instructions or orders. Cruise ship operators with ships that have not been in U.S. waters during the period of March 14 through October 31, 2020, or who voluntarily withdrew their ships during this time period, and who wish to operate those ships in U.S. waters during the period that this framework remains in effect, must additionally submit the EDC form during (at a minimum) the 28 days preceding those ships’ expected arrival in U.S. waters and continue to submit the EDC form after the ships’ entering U.S. waters.

(3) The cruise ship operator has observed and will continue to observe all elements of its No Sail Order response plan including by following the most current CDC recommendations and guidance for any public health actions related to COVID-19, or if any deviations from the plan

have occurred such deviations have been reported and corrective actions taken to the satisfaction of CDC.

(4) The cruise ship operator has arranged for and submitted and will continue to arrange for and submit such laboratory test results as may be required by CDC for every crew member on board ships operating in U.S. waters and/or operating outside of U.S. waters if the cruise ship operator intends for the ship to return to operating in U.S. waters at any time while this Order remains in effect. Laboratory testing for every crew member must be conducted on a weekly basis or at such other intervals as required by CDC in technical instructions or orders. CDC may conduct oversight of specimen collection, testing, and laboratory procedures, as necessary.

(5) If the cruise ship received any ship-to-ship transfers in the last 28 days, crew were only transferred from a cruise ship with no confirmed COVID-19 or COVID-like illness during the 28 days before the transfer occurred.

(6) If the cruise ship received any land-based embarking crew, such crew were laboratory tested for COVID-19 upon embarkation and quarantined per CDC technical instructions or orders immediately upon embarking the ship.

(7) Following submission of an application for a COVID-19 Conditional Sailing Certificate, the cruise ship operator shall continue to follow these requirements for protection of crew pending approval of the operator's application.

(b) CDC may issue additional requirements through technical instructions or orders relating to a cruise ship operator's processes and procedures for protection of crew.

General Prohibition on a Cruise Ship Operator Commencing or Continuing Passenger Operations without a COVID-19 Conditional Sailing Certificate.

(a) A cruise ship operator shall not commence or continue any passenger operations in U.S. waters without a COVID-19 Conditional Sailing Certificate issued by CDC that meets the requirements in this framework for each cruise ship that the cruise ship operator intends to operate with passengers in U.S. waters.

(b) A cruise ship operator shall not violate the terms or conditions of a COVID-19 Conditional Sailing Certificate issued pursuant to this framework.

(c) As a condition of obtaining or retaining a COVID-19 Conditional Sailing Certificate, the cruise ship operator must be in compliance with CDC's standards for mitigating the risk of COVID-19 onboard the cruise ship as set forth in this framework and in CDC technical instructions or orders.

Agreement with Port and Local Health Authorities.

(a) As a condition of obtaining or retaining controlled free pratique for conducting a simulated voyage or obtaining and retaining a COVID-19 Conditional Sailing Certificate, a cruise ship operator must document the approval of all U.S. port and local health authorities where the ship intends to dock or make port during a simulated voyage or a restricted passenger voyage. Such written approval must include the following:

(1) A medical care agreement between the cruise ship operator and health care entities, addressing evacuation to onshore hospitals for passengers and crew in need of care, in accordance with CDC technical instructions and orders.

(2) A housing agreement between the cruise ship operator and one or more shoreside facilities for isolation and quarantine of COVID-19 cases and close contacts, respectively, identified from the day of embarkation through disembarkation for each voyage, in accordance with CDC technical instructions and orders.

(3) A port agreement between the cruise ship operator and port authority to determine the number of cruise ships at any single port in order to not overburden the public health response resources of any single jurisdiction in the event of a COVID-19 outbreak.

Minimum Standards for Simulated Voyages Prior to Issuance of COVID-19 Conditional Sailing Certificate.

(a) As a condition of applying for a COVID-19 Conditional Sailing Certificate, a cruise ship operator must have successfully conducted a simulated voyage or series of simulated voyages demonstrating the cruise ship operator's ability to mitigate the risks of COVID-19 onboard its cruise ship. A simulated voyage must meet the following requirements:

(1) The cruise ship operators shall inform volunteer passengers in writing that they are participating in a simulation of unproven and untested health and safety protocols for purposes of simulating a cruise ship voyage and that sailing during a pandemic is an inherently risky activity.

(2) All volunteer passengers must be at least eighteen years old or older. The cruise ship operator must also obtain from all volunteer passengers a written certification from a healthcare provider that the volunteer passenger has no pre-existing medical conditions that would place that individual at high risk for COVID-19 as determined through CDC guidance. CDC may issue additional requirements through technical instructions or orders relating to a cruise ship operator's obligation to screen for volunteer passengers who may be at high risk for COVID-19.

(3) The cruise ship operator must conduct any simulation on a consensual basis and not as a condition of employment or in exchange for consideration or future reward. The cruise ship operator must document the informed consent of all participants in writing.

(4) The cruise ship operator must embark additional crew members beyond safe minimum manning levels only as determined through CDC technical instructions or orders.

(5) The cruise ship operator must design and conduct a simulated voyage insofar as practicable to test the efficacy of the cruise ship operator's ability to mitigate the risks of COVID-19 onboard its cruise ship.

(6) The cruise ship operator must conduct a monitored observation period and laboratory testing of volunteer passengers, as directed in CDC technical instructions or orders, prior to embarking volunteer passengers on a simulated voyage.

(7) A simulated voyage must include the following simulated activities:

(i) embarkation and disembarkation procedures, including terminal check-in,

(ii) on board activities, including at dining and entertainment venues,

(iii) private island shore excursions, if any are planned during restricted passenger voyages,

(iv) evacuation procedures,

(v) transfer of symptomatic passengers or crew, or those who test positive for SARS-CoV-2, from cabins to isolation rooms,

(vi) quarantine of all remaining passengers and non-essential crew, and

(vii) other activities as may be listed in CDC technical instructions and orders.

(8) The cruise ship operator must meet standards for hand hygiene, face coverings, and social distancing for passengers and crew, as well as ship sanitation, as may be required by CDC technical instructions or orders.

(9) The cruise ship operator must modify meal service and entertainment venues to facilitate social distancing during the simulated voyage.

(10) The cruise ship operator must conduct laboratory testing of all passengers and crew on the day of embarkation and the day of disembarkation as required by CDC technical instructions or orders. Laboratory test results must be available prior to passengers embarking

and prior to passengers and crew departing for their final destinations after disembarking the ship. Crew and passengers must also be laboratory tested again post-disembarkation as required by CDC technical instructions or orders. Based on public health considerations, CDC may also require additional laboratory testing of passengers and crew and reporting of results, including during a voyage, as required by CDC technical instructions or orders.

(11) The cruise ship operator must immediately conduct laboratory testing of any passengers and crew who report illness consistent with COVID-19 during the simulated voyage with rapid point-of-care results as required by CDC technical instructions or orders. Identified close contacts of cases must also be laboratory tested with rapid point of care results.

(12) CDC may require the cruise ship operator to immediately end the simulated voyage and take other action to protect the health and safety of volunteer passengers and crew if COVID-19 is detected during the simulation.

(13) The cruise ship operator must document any deficiencies in its health and safety protocols through an “after-action” report and address how the cruise ship operator intends to address those deficiencies prior to applying for a COVID-19 Conditional Sailing Certificate. This after-action report must also include test results for any volunteer passengers or crew on the simulated voyage. The after-action report must be submitted to the CDC as soon as practicable at the end of the simulation and as part of the cruise ship operator’s application for a COVID-19 Conditional Sailing Certificate.

(14) Based on CDC’s review of the after-action report and/or cruise ship operator’s application for a COVID-19 Conditional Sailing Certificate, CDC may request that the cruise ship operator modify its practices or procedures and/or engage in additional simulated voyages prior to the issuance of the COVID-19 Conditional Sailing Certificate.

(b) Prior to conducting a simulated voyage in accordance with this section, the cruise ship operator shall provide written notice and request CDC's approval to conduct the simulation. Such written notice must be provided prior to the simulation and specify the time, location, contact information for all individuals or parties involved, and protocols or practices to be simulated.¹⁷

(c) A cruise ship operator shall not apply for approval to conduct a simulated voyage until all of CDC's requirements relating to the protection of crew onboard ships in U.S. waters have been satisfied. The cruise ship operator's responsible officials must sign the application for permission to conduct a simulation and certify under 18 U.S.C. § 1001 that all of CDC's requirements relating to the protection of crew onboard cruise ships in U.S. waters have been satisfied.

(d) CDC will respond to the written notice and request for approval to conduct a simulation in writing in a timely manner. CDC may deny the request to conduct a simulation if the cruise ship operator is not in compliance with any provision of this framework, technical instructions, or orders, or if in CDC's determination the simulation does not provide adequate safeguards to minimize the risk of COVID-19 for all participants.

(e) CDC may conduct such oversight and inspection of simulated voyages as it deems necessary in its discretion, including through in-person or remote means allowing for visual observation.

(f) CDC may issue additional requirements through technical instructions or orders relating to a cruise ship operator's processes and procedures for conducting and evaluating a simulated voyage prior to applying for a COVID-19 Conditional Sailing Certificate.

¹⁷ This written notice should be submitted at least 30 calendar days prior to the date on which the cruise ship operator proposes to conduct the simulation.

Applying for a COVID-19 Conditional Sailing Certificate.

(a) A cruise ship operator must submit the following to CDC prior to commencing restricted passenger operations:¹⁸

(1) A completed CDC registration/application form that must include the signatures of the cruise ship operator's responsible officials;

(2) The name, titles, and contact information for the cruise ship operator's responsible officials and of any third-party auditors.

(3) A completed statement of intent stating the name, carrying capacity for passengers and crew, itinerary, ports of call, length of voyage, and expected onboard or shoreside activities, for the cruise ship that the cruise ship operator intends to have certified for restricted passenger operations.

(4) A copy of the USCG Certificate of Inspection issued in accordance with 46 CFR § 2.01-5 that was in effect for the six months preceding the application.

(5) A certification statement signed under 18 U.S.C. § 1001 by the responsible officials attesting that the cruise ship operator has complied and remains in compliance with CDC's crew protection requirements of prior to applying for a COVID-19 Conditional Sailing Certificate.

(6) A certification statement signed under 18 U.S.C. § 1001 by the responsible officials attesting that the cruise ship operator has adopted health and safety protocols that meet CDC's standards for mitigating the risk of COVID-19 among passengers and crew onboard the cruise ship that will be commencing restricted passenger operations, and will modify these protocols as needed to protect the public's health as required by CDC technical instructions or orders.

¹⁸ These materials should be submitted at least 60 calendar days prior to the date on which the cruise ship operator proposes to commence restricted passenger operations.

(7) A certification statement signed under 18 U.S.C. § 1001 by the responsible officials attesting that the cruise ship operator has sufficient medical and point of care laboratory capabilities and staff on board the cruise ship that will be commencing restricted passenger operations to manage severe COVID-19 cases and outbreaks in exigent circumstances as required by CDC technical instructions or orders.

(8) A certification statement signed under 18 U.S.C. § 1001 by the responsible officials attesting that the cruise ship operator is in compliance with the other requirements contained in this framework for mitigating the risk of COVID-19 on board cruise ships and agrees to continue to comply with these requirements.

Review of an Application for a COVID-19 Conditional Sailing Certificate.

(a) Upon receiving the documentation required by this framework, CDC will review the application for completeness. Based on CDC's determination as to whether the cruise ship operator has met CDC's standards for mitigating the risk of COVID-19 onboard the cruise ship for which the operator intends to commence restricted passenger operations, it shall grant or deny the application. If CDC requires additional information to ascertain whether the cruise ship operator has met CDC's standards for mitigating the risk of COVID-19 on board cruise ships, or if it determines the application to be incomplete, it may hold the application in abeyance pending the submission of such additional information as required by CDC to make such a determination. Applications that are denied may be administratively appealed as described in this framework.

(b) CDC may limit the terms or conditions of a cruise ship operator's COVID-19 Conditional Sailing Certificate in regard to passenger or crew capacity, itinerary, ports of call, length of voyage, onboard or shoreside activities, or in regard to any other passenger, crew, or

cruise ship operations, as needed to the health and safety of passengers and crew or the public's health.

(c) As a condition of obtaining or retaining a COVID-19 Conditional Sailing Certificate, the cruise ship operator must upon request make its properties and records available for inspection to allow CDC to ascertain compliance with this framework. Such properties and records include but are not limited to vessels, facilities, vehicles, equipment, communications, manifests, list of passengers, and employee and passenger health records. The cruise ship operator must also make any crew member or other personnel involved in the operation of a cruise ship available for interview by CDC.

(d) As a condition of obtaining or retaining a COVID-19 Conditional Sailing Certificate, CDC may require a cruise ship operator to submit proof of having been inspected by any other agency or entity with authority, jurisdiction, or oversight over any aspect of a cruise ship operator's operations.

(e) As a condition of obtaining or retaining a COVID-19 Conditional Sailing Certificate, cruise ship operators must establish mechanisms to ensure compliance, including reporting mechanisms to notify CDC and USCG in writing within 24 hours of the occurrence of any deviations, whether intentional, or as a result of error or omission, and take corrective steps to rectify those deviations.

(f) As a condition of obtaining or retaining a COVID-19 Conditional Sailing Certificate, cruise ship operators must comply with the requirements of this framework. These requirements apply to any cruise ship operating in U.S. waters and to cruise ships operating outside of U.S. waters if the cruise ship operator intends for the ship to return to operating in U.S. waters at any time while Order remains in effect.

Amendment or Modification of COVID-19 Conditional Sailing Certificate.

(a) A cruise ship operator may seek to amend or modify a COVID-19 Conditional Sailing Certificate issued under this framework by submitting such amendment or modification to CDC for review and a determination in accordance with this section.

(b) CDC will review the cruise ship operator's request to amend or modify a COVID-19 Conditional Sailing Certificate and either grant or deny the request in writing. If CDC requires additional information to ascertain whether the cruise ship operator's proposed amendment or modification meets CDC's standards for mitigating the risk of COVID-19 on board cruise ships, or if it determines the request to be incomplete, it may hold the request in abeyance pending the submission of such additional information as required by CDC to make such a determination.

(c) CDC may require any cruise ship operator to amend or modify a COVID-19 Conditional Sailing Certificate based on public health considerations specific to the cruise ship, cruise ship operator, or affecting the health or safety of cruise travel as a whole.

(d) Denials of requests to amend or modify a COVID-19 Conditional Sailing Certificate are subject to administrative review as described in this framework.

Minimum Standards for Restricted Passenger Voyages as a Condition of Obtaining and Retaining a COVID-19 Conditional Sailing Certificate.

(a) As a condition of obtaining and retaining a COVID-19 Conditional Sailing Certificate, a cruise ship operator must meet the following minimum standards:

(1) The cruise ship operator must in marketing materials, on its website, and in offerings for voyages, notify prospective passengers prior to accepting a reservation of any CDC travel advisory, warning, or recommendation relating to cruise travel. Such notification must further advise prospective passengers that, if a threshold of COVID-19 is detected on board the cruise

ship during a voyage, the voyage will be ended immediately and the ship returned to the U.S. port of embarkation, and their subsequent travel, including their return home, may be restricted or delayed.

(2) The cruise ship operator must not sail or offer to sail on an itinerary longer than 7 days. CDC may shorten or lengthen the number of days permitted to sail based on public health considerations and as set forth in technical instructions or orders.

(3) The cruise ship operator must screen passengers and crew before they embark for signs and symptoms or known exposure to COVID-19 and deny boarding to anyone who is suspected of having COVID-19 or is an identified contact of a confirmed or suspected case, in accordance with CDC technical instructions or orders.

(4) The cruise ship operator must conduct laboratory testing of all passengers and crew on the day of embarkation and the day of disembarkation in accordance with CDC technical instructions or orders. Laboratory test results must be available prior to passengers embarking and prior to passengers and crew departing for their final destinations after disembarking the ship.

(5) The cruise ship operator must immediately conduct laboratory testing of any passengers and crew who report illness consistent with COVID-19 during the voyage with rapid point of care results as required by CDC technical instructions or orders. Identified close contacts of cases must also be laboratory tested with rapid point of care results.

(6) The cruise ship operator shall report syndromic surveillance and all laboratory test results using CDC's EDC form as required by CDC technical instructions or orders.

(7) The cruise ship operator must meet standards for hand hygiene, face coverings, and social distancing for passengers and crew, as well as ship sanitation, as required by CDC technical instructions or orders.

(8) The cruise ship operator must modify meal service and entertainment venues to facilitate social distancing.

(b) In light of public health considerations and based on evidence gained through review and evaluation of cruise operators' practices and procedures, including through simulated voyages, CDC may require the following:

(1) A monitored observation period of passengers prior to embarking.

(2) Post day of disembarkation laboratory testing of passengers and crew.

(3) Additional laboratory testing of passengers and crew and reporting of results during a voyage.

(c) CDC may issue additional technical instructions or orders regarding health and safety standards for restricted passenger voyages.

Minimum Standards for Management of Passengers and Crew from COVID-19-affected Cruise Ships for Restricted Passenger Voyages.

(a) Based on a threshold of COVID-19 being detected in passengers or crew, as determined through CDC technical instructions or orders, a cruise ship operator must immediately take the following actions:

(1) Conduct such notifications of passengers, crew members, and other government entities as CDC may require.

(2) Immediately end the restricted passenger voyage, cancel future restricted passenger voyages until directed by CDC that such voyages may resume, and return the ship to the U.S. port of embarkation.

(3) Immediately isolate any sick or infected passengers and crew in single occupancy cabins with private bathrooms and quarantine all remaining passengers and non-essential crew.

(4) Disembark and evacuate passengers and crew only in such a manner as prescribed in the cruise ship operator's preexisting port and local health authority agreements.

(5) Arrange to disembark and transport passengers and crew using noncommercial transportation or other transportation in accordance with CDC's technical instructions and orders.

(6) Instruct disembarking passengers and crew to stay home and continue to practice social distancing after reaching their final destination as per CDC technical instructions or orders.

(7) Inform ship pilots, ground transportation, air charter operators, and other agencies with relevant jurisdiction that COVID-19 has been detected in passengers or crew and confirm that the operators have plans in place to notify and protect the health and safety of their staff (e.g., drivers, air crews).

(b) CDC may issue additional technical instructions or orders regarding what measures cruise ship operators must take in the event that COVID-19 is detected in passengers or crew.

Denials, Suspension, Revocation, and Reinstatement of a Cruise Ship Operator's COVID-19 Conditional Sailing Certificate.

(a) CDC may deny an application for a COVID-19 Conditional Sailing Certificate, or revoke, or suspend a COVID-19 Conditional Sailing Certificate if:

(1) the cruise ship operator is not in compliance with CDC's standards for mitigating the risk of COVID-19 on board cruise ships; or

(2) the cruise ship operator is not in compliance with the terms of its COVID-19 Conditional Sailing Certificate; or

(3) necessary to protect human health or safety based on public health considerations specific to the particular cruise ship operator, cruise ship, or affecting cruise travel as a whole.

(b) CDC may reinstate a suspended or revoked COVID-19 Conditional Sailing Certificate after:

(1) inspecting the cruise ship operator's properties and records, including, but are not limited to, its vessels, facilities, vehicles, equipment, communications, manifests, list of passengers, and employee and passenger health records;

(2) conferring with the cruise ship operator, responsible officials, third-party auditors, or other persons under the cruise ship operator's employ; and

(3) receiving information and written assurances from the cruise ship operator and/or its responsible officials that any deficiencies have been rectified and actions taken to ensure future compliance.

Administrative review.

(a) A cruise ship operator may appeal a denial of its application for a COVID-19 Conditional Sailing Certificate or a revocation or suspension of its COVID-19 Conditional Sailing Certificate based on specific factors particular to that operator.

(b) The cruise ship operator's appeal must be in writing, state the factual basis for the appeal, and be submitted to the CDC Director within 30 calendar days of the decision.

(c) The CDC Director's decision will be issued in writing and will constitute final agency action. Prior to deciding upon an appeal, the Director may further investigate the reasons for the denial, revocation, or suspension, including by conferring with the cruise ship operator, responsible officials, third-party auditors, or other persons under the cruise ship operator's employ.

Initial Phase COVID-19 Testing Requirements for Protection of Crew

CDC will take a phased approach to resuming passenger operations onboard cruise ships and considers adequate crew safeguards an integral part of its initial phases. Accordingly, it is further

ORDERED:

Shoreside COVID-19 Laboratory Screening Testing of All Crew.

- 1) Within 60 days of the effective date of this Order,¹⁹ cruise ship operators must collect clinical specimens from all crew currently onboard their cruise ships and have those specimens immediately transported and tested by a shoreside laboratory facility. This testing must be conducted by a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory using reverse transcriptase polymerase chain reaction (RT-PCR) tests that are approved, cleared, or authorized for emergency use by the U.S. Food and Drug Administration (FDA).

- 2) To help ensure the validity of sampling, testing, and test results, cruise ship operators must contact CDC at eoevent349@cdc.gov at least 7 calendar days prior to collecting specimens and conducting testing. CDC must approve the cruise ship operator's selection of a CLIA-certified laboratory and the cruise ship operator's procurement of specimen

¹⁹ For cruise ship operators with ships that have not been in U.S. waters during the period of the No Sail Order or voluntarily withdrew their ships, the 60-day period will begin upon: (1) CDC confirming to the cruise ship operator in writing that the operator has a complete and accurate NSO response plan, including having submitted to CDC a signed *Acknowledgment of No Sail Order Response Plan Completeness and Accuracy*; and (2) submission of the EDC form for the 28 days preceding the cruise ship's expected arrival in U.S. waters.

collection kits. Include “Laboratory Screening Testing of All Crew Onboard SHIP NAME” in the subject line as part of your request for CDC approval.

- 3) CDC’s response to the cruise ship operator’s email may include additional information regarding best practices that may assist cruise ship clinicians or public health staff in collecting and transporting crew specimens. CDC may also oversee the onboard collection of crew specimens through remote means allowing for visual observation.
- 4) Cruise ship operators must report all laboratory results in aggregate to CDC through the Enhanced Data Collection (EDC) form.

Onboard COVID-19 Diagnostic Testing Capabilities for Symptomatic Travelers (Crew and Future Passengers)

- 1) During this 60-day period, cruise ship operators in coordination with CDC must develop onboard testing capabilities to test all symptomatic travelers (crew and future passengers) for COVID-19 and close contacts. After this 60-day period, laboratory testing for every crew member must be conducted on a weekly basis or at such other intervals as required by CDC in technical instructions or orders.
- 2) All cruise ships must procure rapid RT-PCR point-of-care equipment to test symptomatic travelers. This instrument must be CLIA-waived and have been evaluated on the FDA reference panel for SARS-CoV-2 and demonstrated a lower limit of detection correlating to higher sensitivity. Cruise ship operators must contact CDC prior to procuring this

equipment. Antigen testing is not recommended at this time because it is more likely to miss cases of SARS-CoV-2 infection (i.e., lower sensitivity) when compared to RT-PCR testing.

- 3) Cruise ship medical clinic staff must be competent in specimen collection, be able to properly use testing equipment, follow all manufacturer's instructions, and have access to and use recommended personal protective equipment (PPE) for specimen collection and handling. CDC may ensure competency by conducting oversight of these practices through remote means allowing for visual observation. In addition, cruise ship operators must maintain onboard SARS-CoV-2 testing equipment to manufacturer's specifications.
- 4) Once testing equipment has been obtained and cruise ship medical clinic staff are properly trained in its use, all symptomatic crew onboard the cruise ship must be tested for SARS-CoV-2 infection immediately upon notifying medical staff of symptom onset. These results must be reported to CDC in aggregate through the EDC form.

Shoreside COVID-19 Laboratory Screening Testing of All Embarking Crew

- 1) On the day of crew members' embarkation, cruise ship operators must collect specimens for SARS-CoV-2 testing from all embarking land-based crew. Cruise ship operators must immediately transport the specimens to a CLIA-certified laboratory for testing.
- 2) This laboratory must use an RT-PCR test that has been approved, cleared, or authorized for emergency use by FDA. Cruise ship operators must report results in aggregate to

CDC through the EDC form. CDC must approve the cruise ship operator's selection of a CLIA-certified laboratory.

- 3) All embarking land-based crew must be immediately quarantined onboard for 14 days. Those who test positive must be isolated until criteria are met for discontinuation of isolation according to the most current CDC guidance. CDC may also oversee the collection of specimens, or the quarantine or isolation of embarking crew, through remote means allowing for visual observation.

Continued Compliance with No Sail Order (NSO) Response Plans

- 1) Cruise ship operators must continue to follow their cruise lines' complete, accurate, and acknowledged NSO response plans per the No Sail Order and Suspension of Further Embarkation; Notice of Modification and Extension and Other Measures Related to Operations published at 85 FR 21004 (April 15, 2020) (i.e., "No Sail Order response plan"), as modified and extended July 16, 2020 (published at 85 FR 44085 (July 21, 2020)), and September 30, 2020 (published at 85 FR 62732 (October 5, 2020)).
- 2) Cruise ship operators must also continue to follow CDC's Interim Guidance for Mitigation of COVID-19 Among Cruise Ship Crew and COVID-19 Color-coding System for Cruise Ships, which may be modified or updated as needed. CDC will notify cruise ship operators of any updates. Ship-to-ship crew transfers and embarkations may continue to impact ships' color-coding status. For additional information about other

public health preventive measures, such as social distancing, mask use, and cabin occupancy, refer to CDC's Interim Guidance.

Effective Date and Signature

This Order is effective upon signature and shall remain in effect until the earliest of (1) the expiration of the Secretary of Health and Human Services' declaration that COVID-19 constitutes a public health emergency; (2) the CDC Director rescinds or modifies the order based on specific public health or other considerations; or (3) November 1, 2021.

In testimony whereof, the Director, Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, has hereunto set his hand at Washington, D.C., this 30th day of October 2020.

A handwritten signature in black ink that reads "Robert R. Redfield MD". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Robert R. Redfield, MD
Director
Centers for Disease Control and Prevention