

**CITY OF UNALASKA  
UNALASKA, ALASKA  
REGULAR MEETING  
TUESDAY, SEPTEMBER 22, 2015, 6:00 P.M.  
UNALASKA CITY HALL COUNCIL CHAMBERS  
AGENDA**

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CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

RECOGNITION OF VISITORS

ADDITIONS TO AGENDA

**MINUTES:** SEPTEMBER 9, 2015 SPECIAL MEETING

FINANCIAL REPORT:

BOARD/COMMISSION REPORTS:

**AWARDS/PRESENTATIONS:** JEREMIAH KIRCHHOFFER – 15 YEARS; JOSEPH A. SHAISHNIKOFF – 15 YEARS; MICHAEL L. DANIELS – 20 YEARS.

**MANAGER'S REPORT**

COMMUNITY INPUT/ANNOUNCEMENTS

PUBLIC INPUT ON AGENDA ITEMS

**PUBLIC HEARING**

1. AN APPEAL OF PLANNING COMMISSION RESOLUTION 2015-19 WHICH APPROVED A VARIANCE FOR A LOT WIDTH REDUCTION FROM 60-FEET TO 20-FEET TO ACCOMMODATE HATFIELD SUBDIVISION, A RESUBDIVISION OF LOT 2, A.R.C. SUBDIVISION ADDITION NO. 1, LOCATED AT 1926 EAST BROADWAY AVENUE

**EXECUTIVE SESSION:** DELIBERATION BY COUNCIL AS QUASI-JUDICIAL BOARD

**WORK SESSION**

1. **DISCUSSION:** RESOLUTION 2015-54: AUTHORIZING AMENDMENT AND RESTATEMENT OF A TIDELANDS LEASE BETWEEN THE CITY OF UNALASKA AND UNISEA, INC
2. **PRESENTATION:** CRUISE SHIPS
3. **PRESENTATION:** DEPARTMENT OF TRANSPORTATION – SOUTHWEST TRANSPORTATION PLAN

**RECONVENE TO REGULAR SESSION**

**CONSENT AGENDA**

1. **RESOLUTION 2015-62:** APPOINTING JUDGES AND CLERKS FOR THE REGULAR MUNICIPAL ELECTION ON OCTOBER 6, 2015 AND JUDGES TO SERVE ON THE CANVASS COMMITTEE

**UNFINISHED BUSINESS**

**NEW BUSINESS**

1. **RESOLUTION 2015-52:** A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING A WAIVER OF NICHOLAI S. LEKANOFF, SR.'S FAILURE TO MAKE TIMELY APPLICATION FOR THE SENIOR CITIZENS PROPERTY TAX EXEMPTION FOR 2014
2. **RESOLUTION 2015-54:** AUTHORIZING AMENDMENT AND RESTATEMENT OF A TIDELANDS LEASE BETWEEN THE CITY OF UNALASKA AND UNISEA, INC
3. **RESOLUTION 2015-58:** AUTHORIZING THE CITY MANAGER TO DISPOSE OF CITY OF UNALASKA PERSONAL PROPERTY – POLICE HANDGUNS, SHOTGUNS AND RIFLES TO A GUN SHOP (GUNRUNNERS OF ANCHORAGE), AND TO NON-PROFIT ORGANIZATIONS (ALASKA PEACE OFFICERS ASSOCIATION & ALASKA ASSOCIATION OF CHIEFS OF POLICE).

**EXECUTIVE SESSION:** DISCUSSION OF CITY MANAGER CONTRACT: DAVID MARTINSON

4. **RESOLUTION 2015-63:** AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF UNALASKA AND DAVID A. MARTINSON, TO SERVE AS CITY MANAGER OF THE CITY OF UNALASKA

**COUNCIL DIRECTIVES TO MANAGER**

COMMUNITY INPUT

ANNOUNCEMENTS

ADJOURNMENT

**CITY OF UNALASKA  
UNALASKA, ALASKA  
SPECIAL MEETING  
WEDNESDAY, SEPTEMBER 9, 2015, 6:00 P.M.  
UNALASKA CITY HALL COUNCIL CHAMBERS  
MINUTES**

The special meeting of the Unalaska City Council was called to order at 6:00pm, September 9, 2016, in the Unalaska City Hall council chambers. Roll was taken:

**PRESENT:**

Shirley Marquardt, Mayor  
Tom Enlow (Telephonic)  
Roger Rowland  
Zoya Johnson (Telephonic)  
David Gregory  
Yudelka Leclere

**ABSENT:**

Alejandro Tungul (Excused)

**PLEDGE OF ALLEGIANCE:** Mayor Marquardt led the Pledge of Allegiance.

**RECOGNITION OF VISITORS:** None.

**ADDITIONS TO AGENDA:** None.

**MINUTES:** The minutes of the August 11, 2015 meeting was adopted as submitted. The minutes of the August 27, 2015 special meeting were adopted as amended.

**FINANCIAL REPORT:** None.

**BOARD/COMMISSION REPORTS:** Included in the packet.

**AWARDS/PRESENTATIONS:** None.

**MANAGER'S REPORT:** Included in the packet. City Manager Moore also added:

- AML
  - State Budget Gap
    - Ideas Discussed - Multiple Fiscal Measures
      - Reducing Programs and Services
      - Raising Revenues
      - Use of PFD Earnings
      - Cap on PFD
      - Reducing Oil Development Tax Credits
        - Implications for Unalaska
          - 2014 audit indicated this municipality received 35 million dollars from the State
          - Unalaska services receives State funds
          - Decline in revenue sharing
          - Capital Projects
  - Presentations at AML
    - DCCED – Revenue gap
    - Revenue Commissioner – Revenue gap
    - Marijuana Regulations
- Unalaska Issues
  - Arctic Seas and Port Activity
    - Canadian Navy Ships
    - Visit from Ambassador from Singapore
    - Cargo and Fish Processing
    - International Activity
    - Maritime Activity
      - Arrival of cruise ship on 9/15/2015
        - Safety is Primary Focus
  - Unalaska City Manager Replacement
    - Engagement Letter sent – David Martinson
    - Working on Contract
    - Working on a start date
  - WWTP
    - Met August 31, 2015 goal
    - Operating and working toward compliance

**COMMUNITY INPUT/ANNOUNCEMENTS:**

- September – Preparedness Month
  - “Don’t Wait, Communicate, Make Your Emergency Plan Today”
- September 15, 2015 – Cruise Ship Arrival
  - Safety first
- PCR Basketball Camp
- Comments
  - Positive comments about the community made by the visiting City Manager candidates

**PUBLIC INPUT ON AGENDA ITEMS:** None.

**NEW BUSINESS**

1. **RESOLUTION 2015-60:** IDENTIFYING THE CITY OF UNALASKA’S FEDERAL FUNDING PRIORITIES FOR FISCAL YEAR 2017 AS UNALASKA BAY ENTRANCE CHANNEL DREDGING, OCS REVENUE SHARING, UNALASKA MARINE CENTER POSITIONS 3 AND 4 DEMOLITION AND RENOVATIONS, LIQUID NATURAL GAS DEMONSTRATION PROJECT AND CAPTAINS BAY ROAD IMPROVEMENTS

Leclere made a motion to adopt Resolution 2015-60; Gregory seconded.

Roll Call Vote: Enlow – yes; Johnson – yes; Rowland – yes; Gregory – yes; Leclere – yes. Motion passed.

2. **RESOLUTION 2015-61:** AUTHORIZING THE MAYOR TO SIGN AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF UNALASKA AND DONALD L. MOORE APPOINTING DONALD L. MOORE TO CONTINUE TO SERVE AS INTERIM CITY MANAGER

Rowland made a motion to adopt Resolution 2015-61; Leclere seconded.

Roll Call Vote: Johnson – yes; Enlow – yes; Leclere – yes; Gregory – yes; Rowland – yes. Motion passed.

3. **MAYOR/COUNCIL TRAVEL:** ALASKA MUNICIPAL LEAGUE – ANCHORAGE, NOVEMBER 18-20, 2015. ARCTIC CIRCLE – REYKJAVIK, ICELAND, OCTOBER 16-18, 2015.

Rowland made a motion approving travel for Mayor Marquardt, Council Member Johnson and a Council Member yet to be named to attend the AML Conference in Anchorage, November 18-20, 2015; Gregory seconded.

Vote: Unanimous. Motioned passed.

Rowland made a motion approving travel for Mayor Marquardt to attend the Arctic Circle Conference in Reykjavik, Iceland on October 16-18, 2015; Leclere Seconded.

Vote: Unanimous. Motion passed.

**COUNCIL DIRECTIVES TO MANAGER:** None.

**COMMUNITY INPUT:** None.

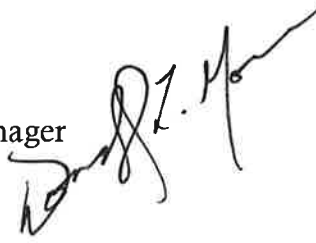
**ANNOUNCEMENTS:** None.

**ADJOURNMENT:** The meeting adjourned at 7:00pm.

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Cat Hazen  
City Clerk

To: Mayor and City Council  
From: Donald L. Moore, Interim City Manager  
Subject: City Manager's Report  
Date: September 22, 2015



FY15 Financial Audit: The City's external Auditors, KPMG, are working on-site in the finance department for the next couple of weeks to prepare the FY15 audit.

OSHA inspection of City Buildings: OSHA conducted an inspection of the Public Safety Building on April 22 & 23<sup>rd</sup>. We recently received notice of citations as a result of that inspection as follows:

1. Fire: 5 fines totaling \$6500 in the Blood borne Pathogen, Hazcom and Emergency Response plans. These were paperwork and recording violations and not incidents. Also cited for a missing railing and storage of a flammable gas.
2. Police: 2 fines totaling \$2,200. Blood borne Pathogens and Hazcom programs as above.
3. City OSHA 300 Log. 3 fines total \$\$3,000. Logs for recordable injuries must be kept separate by individual departments and not as a master log for the City.

The City is following the OSHA Public Sector Penalty Settlement Program which allows the City to invest penalty money in training or abatement effort. Most of the infractions cited have been corrected.

Shell Seasonal Demobilization: As of this writing, September 17<sup>th</sup>, we have a meeting scheduled on September 21st with Shell Oil Co., Coast Guard, and the Marine Pilots Assn to discuss the return of the company vessels as they demobilize from their exploratory activity in the Chukchi Sea. I will give an update at the Council meeting.

USCGC WAESCHE Port call & Activities: The Cutter Waesche moored at the UMC on September 16<sup>th</sup>. The next day Superintendent Conwell informed me that he had a volunteer workforce of 26 Coast Guard personnel doing civic involvement projects at the local schools.

There are a number of other civic activities planned as well as a fun run/walk arranged by PCR on the 18<sup>th</sup>.

The Waesche will depart on September 20<sup>th</sup> but will be making several other Dutch Harbor calls in the near future.

Parks Culture and Recreation Activities: Speaking of PCR, I have attached the PCR Fall Programming schedule for August- October 31<sup>st</sup> activities. I am very impressed with the number of programs offered and the number of participants at this very active Department.



City/Matson working procedures: The Port Department and Finance Department personnel of the City recently met with counterpart personnel of Matson shipping company to develop procedures to support timely and accurate reporting of cargo movement data. Such reporting can be complex with many chances for costly errors but, as is often the case, if the processes are developed by the people who actually do the work the problems are less. The City welcomes Matson Lines to Unalaska/Dutch Harbor and looks forward to working with them.

Assistant City Manager Resignation: Mr. Jordan has submitted his resignation as Assistant City Manager at Unalaska, effective November 9<sup>th</sup>, and accepted a position as County Administrator at Wexford County, Michigan.

I wish Mr. Jordan all the best and have enjoyed working with him. I hope Mr. Jordan's experience as Assistant City Manager in Unalaska will serve him well in his new position.


Title 3 position reclassification ( Director of Ports and Harbors): UCO 3.16.040 requires the City Manager to notify the City Council when reclassification of a position in the City's Employment Classification Plan is necessary. I reviewed the Department Director positions as part of the fiscal year change over on July 1<sup>st</sup> and determined the position of Port Director is currently in need of reclassification.

I am notifying the Council of my decision to change the classification of the Port Director position from the E82 Compensation Band to the E83 Band. A memorandum of explanation and the required notification is attached to this report.

# PCR Fall Programming: August 1 – October 31, 2015

PCR 360	Programs in Progress	Afterschool Teen Painting	Programs Starting in 2-4 Weeks
YOUTH RECreation		Homeschool Art	
Kinder Camp		Family Movie Night	
Yoga		Parent Child Aquatics Level 2	
Blood Pressuer Checks		Afterschool Intermural Tournaments	
Womens Open Gym		Crowd Challenge	
Homeschool Fitness		Bounce House	
Tot Time		Photography 101	Programs Starting in 4-6 Weeks
Youth Wrestling		Board Game Night- October	
Tot Time Swim		Friday Night Magic- October	
Youth Swim Club		Lego Club- October	
Alphabet Story Time		Haunted House (Teen Council)	
Friday Splash		Halloween Event (Monster Bash)	
Tot Time Reading Adventures			
Parent Child Aquatics Level 1			
Men's Basketball League			
Dance Fitness			
Monday Knight Chess			
Triathlon	Programs Starting in < 2 Weeks		
Book and Movie Swap			
Patrent Child Gooley Art			
Board Game Night- September			
Friday Night Magic- September			
Ukulele for Beginners			
Friendship Cup			
Lego Club- September			
Youth Basketball League			
Anime/Manga Club			

To: Mayor and City Council  
From: Donald L. Moore, Interim City Manager  
Subject: Position Classification Adjustment-Port Director  
Date: August 14, 2015



Summary Statement: The City Manager has reviewed the Salary and Classification schedule for Department Head positions as part of the Fiscal Year change over from FY15/16. The Manager has determined that the position of Port Director is NOT allocated to the proper Salary Level (Band) for a position with the responsibility and job functions required of the Director of Ports and Harbors for the City of Unalaska.

Specifically, the position is currently placed at the E82 level of the Executive Pay Structure and should have been positioned in level E83.

This memorandum serves as notification under UCO Ordinance 3.16.040 which requires the Manager to notify the City Council when reclassification of a position is necessary.

Justification based on job function:

- A. Qualifications & Requirements: The Port Director is the executive manager of a primary service delivery Department operated as an enterprise fund of the City. The Director is required to possess and use business management skills in addition to the administrative qualifications and abilities required to manage a public agency.

A Director of an enterprise operation in local government is tasked to operate the Department as a revenue center in contrast to most public agencies which operate as a cost center

- B. Supervision and Management of Assets: The Port Director supervises a staff of nine persons that maintains and operates a public-owned asset base valued over \$77,240,000 at six separate locations. The Director also oversees the Capital Planning effort for an additional \$62,000,000 in future port related capital improvements.

The Department of Ports and Harbors also manages, maintains and operates the Tom Madsen Airport terminal building and its associated assets such as parking lots under a lease arrangement with the Alaska Department of Transportation and Public Facilities.

- C. Financial Management and Budget responsibilities: The Port budget of approximately \$7.8MM is the largest operating budget of all City departments except for the Electric Utility, which is also an enterprise fund. The annual budget of the Port enterprise is 1.6 times that of the Public Safety Department, which is the largest of the General Fund budgets. The Public Safety Department and the Electric Utility are managed by a Director at the E83 compensation level.

The contrast in financial responsibilities of the Port Director is even more pronounced if the operating budget of the Ports and Harbors Department is compared to the other two Departments that are managed by E82 level Directors.

The Parks, Culture and Recreation Department (PCR) and the Planning Department are the two Departments other than Ports and Harbors with a Director at level E82.

The annual budget managed by the Port Director (\$7.8MM) is 2.93 times the budget of the PCR Department (\$2.68MM) and 13.64 times the budget (\$575K) of the Planning Department.

- D. Safety and Security responsibilities: The Port Director has the authority and responsibility to protect human and environmental safety in connection with seaport and, to a lesser degree, airport operations.

The Director is responsible for programs such as the MARPOL & MARSEC certification, staff HAZWOPER, the Emergency Tow System (ETS) response plan, Incident Command System (ICS) training, marine search and rescue, marine assist and the burgeoning requirements of the US Homeland Security Agency for US Ports.

The Port Director interacts frequently with agencies such as the US Coast Guard, Alaska Department of Environmental Conservation, US Fish & Wildlife Service, Transportation Security Administration, Department of Transportation and other agencies, both State and Federal.

The Port and Harbor Department is currently involved in the planning and advocacy with the US Army Corps of Engineers (USACE) in a major channel dredging project which purpose is to improve navigation safety and capacity for all maritime users of Unalaska/Dutch Harbor waters.

The Port and Harbor Department is operationally involved with the commercial/industrial maritime and air transport industries and their associated groups such as the Marine Pilots Association.

E. International Consideration:

The *International* Port of Dutch Harbor is geographically within 50 miles of the Great Circle Route shipping lanes of the North Pacific. In addition to the Port's involvement with regular maritime commerce, Unalaska is designated as a Port of Refuge for distressed and disabled vessels of any nation.

Maritime activity has also increased in the Arctic Seas in recent years and is expected to grow. This activity makes the Port of Unalaska an intersection of East-West/North-South marine traffic. There is an international radius to the Port Director's responsibilities far beyond anything required of other City Departments, including the Public Safety Department.

F. Risk Capacity and Consequence: The operational decisions of the Port Director require competent attention to risk management and risk avoidance.

Human safety, environmental safety, property loss and financial risk are all factors in the management decisions of the Port Director. Mistakes in these decisions can be highly consequential.

Value to the City Organization:

The "Fox-Lawson Compensation and Classification Study"\* placed the Port and Harbors Director position in the E82 compensation band based on a job analysis done in 2012. One of the criteria for compensation placement stated in the report is that "The value of a job should reflect the importance of the job to the organization." Further, "The importance of a job is directly related to the decision-making requirements of the job."

The job functions and responsibilities as described above leave no doubt that Ports and Harbors are of signal importance to the City and the decisions made by this Department Director are crucial and demanding.

The classification study made external salary comparisons to other Alaskan coastal communities' that have a "Harbormaster" and consequently undervalued the responsibility and authority of a bona fide "Port Director" that supervises the Harbormaster as well as an airport terminal.

The position of Port Director should be reclassified to the E83 level and the compensation adjusted accordingly.

Internal Salary Equity:

There are nine Department Directors that report to the City Manager that constitute the Management team.

**Salary Band E81**

**\$80,786.92--\$129,259.07**

Position	Date of Hire
City Clerk	5/19/2014

**Salary Band E82**

**\$84,826.26--\$135,722.02**

PCR Director	1/16/2014
Port Director	5/16/2012
Planning Director	9/6/2011

**Salary Band E83**

**\$89,067.58—142,508.12**

Finance Director	1/27/2014
Public Works Director	5/5/2014
Public Safety Director	12/7/2008
Public Utility Director	1/02/2007

Assistant City Manager	E84	1/22/2013
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The Incumbent Port Director performs the required duties of the position well above a standard level of competence yet has been placed in a compensation band below that of Department Heads with similar responsibility and some with lesser seniority.

Corrective Action:

The Salary of the Director of Ports and Harbors will be revised and recalculated to reflect the salary at level E83 of the City Classification Plan in the FY 2017 Budget.

Like most position classification plans, the Fox-Lawson study and classification plan is recommended to be periodically reviewed and updated by the City Manager. Ordinance 3.16.040 (D) requires "The City Manager shall notify the City Council of any reclassification request before acting on that request."

This memorandum provides the required notification.

\*"The Fox-Lawson Compensation and Classification Study" was done through consultant services in 2012-2013. Most such classification studies are recommended to be reviewed and updated between 3 and 7 years.



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## MEMORANDUM

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**TO: MAYOR AND CITY COUNCIL MEMBER**  
**THRU: DON MOORE, CITY MANAGER**  
**FROM: ERIN REINDERS, DIRECTOR OF PLANNING**  
**DATE: SEPTEMBER 22, 2015**  
**RE: APPEAL OF PLATTING BOARD ACTION**

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**SUMMARY:** Two members of the public have appealed decision of the Platting Board in a joint letter, which requires the City Council to hold a hearing to consider the evidence and make a ruling regarding the Platting Board's action. Staff recommends upholding the Platting Board's action of approving the preliminary plat and associated subdivision variance.

**PREVIOUS COUNCIL ACTION:** The City Council has taken no previous action on this item.

**BACKGROUND:** §8.08.010 states that the Planning Commission acting as the Platting Board ("Board") shall be the Platting Authority for platting within the city. Additionally, §8.08.110 allows for the Board to grant a variance from the provisions of Chapter 8.08 which details the technical requirements for the plat as well as what is required in order for a variance to be granted. After a review and recommendation by City Staff, the Board takes action on plats and related variance requests.

On August 6, 2015, the Board unanimously approved a preliminary plat with conditions and lot width reduction variance from 60 feet to 20 feet for Hatfield Subdivision, a subdivision of lot 2, ARC Subdivision Addition No. 1, located at 1926 East Broadway Avenue, via Planning Commission Resolution 2015-19 (**the signed resolution is provided in your Council Packet**). The landowner/applicant applied to subdivide one existing lot into three lots. The proposed Lot 3 is shown as having a lot width of only 20.31 feet in order to provide direct vehicular access to the public the right-of-way, which is less than the 60-foot width requirement in the subdivision code. This creates what is commonly called a "Flag Pole Lot." The resolution lists out relatively common conditions of approval. After the conditions of approval are met and the variance granted, all technical requirements for a subdivision plat to be approved and recorded as outlined in Chapter 8.08. **Items that were provided to the Planning Commissioners as back up material in their decision making are being provided for you this evening** (Staff Report, Draft Resolution, Application, Preliminary Plat, the Parent Plat, and Location Map). **The draft meeting minutes have been provided in your packet as well.**

§8.08.130 allows for a person aggrieved by the decision of the Board appeal the Board's decisions to the City Council within ten working days from the decision. Following the approval and before the ten working days passed, a letter appealing the action taken by the Planning Commission /Platting Board via 2015-19 was submitted to the City Clerk's Office. **This letter is included in your packet.**

The City Council may at its hearing receive such further evidence as is relevant. At the public hearing, the City Council shall have the power to overrule, alter, or maintain the ruling of the Platting Board. The decision of the City Council is final and may be appealed to the Superior Court. Guidance for the public hearing is found in § 8.12.220 (C) 1(c). The parties involved in the appeal may be represented by counsel. Rules of evidence will not be followed. Cross examination of persons speaking to the City



Council will not be allowed. The City Council may consider all relevant evidence. The evidence will be heard in the following order:

1. Planning Department/Planning Commission.
2. Person appealing the Planning Commission decision.
3. Property owner (if different than person appealing the decision).
4. Members of the public other than those who have previously spoken.

### **DISCUSSION:**

The appeal letter from Ms. Juliann Tucker and Mr. Gerard Parker was received in the Clerk's Office on August 12, 2015, which was within 10 working days of the Platting Board's decision. Although the date of July 16, 2015 is mentioned of in the letter, the Platting Board's decision was made via Resolution 2015-19 on August 6, 2015. The following bullet points are provided in response to the concerns outlined in the letter.

- **The letter outlines a concern of density and lot size.** The sizes of the lots being created with this subdivision plat far exceed the minimal lot size of 6,000-10,000 square feet in the Single Family Duplex Residential Zoning districts. These lots will be 38,943 square feet, 18,678 square feet, and 25,834 square feet. ***This subdivision remains one of the lowest density areas of town.***
- **The letter outlines a concern of increased traffic and population in the area, stating that this area should be family friendly.** The purpose of this zoning district is to stabilize and protect the one and two family dwelling residential character and to promote and encourage a safe and suitable environment for family life. In terms of residential uses, all lots in this zoning district are limited to two single family dwellings or a two family dwelling. All three lots will remain zoned Single Family Duplex Residential. ***This subdivision maintains a family friendly environment.***
- **The letter mentions a concern regarding the location of a new driveway.** To confirm, if developed, the driveway access to the rear portions of lot 3 would be on narrow portion of the lot created by the variance. This concern was taken up with members of the Planning Department, Department of Public Safety, and Department of Public Works. The need for stop signs, their exact locations as well as speed limits are discussed annually by city staff, so if any issues were to arise, they could be addressed at that time. ***It was noted that any potential driveway would be directly adjacent to an existing driveway and is not anticipated to cause a significant impact.***
- **The letter mentions a "ravine issue" and other topographic issues of development.** Little detail of this issue is provided, although the meeting minutes indicate that Ms. Tucker mentioned a concern about water run-off if the ravine was altered. These lots are significant in size allowing for ample room for earthwork or creative site development, if and when this lot is developed. It is important to note that what is being approved here is the subdivision plat and a variance to a lot width requirement, not a development or construction activity. ***When discussed with members of the Planning Department, Department of Public Safety, Department of Public Works, and Department of Public Utilities, it was determined that a presence of a ravine was not a significant issue in relation to the granting of a variance or in subdividing of the property.***
- **The letter outlines a concern of variances being a norm.** In accordance with city code, variances from the subdivision standards may be granted when necessary because of undue hardship or when desirable from the standpoint of the public interest. Additionally, the board must find that each request in each specific situation meets three tests of code which include:
  1. There are special circumstances or conditions affecting the proposed subdivision such that strict application of the provisions of this chapter would clearly be impractical or undesirable to the general public or that strict application would be unreasonable or cause undue hardship to the applicant requesting the variance.

2. The granting of a specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the proposed subdivision is located.
3. Such variance will be in accord with the intent and purpose of this chapter and of the Comprehensive Plan of the city.

Each request is evaluated with these tests of code in mind by city staff (including members of Planning Department, Department of Public Safety, Department of Public Works, and Department of Public Utilities) and a recommendation is made to the Platting Board/Planning Commission. The Platting Board/Planning Commission makes the final determination after a public hearing to consider public comment and weighing all the issues at hand. ***In sum, the granting of a variance is not a given or a guarantee and each request is evaluated individually.***

The attached signed resolution outlines the determination of how the tests of code for the variance were met and the preliminary plat was approved, and the draft minutes detail how the Platting Board heard from the public (including Ms. Tucker who had reviewed the same concerns mentioned in her letter), weighed the various issues at play, and finally determined that the tests of code (listed above) were met in the following ways:

1. The property is shaped and sized in such a way that the rear of the property is expansive enough to contain a separate lot, but can only be accessed through a narrow strip of land leading to the roadway. Granting this 20-foot lot width makes the subdivision practical and promotes the interest of the general public. It should also be noted that this 20 foot width allows for ample room for vehicles to access the back portion of the lot.
2. As the applicant has demonstrated that all other land use and subdivision requirements will be able to be addressed, and no known hardship will exist for neighboring properties, the granting of this variance is not anticipated to negatively impact the area surrounding the subdivision. As the minutes demonstrate, Ms. Tucker did share her concerns during the Public Hearing, and the Planning Commission considered these concerns in their determination.
3. The variance is within the intent and purpose of UCO Chapter 8.08 (Platting and Subdivision) and promotes the Comprehensive Plan of the city by making more land available for housing.

In order to approve a plat, the Platting Board must find that it conforms to the standards outlined in UCO 8.08.090 and 8.08.100, Subdivision Design Standards and Subdivision Improvements. Planning Staff reviewed the plat and found that the conditions listed in the resolution are necessary to find the plat in compliance with these standards. The Platting Board agreed. The conditions of approval listed in the resolution include the requirement to install the new utility service to Lot 3 and show all utility service line locations on the final plat. There is also a condition that the surveyor edits Note 5 to accurately reflect the current zoning requirements. The final two requirements relate to how the surveyor is required to submit the final plat, which is included in every plat approval in Unalaska. With these conditions met, as well as the granting of the variance all UCO Chapter 8.08 (Platting and Subdivision) requirements have been addressed.

**ALTERNATIVES:** In accordance with § 8.08.130, after considering the Platting Board's decision and objections as well as any further evidence as is relevant, the City Council may overrule, alter, or maintain the ruling of the Platting Board. A findings of fact has been prepared for your convenience, but may be altered as the Council sees fit. The Council may also decide to act on this item at this meeting or at the next Council meeting.

Additionally, in this situation, the City Council may choose to reschedule the public hearing to a time when both the individual appealing the decision and property owner are able to be present.

**FINANCIAL IMPLICATIONS:** There are no direct financial implications at this time.

**LEGAL:** The appeal process is being done in accordance with City Code and with the guidance of the City Attorney.

**PROPOSED MOTION:** I move that the City Council maintain the ruling of the Platting Board, approving Hatfield Subdivision Plat and granting the associated variance, based on the findings of fact.

**STAFF RECOMMENDATION:** Staff recommends maintaining the ruling of the Platting Board.

**CITY MANAGER COMMENTS:** The Manager recommends the City Council uphold the recommendation of the Planning, Department and the action of the Platting Board approving the Hatfield Subdivision Plat and granting the associated variance, based on the findings of fact presented.

Attachments:

- *Appeal Notification and Letter*
- *August 6, 2015 Planning Commission Meeting Packet for Hatfield Plat and Variance*
- *Signed Planning Commission Resolution 2015-19*
- *Draft August 6, 2015 Planning Commission Meeting Minutes*

**CITY OF UNALASKA**  
DEPARTMENT OF PLANNING  
P.O. BOX 610  
UNALASKA, ALASKA 99685-0610  
(907) 581-3100 • FAX (907) 581-4181



August 14, 2015

Jay Hatfield  
PO Box 920032  
Dutch Harbor, AK 99692

Dear Mr. Hatfield,

An appeal has been filed against Resolution 2015-19 which approved your request for a variance for a lot width reduction from 60-feet to 20-ft to accommodate Hatfield Subdivision, a resubdivision of Lot 2, A.R.C. Subdivision Addition No.1, located at 1926 East Broadway Avenue.

This appeal was received on August 13, 2015 during the ten (10) working days appeal period required by UCO 8.08.130(A).

A copy of the appeal letter is attached for your reference.

The City of Unalaska is evaluating how to proceed with the appeal process and will contact you when that has been determined. Feel free to contact our office at (907) 581-3100 if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Kelly Tompkins".

Kelly Tompkins  
Planning Administrative Assistant

Enc: Appeal letter

cc: File

Juliann Tucker  
#69 Hawley Ln  
Unalaska AK  
And  
Jerrard Parker  
1936 East Broadway  
Unalaska AK

AUG 12 2015

July 17<sup>th</sup>, 2015

First and for most this letter is to Appeal the findings on July 16<sup>th</sup> 2015 RESOLUTION 2015-19

I feel the members of council did not thoroughly look at the topographic and address the issues of development. Also in that note look at the driveway and its entrance of the three way stop.

I feel after looking at the City comprehensive plan of 2020, it continually states that more affordable housing is the key to the future here in Unalaska. Although this might be true we need to focus on utilizing MED and High density areas. We need to have family friendly neighborhoods. This area in particular since we are at the end of the road and have at least 20 kids within 2 blocks of age 10 and under safety is a major issue. Just this one variance could allow 18 or more people in 1 block, in a low density area.

In the area of context is already a dangerous 3 way and bringing in another driveway would increase traffic in a children play zone. Variances are becoming a norm, why do we have ordinances if we do not stick to the plan. Council is changing density in neighborhood by giving out too many variances with out for thought of neighbors. Suburban areas should remain and urban areas should be exploited for growth, therefore upholding the integrity of a family friendly environment. The vision of the valley is family orientated.

Surrounding neighbors of Jay Hadfield would like this decision overturned and reevaluated. Keep are children safe from more traffic in a low density area and stick to city ordinances.

There is also the ravine issue to address also

Thank you for your time

  
Juliann Tucker

Gerard Parker  


November meeting works for all of us if applicable

**City of Unalaska, Alaska  
Planning Commission/Platting Board  
Staff Report**

**A RESOLUTION APPROVING PRELIMINARY PLAT AND LOT WIDTH REDUCTION  
VARIANCE FROM 60 FEET TO 20 FEET FOR HATFIELD SUBDIVISION, A  
RESUBDIVISION OF LOT 2, A.R.C. SUBDIVISION ADDITION NO. 1, LOCATED AT 1926  
EAST BROADWAY AVE**

<b>Project Information</b>	
<b>Land Owner</b>	Jay Hatfield
<b>Applicant</b>	Jay Hatfield
<b>Location</b>	1926 East Broadway Ave
<b>Property Identification</b>	06-09-180
<b>Application Type</b>	Preliminary Plat and Variance
<b>Project Description</b>	The proposal is to split one existing lot into three lots, one of which contains nonconforming 20-foot lot width, which needs to be viewed as a variance in this approval process.
<b>Zoning</b>	Single-Family/Duplex Residential
<b>Exhibits</b>	Draft Resolution 2015-19, Preliminary Plat of Hatfield Subdivision, Parent Plat 2000-04, Application, and Location Map
<b>Staff Recommendation</b>	Approval with Conditions as identified in Resolution 2015-11

### **BACKGROUND**

The landowner/applicant has applied to subdivide one existing lot into three lots. The proposed Lot 3 is shown as having a lot width of only 20.31 feet, which is less than the 60-foot width requirement in the subdivision code. Lot 1 and Lot 2 both contain houses with existing utilities. Lot 3 will have utilities installed to the lot line where it meets the right-of-way.

The draft Resolution 2015-19 included in the packet serves two purposes: 1) approves the variance from the requirements, allowing a 20-foot lot width for Lot 3, rather than the 60-foot requirement; and 2) approves the preliminary plat itself with the understanding that all other requirements are met, as long as the conditions are met by the landowner before submitting the final plat.

### **FINDINGS**

Included in one of the “Whereas” statements in the draft resolution is a description of the three tests of code for a platting variance. Staff finds that all three tests are met and that the variance for the lot width should be approved. The purpose of a variance from platting and subdivision requirements is to grant relief to an applicant when a requirement causes an undue or unnecessary hardship or when such a relief from requirements is desirable from the standpoint of the public interest. In order to be granted, a variance request must meet the three tests of code identified in UCO §8.08.110(A).

1. *There are special circumstances or conditions affecting the proposed subdivision such that strict application of the provisions of this chapter would clearly be impractical or undesirable to the general public or that strict application would be unreasonable or cause undue hardship to the applicant requesting the variance.*

The property is shaped and sized in such a way that the rear of the property is expansive enough to contain a separate lot, but can only be accessed through a narrow strip of land

leading to the roadway. Granting this 20-foot lot width makes the subdivision practical and promotes the interest of the general public.

2. *The granting of a specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the proposed subdivision is located.*

As the applicant has demonstrated that all other land use and subdivision requirements will be able to be addressed, and no known hardship will exist for neighboring properties, the granting of this variance is not anticipated to negatively impact the area surrounding the subdivision.

3. Such variance will be in accord with the intent and purpose of this chapter and of the Comprehensive Plan of the city; and

The variance is within the intent and purpose of UCO Chapter 8.08 (Platting and Subdivision) and promotes the Comprehensive Plan of the city by making more land available for housing.

The conditions of approval listed in the draft resolution include the requirement to install the new utility service to Lot 3 and show all utility service line locations on the final plat. There is also a condition that the surveyor edits Note 5 to accurately reflect the current zoning requirements. The final two requirements relate to how the surveyor is required to submit the final plat, which is included in every plat approval in Unalaska. Staff finds that the proposed preliminary plat meets the standards of UCO Chapter 8.08 with the proposed conditions.

#### **RECOMMENDATION**

In accordance with the standards outlined in Unalaska City Code of Ordinances Chapter 8.08 (Platting and Subdivision), the City of Unalaska Department of Planning, in concert with the Development Review Team, recommends granting of the variance and approval of the preliminary plat of Hatfield Subdivision, with associated conditions outlined in draft Resolution 2015-19.



**City of Unalaska, Alaska  
Planning Commission/Platting Board  
Resolution 2015-19**

**A RESOLUTION APPROVING PRELIMINARY PLAT AND LOT WIDTH REDUCTION  
VARIANCE FROM 60 FEET TO 20 FEET FOR HATFIELD SUBDIVISION, A  
RESUBDIVISION OF LOT 2, A.R.C. SUBDIVISION ADDITION NO. 1, LOCATED AT 1926  
EAST BROADWAY AVE**

**WHEREAS**, UCO Chapter 8.08 sets forth the procedures and requirements for the subdivision and platting of land and provides that the Planning Commission/Platting Board shall act as the Platting Authority; and

**WHEREAS**, Jay Hatfield is the owner of Lot 2, A.R.C. Subdivision Addition No. 1, P-2000-04, Aleutian Islands Recording District (06-09-180); and

**WHEREAS**, the landowner has submitted a plat application to split the existing lot into three lots; and

**WHEREAS**, the plat submitted contains a nonconforming 20-foot lot width for Lot 3 whereas the minimum lot width requirement is 60 feet; and

**WHEREAS**, the City of Unalaska Departments of Planning, Public Works, Public Utilities, and Public Safety staff have reviewed the proposed plat and have requested revisions as described below; and

**WHEREAS**, the City of Unalaska Planning Commission held a public hearing on August 6, 2015 to consider this platting action and to hear testimony of the public;

**WHEREAS**, notices were posted and mailed in accordance with Title 8, UCO §8.08.020(F); and

**WHEREAS**, the Planning Commission finds the nonconforming 20-foot lot width for Lot 3 to be a Variance in accordance with the following tests of code:

1. *There are special circumstances or conditions affecting the proposed subdivision such that strict application of the provisions of this chapter would clearly be impractical or undesirable to the general public or that strict application would be unreasonable or cause undue hardship to the applicant requesting the variance.*

The property is shaped and sized in such a way that the rear of the property is expansive enough to contain a separate lot, but can only be accessed through a narrow strip of land leading to the roadway. Granting this 20-foot lot width makes the subdivision practical and promotes the interest of the general public.

2. *The granting of a specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the proposed subdivision is located.*

As the applicant has demonstrated that all other land use and subdivision requirements will be able to be addressed, and no known hardship will exist for neighboring properties, the granting of this variance is not anticipated to negatively impact the area surrounding the subdivision.

3. Such variance will be in accord with the intent and purpose of this chapter and of the Comprehensive Plan of the city; and

The variance is within the intent and purpose of UCO Chapter 8.08 (Platting and Subdivision) and promotes the Comprehensive Plan of the city by making more land available for housing.



**WHEREAS**, the Planning Commission/Platting Board finds that upon completion of the stated conditions of approval, the preliminary plat will meet the requirements for platting actions set forth in UCO Chapter 8.08.

**NOW THEREFORE BE IT RESOLVED**, the Platting Board approves the preliminary plat of Hatfield Subdivision with the nonconforming 20-foot lot width for Lot 3, as a variance to be considered approved with this action, with the following conditions of approval in accordance with the standards outlined in Unalaska Code of Ordinances Chapter 8.08 (Platting and Subdivision):

1. All utility lines serving this subdivision must be shown on the final plat, including relevant mainlines.
2. Utility service lines shall be installed to all three lots prior to approval of the final plat, and their locations shall be shown on the final plat. Utility service lines for any lot shall not cross through another lot without a dedicated utility easement.
3. Note 5 shall be updated to state: "The Hatfield Subdivision is zoned Single-Family/Duplex Residential at the time of this platting action. A maximum of 2 residential units are allowed on each lot. The front and rear yard requirements are 20 feet. The side yard requirement is 10 feet. The maximum height of structures is 35 feet, and the maximum lot coverage is 40%."
4. A closure report shall be submitted.
5. Electronic versions of the final shall be provided to the Department of Planning at the time of mylar plat submittal, allowing for incorporation into the City's CADD and GIS programs.

Upon the correction of the aforementioned deficiencies, the applicant shall submit a corrected preliminary plat to the Department of Planning for review and concurrence before proceeding to final plat. This conditional plat approval becomes effective if there are no appeals within ten (10) working days after the Planning Commission action and shall remain in effect for one year.

PASSED AND APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2015, BY THE PLATTING BOARD OF THE CITY OF UNALASKA, ALASKA.

\_\_\_\_\_  
Doanh Tran  
Chair

\_\_\_\_\_  
Anthony Grande  
Secretary



PLANNING REQUEST APPLICATION FORM  
CITY OF UNALASKA, ALASKA



Department of Planning  
PO Box 610  
Unalaska, Alaska 99685-0610  
Phone: (907) 581 3100 FAX (907) 581 4181  
Email: [planning@ci.unalaska.ak.us](mailto:planning@ci.unalaska.ak.us)  
Website: [www.ci.unalaska.ak.us](http://www.ci.unalaska.ak.us)

The undersigned hereby applies to the City of Unalaska for approval of the following as per Title 8: Planning and Land Use Development, UCO.

APPLICATION FOR: ☒ VARIANCE ☐ CONDITIONAL USE  
☐ ZONE AMENDMENT ☒ PLAT

Brief Description of Request: (attach additional information to communicate request)

REQUESTING VARIANCE FOR 20 FT FRONTAGE ON LOT 3

Current Zone Designation: SFD Proposed Zone Designation(s) (if applicable): SFD

Current Land Use(s): SFD Proposed Land Use(s) (if changing): \_\_\_\_\_

Property Owner: JAY HATFIELD

Property Owner Address: Box 9120022 DUTCH HARBOR AK 99692

Street Address of Property: 1926 EAST BROADWAY

Applicant's Name: JAY HATFIELD

Mailing Address: \_\_\_\_\_

Email: BIG JAY AK@hotmail.com Day Time Phone: 581 3574 Message Phone: \_\_\_\_\_

FOR OFFICE USE ONLY		DATE	
Preliminary Plat Copies		Attachment A	
Applicant Letter		Site Plan	
Application Fee		Title Search/Certificate-to-Plat	

**PROPERTY LEGAL DESCRIPTION:** (Fill in applicable blanks)

Tax Lot ID No.: 06-09-130 Lot: 2 Block: \_\_\_\_\_ Tract: \_\_\_\_\_

Subdivision: ARC addn. # 1 USS: \_\_\_\_\_

Section(s): \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

**PROPOSED FUTURE DESIGNATION OF PROPERTY:** (For Plat Application Only)

Platting Procedures and Requirements are described in detail in Chapter 8.08: Platting and Subdivision. A certificate to plat as proof of ownership shall accompany the submittal of a plat.

SUBDIVISION Hatfield Subdivision

Block(s) \_\_\_\_\_ Lot (s) 1, 2 + 3 Tract (s) \_\_\_\_\_ USS \_\_\_\_\_

Containing: 191 Acre(s) 1.91 Lot(s) 3 Tract(s) \_\_\_\_\_  
total 3 lots TOTAL  
191 3

**SURVEYOR INFORMATION**

Surveyor Name: Succession Surveyors

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Details: Email \_\_\_\_\_ Phone Number \_\_\_\_\_

Registered in Alaska: Yes ☒ No ☐

**REQUIRED SUPPLEMENTAL INFORMATION** (For Variance, Zone Amendment and Conditional Use Application Only).

**Subdivision Variance (8.08.110)**

Applicant is encouraged to submit supporting documentation and a site plan to demonstrate how the requested Variance:

- Is needed due to special circumstances or conditions affecting the proposed subdivision such that strict application of the provisions of this chapter would clearly be impractical or undesirable to the general public or that strict application would be unreasonable or cause undue hardship to the applicant requesting the variance.
- Will not be detrimental to the public welfare or injurious to other property in the area in which the proposed subdivision is located;
- Will be in accord with the intent and purpose of this chapter and of the Comprehensive Plan of the city.

**Zone Amendment (8.12.190)**

Applicant is encouraged to submit supporting documentation to demonstrate how the requested Zone Amendment is reasonable, in the public interest, and in conformance with the goals and objectives of the Comprehensive Plan.

**Conditional Use (8.12.200)**

Applicant is encouraged to submit supporting documentation and a site plan to demonstrate how the requested Conditional Use:

- Furthers the goals and objectives of the Comprehensive Development Plan;
- Will be compatible with existing and planned land uses in the surrounding neighborhood and with the intent of its use district; and
- Will not have a permanent negative impact substantially greater than anticipated from permitted development within the district.

**Zoning Variance (8.12.210)**

Applicant is encouraged to submit supporting documentation and a site plan to demonstrate how the requested Variance:

- Need is not caused by the person seeking the variance and that exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zoning district, and result from lot size, shape, topography, or other circumstances over which the applicant has no control. An argument of "financial hardship" when defined as causing a developer to spend more than he is willing to in order to conform, is not an overriding factor in the granting of a variance;
- Is necessary for the preservation of a property right of the applicant substantially the same as is possessed by other landowners in the same zoning district;
- Will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- Will not be materially detrimental to the intent of this chapter, or to properties in the same zoning district in which the property is located, or otherwise conflict with the objectives of the Comprehensive Plan and the variance requested is the minimum variance, which would alleviate the hardship.

**\*SITE PLAN (TO SCALE):** Please show all existing and proposed structures, access, dimensions, utilities and parking as appropriate.

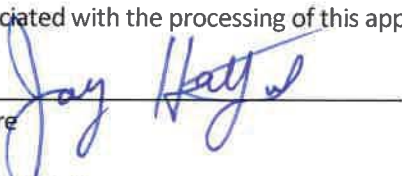
**PLEASE NOTE :** All applications must be received fifteen (15) days prior to the next regular meeting of the Planning Commission as per Section 8.12.200(A)(2), Section 8.12.210(B)(2) UCO, and Section 8.12.190 UCO. The Department of Planning will provide an examination of the City of Unalaska Real Property Tax Roll indicating that the signature of the landowner on the application form is in fact the latest owner of record. The Department of Planning will mail a notice of the public hearing to all landowners of record within 300 feet of the proposed request as shown in the City of Unalaska Real Property Tax Rolls.

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**CERTIFICATION:**

I hereby certify that (I Am) (I have been authorized to act for\*) the owner of the property described above and that I desire a planning action for this property in conformance with the Title 8, UCO and hereby dispose and say that all of the above statements are true. I am familiar with the code requirements and certify, to the best of my knowledge, belief, and professional ability, that this application meets them. I understand that payment of the review fee is non-refundable and is to cover costs associated with the processing of this application and that it does not assure approval of the request.

Signature



Date

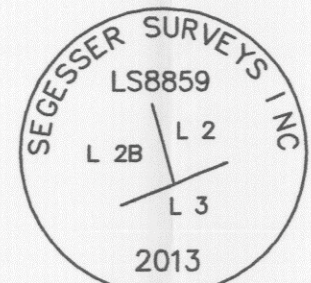


**\*Please fill out and submit Authorization to Make Application by Agent form if acting as Owner's Agent**



LEGEND

- = REBAR FOUND  
○ = REBAR W/ PLASTIC CAP SET THIS SURVEY  
⊕ = MONUMENT FOUND THIS SURVEY  
⊗ = PRIMARY MONUMENTS SET THIS SURVEY  
⊠ = UTILITY PEDESTALS  
—s— = SEWER LINE  
—w— = WATER LINE  
—ue— = UNDERGROUND ELECTRIC



TYPICAL MONUMENT SET



TYPICAL PLASTIC CAP

NOTES:

- The Basis of bearing for this survey is N09°23'08"W and is based on the west boundary line of USS 5185 as shown on the plat of A.R.C. Subdivision Addition No. 1, plat 2000-4, filed in the Aleutian Islands Recording District.
- As of the date of survey, all public utilities are within the Right of Ways or have dedicated easements provided and the Right of Ways encompass the travelways.
- No Alaska Department of Environmental Conservation approval is required for this plat.
- Developers may not alter existing natural drainage without providing alternatives and/or drainage easements, if necessary.
- Lots 1, 2, and 3 are zoned Single Family Duplex Residential. Front and rear yard setbacks are 15 feet and the side yard setbacks are 10 feet.

CITY APPROVAL

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT SHOWN HEREON HAS BEEN FOUND TO COMPLY WITH THE REGULATIONS OF THE CITY OF UNALASKA, SAID PLAT HAS BEEN APPROVED BY THE CITY OF UNALASKA.

CITY CLERK

PLANNING DIRECTOR, PLATTING AUTHORITY

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_ DAY OF \_\_\_\_\_,

FOR \_\_\_\_\_

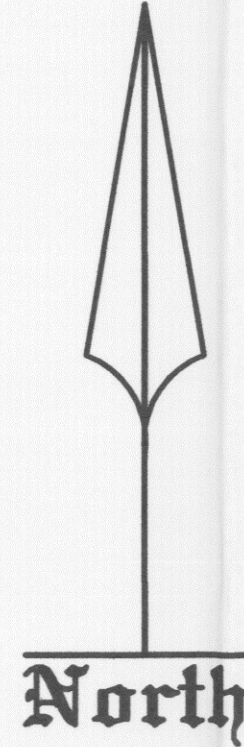
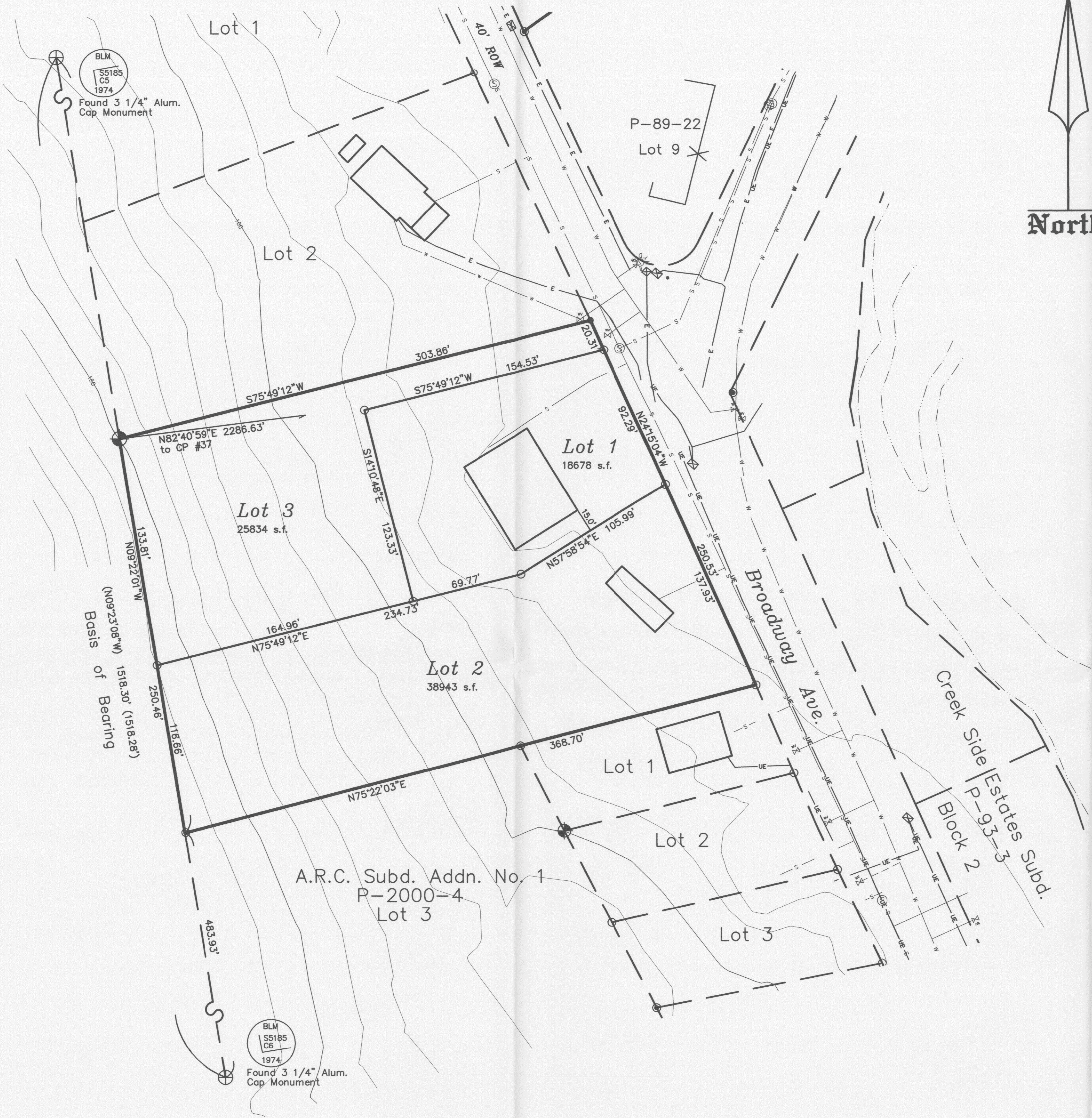
NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES \_\_\_\_\_

NOTARY'S ACKNOWLEDGEMENT

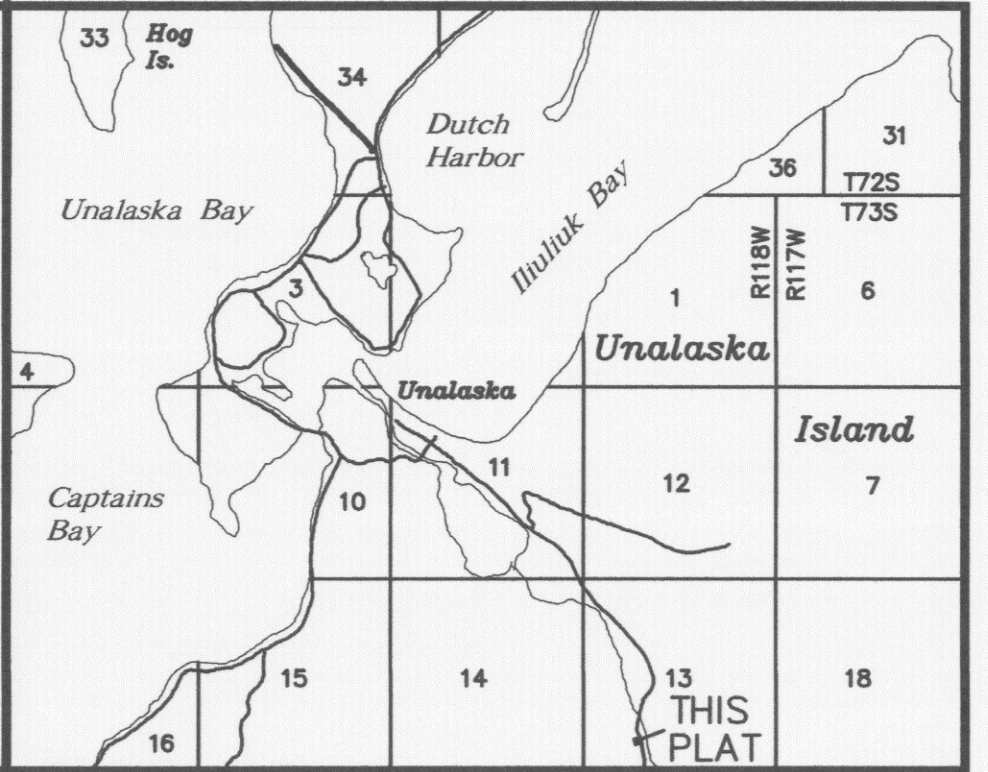
SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_ DAY OF \_\_\_\_\_,

FOR \_\_\_\_\_

NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES \_\_\_\_\_



VICINITY  
MAP  
1" = 1 MILE



CERTIFICATE of OWNERSHIP  
and DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE REAL PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THIS PLAN OF SUBDIVISION AND DEDICATE ALL RIGHTS-OF-WAYS AND PUBLIC AREAS TO THE PUBLIC, AND EASEMENTS TO THE USE SHOWN.

JAY HATFIELD  
P.O. BOX 920032  
DUTCH HARBOR, ALASKA 99692

NOTARY'S ACKNOWLEDGEMENT

SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_ DAY OF \_\_\_\_\_,

FOR \_\_\_\_\_

NOTARY PUBLIC FOR ALASKA  
MY COMMISSION EXPIRES \_\_\_\_\_

TAX CERTIFICATE

I HEREBY CERTIFY THAT NO TAX PAYMENT IS CURRENTLY DUE FOR THE PROPERTY SHOWN HEREON.

TAX OFFICIAL, CITY OF UNALASKA DATE

Hatfield Subdivision

A resubdivision of Lot 2, A.R.C. Subdivision Addition No. 1, Plat 2000-4, Aleutian Islands Recording District.

Located within protracted Section 13, T73S, R118W, S.M., City of Unalaska, Alaska.

Containing 83455 s.f. / 1.912 Ac.

Segesser Surveys  
30485 Rosland St.  
Soldotna, AK 99669

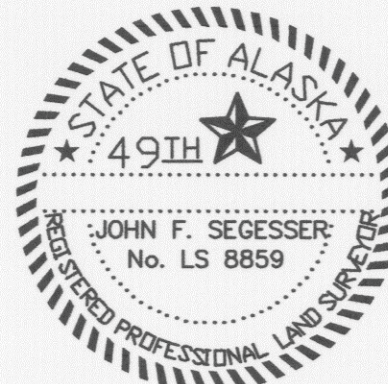
JOB NO.	15025	DRAWN:	6-3-15
SURVEYED:	April 10, 2015	SCALE:	1"=40'
FIELD BK:		SHEET:	1 of 1

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I AM PROPERLY REGISTERED AND LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF ALASKA, THAT THIS DRAWING REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION, THAT THE MONUMENTS SHOWN HEREON ACTUALLY EXIST AS DESCRIBED, AND THAT ALL DIMENSIONS AND OTHER DETAILS ARE CORRECT TO THE NORMAL STANDARDS OF PRACTICE OF LAND SURVEYORS IN THE STATE OF ALASKA. I FURTHER CERTIFY THAT ALL KNOWN PUBLIC UTILITIES WITHIN THE PLATTED AREA ARE LOCATED WITHIN PUBLIC RIGHTS-OF-WAY OR WITHIN UTILITY EASEMENTS DEDICATED BY THIS PLAT.

REGISTERED LAND SURVEYOR REGISTRATION NO.

DATE





I hereby certify that I am properly registered and licensed to practice land surveying in the State of Alaska, that this plat represents a survey made by me or under my direct supervision, that the monuments shown hereon actually exist as described, and that all dimensions and other details are correct to the normal standards of practice of land surveyors in the State of Alaska.

*Francis W. Engel*  
REGISTERED LAND SURVEYOR

I hereby certify that the subdivision plat shown hereon has been found to comply with the regulations of the City of Unalaska, said plat has been approved by the City of Unalaska, Alaska.

CHAIR OF PLATTING BOARD

Subscribed and sworn before me this 14 day of April 2000.

Subscribed and sworn before me this 14 day of April  
1999.

I hereby acknowledge that no tax payment is currently due  
for the property shown hereon.

1. As of the date of survey, all public utilities are within the Right of Ways or have dedicated easements provided and the Right of Ways encompass the travelways.
2. The Basis of Bearing for this survey is N09°23'08"W and is based on the amended Plat of A.R.C. Subdivision as shown on Plat No. 94-03 and filed in the Aleutian Islands Recording District.
3. Developers may not alter existing natural drainage without providing alternatives and/or drainage easements, if necessary.
4. Structures existing at the time of certification of this plat are shown. Some of these structures may not conform to City of Unalaska Code of Ordinance, Title 8, regarding minimum setbacks from property lines. All structures shown are authorized non-conforming structures of record with regard to setback requirements.
5. NO ALASKA DEPT. OF ENVIRONMENTAL CONSERVATION APPROVAL REQUIRED FOR THIS PLAT ACTION.

○ 1 1/2" ALUM. CAP, FOUND

※ BLM CORNER

① 2-1/2" ALCAP ON 2" ALUM. PIPE, SET THIS SURVEY

⊕ FOUND 1" PLASTIC CAP

• SET 5/8" REBAR W/1 1/2" AL. CAP

—W— WATER MAIN

—S— SEWER MAIN

—E— ELECTRIC

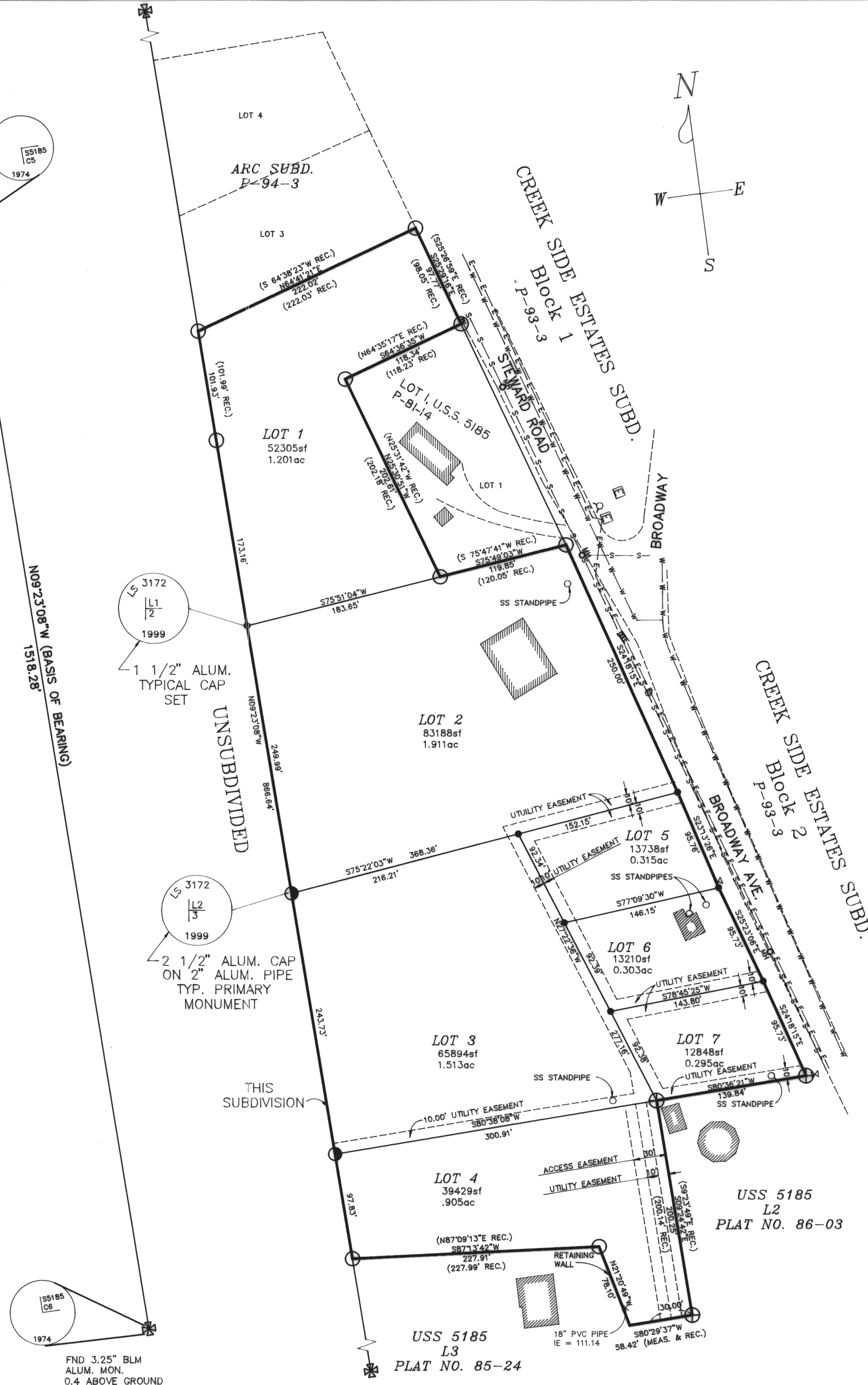
Seal of the State of Alaska, 49th Francis W. Engle, No. 3172-S, Professional Land Surveyor

A circular notary seal for Robin Hall, Notary Public, State of Alaska. The seal features the text "ROBIN HALL" at the top, "NOTARY" in the center, and "PUBLIC" below it, with "STATE OF ALASKA" at the bottom. A small star is positioned between "NOTARY" and "PUBLIC". The seal is surrounded by a decorative border.

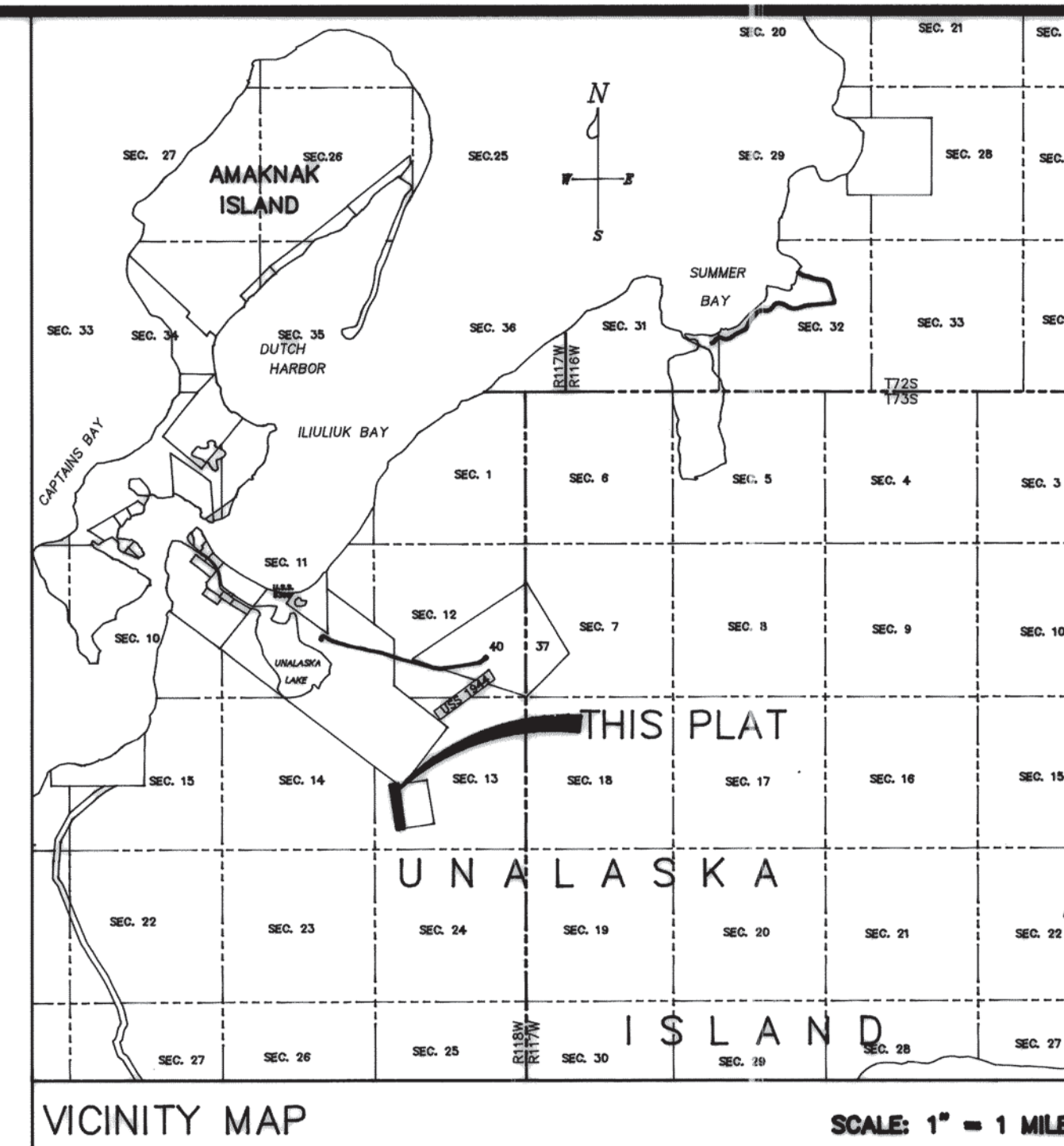
ROBIN HALL  
NOTARY  
\*  
PUBLIC  
STATE OF ALASKA

due

CITY OF UNALASKA  
CORPORATE  
SEAL  
STATE OF ALASKA



RECORDED - FILED  
ALEUTIAN ISLAND REC. DIST.  
DATE 4-26, 2000  
TIME 10:30 A M  
Requested by City of Unalakleet  
SP. \_\_\_\_\_



I (We), hereby certify that I am (We are) the owner(s) of the real property shown and described hereon and that I (we) hereby adopt this plan of subdivision and dedicate all Right of Ways and public areas to the public, and easements to the use shown.

James R. Choate 12/15/99  
James R. Choate DATE  
Personal Representative of the Estate of Alice Rhoda Choate  
102 N. Pine #1  
Burlington, Washington 98233

Subscribed and sworn before me this 18<sup>th</sup> day of DECEMBER, 1999.

NOTARY PUBLIC FOR WASHINGTON  
FRAN R. LEANDS

9-1-2003  
MY COMMISSION EXPIRES

REV.	DATE	DESCRIPTION			
PLAT OF					
<i>A.R.C. SUBDIVISION ADDITION No.1</i>					
A RESUBDIVISION OF LOT2 & TRACT A A.R.C. LAND SUBDIVISION PLAT NO. 94-03 ALEUTIAN ISLANDS RECORDING DISTRICT LOCATED WITHIN SECTION 13, T. 73 S., R. 118 W., SEWARD MERIDIAN, ALASKA. UNALASKA, ALASKA CONTAINING 6.44 ACRES					
<i>FRANCIS W. ENGLE, R.L.S.</i>					
P.O. BOX 921043			DUTCH HARBOR, AK. 99692		
W.O. No. : S11650			DATE OF SURVEY : OCTOBER 1999		
FIELD BOOK : 1161			DATE : NOVEMBER 1999		
DRAWING NAME : REPLAT			SCALE : 1" = 60'		
FILE No. : 141-93			SHEET No. : 1 of 1		



# 1926 East Broadway Ave.



264 ft



The City of Unalaska uses the most current and complete data available. However, GIS data and product accuracy may vary. GIS data and products may be developed from sources of differing accuracy, accurate only at certain scales, based on modeling or interpretation, incomplete while being created or revised, etc. The City of Unalaska reserves the right to correct, update, modify, or replace, GIS products without notification. The City of Unalaska cannot assure the accuracy, completeness, reliability, or suitability of this information for any particular purpose. Using GIS data for purposes other than those for which they were created may yield inaccurate or misleading results. The recipient may neither assert any proprietary rights to this information nor represent it to anyone as other than City Government-produced information. The City of Unalaska shall not be liable for any activity involving this information with respect to lost profits, lost savings or any other consequential damages.

Powered by  
**VANTAGEPOINTS**



**City of Unalaska, Alaska  
Planning Commission/Platting Board  
Resolution 2015-19**

**A RESOLUTION APPROVING PRELIMINARY PLAT AND LOT WIDTH REDUCTION  
VARIANCE FROM 60 FEET TO 20 FEET FOR HATFIELD SUBDIVISION, A  
RESUBDIVISION OF LOT 2, A.R.C. SUBDIVISION ADDITION NO. 1, LOCATED AT 1926  
EAST BROADWAY AVE**

**WHEREAS**, UCO Chapter 8.08 sets forth the procedures and requirements for the subdivision and platting of land and provides that the Planning Commission/Platting Board shall act as the Platting Authority; and

**WHEREAS**, Jay Hatfield is the owner of Lot 2, A.R.C. Subdivision Addition No. 1, P-2000-04, Aleutian Islands Recording District (06-09-180); and

**WHEREAS**, the landowner has submitted a plat application to split the existing lot into three lots; and

**WHEREAS**, the plat submitted contains a nonconforming 20-foot lot width for Lot 3 whereas the minimum lot width requirement is 60 feet; and

**WHEREAS**, the City of Unalaska Departments of Planning, Public Works, Public Utilities, and Public Safety staff have reviewed the proposed plat and have requested revisions as described below; and

**WHEREAS**, the City of Unalaska Planning Commission held a public hearing on August 6, 2015 to consider this platting action and to hear testimony of the public;

**WHEREAS**, notices were posted and mailed in accordance with Title 8, UCO §8.08.020(F); and

**WHEREAS**, the Planning Commission finds the nonconforming 20-foot lot width for Lot 3 to be a Variance in accordance with the following tests of code:

1. *There are special circumstances or conditions affecting the proposed subdivision such that strict application of the provisions of this chapter would clearly be impractical or undesirable to the general public or that strict application would be unreasonable or cause undue hardship to the applicant requesting the variance.*

The property is shaped and sized in such a way that the rear of the property is expansive enough to contain a separate lot, but can only be accessed through a narrow strip of land leading to the roadway. Granting this 20-foot lot width makes the subdivision practical and promotes the interest of the general public.

2. *The granting of a specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the proposed subdivision is located.*

As the applicant has demonstrated that all other land use and subdivision requirements will be able to be addressed, and no known hardship will exist for neighboring properties, the granting of this variance is not anticipated to negatively impact the area surrounding the subdivision.

3. Such variance will be in accord with the intent and purpose of this chapter and of the Comprehensive Plan of the city; and

The variance is within the intent and purpose of UCO Chapter 8.08 (Platting and Subdivision) and promotes the Comprehensive Plan of the city by making more land available for housing.




**WHEREAS**, the Planning Commission/Platting Board finds that upon completion of the stated conditions of approval, the preliminary plat will meet the requirements for platting actions set forth in UCO Chapter 8.08.


**NOW THEREFORE BE IT RESOLVED**, the Platting Board approves the preliminary plat of Hatfield Subdivision with the nonconforming 20-foot lot width for Lot 3, as a variance to be considered approved with this action, with the following conditions of approval in accordance with the standards outlined in Unalaska Code of Ordinances Chapter 8.08 (Platting and Subdivision):

1. All utility lines serving this subdivision must be shown on the final plat, including relevant mainlines.
2. Utility service lines shall be installed to all three lots prior to approval of the final plat, and their locations shall be shown on the final plat. Utility service lines for any lot shall not cross through another lot without a dedicated utility easement.
3. Note 5 shall be updated to state: "The Hatfield Subdivision is zoned Single-Family/Duplex Residential at the time of this platting action. A maximum of 2 residential units are allowed on each lot. The front and rear yard requirements are 20 feet. The side yard requirement is 10 feet. The maximum height of structures is 35 feet, and the maximum lot coverage is 40%."
4. A closure report shall be submitted.
5. Electronic versions of the final shall be provided to the Department of Planning at the time of mylar plat submittal, allowing for incorporation into the City's CADD and GIS programs.

Upon the correction of the aforementioned deficiencies, the applicant shall submit a corrected preliminary plat to the Department of Planning for review and concurrence before proceeding to final plat. This conditional plat approval becomes effective if there are no appeals within ten (10) working days after the Planning Commission action and shall remain in effect for one year.

PASSED AND APPROVED THIS 6 DAY OF August, 2015, BY THE PLATTING BOARD OF THE CITY OF UNALASKA, ALASKA.

  
Doanh Tran  
Chair

  
Anthony Grande  
Secretary

**CITY OF UNALASKA  
UNALASKA, ALASKA  
PLANNING COMMISSION MINUTES  
THURSDAY, AUGUST 6, 2015  
CITY COUNCIL CHAMBERS, CITY HALL  
12:00 P.M.**

- 1. CALL TO ORDER:** Chair Doanh Tran called the meeting to order at 12:00 PM.

**Roll Call:**

*Commissioners present:*

Doanh Tran

Vicki Williams

Jessica Earnshaw

Lottie Roll (*arrived at 12:06pm after minutes were approved*)

Billie Jo Gehring

**DRAFT**

**Staff Present:**

Anthony Grande, Acting Planning Director

Don Moore, City Manager

- 2. REVISIONS TO THE AGENDA:** *None*

- 3. APPEARANCE REQUESTS:** *None*

- 4. ANNOUNCEMENTS:** City Manager, Don Moore, stated that this was one of the better Land Use Plans that he has seen in his experience serving as City Manager around the state and that the community involvement with this plan was commendable.

- 5. MINUTES:** *Planning Commission & Platting Board, July 16, 2015.* Chair Tran called for a motion to approve the minutes from the July 16, 2015 meeting. Jessica Earnshaw made a motion, Vicki Williams seconded the motion. Chair Tran asked if there were any further discussions on the minutes. There being no comments, Chair Tran called for a vote, which was unanimous (4-0). The minutes for the July 16, 2015 meeting were adopted.

**PUBLIC HEARING ACTION ITEMS:**

- **6. Resolution 2015-19:** *A resolution approving preliminary plat and lot width reduction variance from 60 feet to 20 feet for Hatfield Subdivision, a resubdivision of Lot 2, A.R.C. Subdivision Addition No.1, located at 1926 East Broadway Avenue.* ←

Chair Tran confirmed that there was no conflict of interest or exparte communication, opened the public hearing and called for the staff presentation.

Anthony Grande explained that this was a subdivision and variance request for a lot width reduction. Approval of this resolution approves both the variance and preliminary plat. The 20 foot request is for Lot 3 and is similar to other flagpole lots that have been previously approved. The subdivision meets all other requirements according to the subdivision code. Utilities will need to be shown on the plat and utility service lines installed before final plat approval. Once

Last revised: 9/1/2015 9:16:58 AM

the utility requirements and other listed conditions are met, staff finds that the subdivision meets the requirements.

Looking at the variance component of this request requires reviewing the three tests of code. The shape of the property, although almost 2 acres in size, only touches the road way at the front making access to the back lot more problematic. Granting the 20 foot lot width makes the subdivision more practical and would promote the general interest of the public by providing more space for housing. Approving this variance request will not have a negative impact on public welfare. All three newly created lots are still large lots and should not create a hardship for the neighboring properties. Making land available for housing is priority with the Comprehensive Plan. Staff is recommending approval since the variance request meets all three tests of code. Mr. Grande stated that two members of the public spoke to him expressing their concern about the creation of a flagpole lot in that area. Mr. Grande said the concern was very valid and the commission should take that into account during their discussion. Even though the commission has been approving flagpole lots, each request needs to be evaluated for its appropriateness before approval is granted. Another concern was that the creation of Lot 3 has the potential to cause a visual impact to neighbors due to a portion of the hillside being destroyed. This was not considered in the initial analysis since, on paper, it looks very similar to other variances that have been approved. Staff recommended that the commission take those comments into consideration.

Chair Tran asked the commissioners if they had any question for staff. Hearing no questions, Chair Tran opened the floor for any public comment. Juliann Tucker spoke on the behalf of herself and Gerard Parker. She spoke about several points, including the fact that this is a family friendly neighborhood with 20 kids living within two blocks that are under ten years old, and the increased density would not be appropriate for children. She also noted that the area already has a dangerous 3-way stop that will be made more dangerous as a result of this variance. She believes that development should be focused on the medium and high density areas instead of the single family areas. She hopes that the lots in her area will remain large lots. Chair Tran asked if there were any other members of the public who wished to speak. Chair Tran asked Mr. Hatfield, the applicant, if he had anything he would like to add. There being no further public comments and no questions of the commissioners, Chair Tran closed the public hearing.

Chair Tran opened the commission discussion. Commissioner Roll asked if the new lots were all zoned as residential or if they were commercial. Staff informed the commission that the current zoning was residential and no commercial activity could take place on the lot without a conditional use permit. Chair Tran expressed her appreciation for Ms. Tucker's testimony and added it was the commissioners' job to balance differing viewpoints in the community. While Chair Tran appreciated Ms. Tucker's concerns, she feels the commission should move forward with approval to create new housing opportunities. Commissioner Earnshaw also understands wanting to maintain family friendly neighborhoods but also knows that more housing is needed.

Chair Tran asked staff how density changes are handled by the Planning Department. Mr. Grande explained that density in an area can change in one of two ways. The first would be by subdividing into smaller lots, much like this request. The other would be dependent on the type of development, whether it be multi-family or single-family building. The current City zoning code only addresses how lots are zoned (single family, moderate density, high density) it does not address the size of the lot in different areas of the City. The Land Use Plan that will be discussed later in the meeting is the first step in the direction of identifying which areas should

be lower density and which areas should be higher density. In this particular subarea, the Land Use Plan calls for the lowest density possible as desirable. Mr. Grande informed the commission that it is in their hands if they want to amend the City's zoning code or policies. Code can be changed to have minimum lot sizes specific to certain areas if that is the direction the commission wants to go.

Commissioner Williams wondered if the ordinance should be changed to have a 20 foot frontage instead of 60 feet so the commission didn't have to keep granting variances. Mr. Grande clarified that the reduction was just for the 20 feet fronting the road, not for an overall lot width of 20 feet. The variances that have been granted in the past have been looked at on a case by case basis.

Chair Tran asked the applicant, Jay Hatfield, if this request was an urgent matter. Mr. Hatfield stated that he had a buyer lined up for the existing structure on Lot 2. Mr. Hatfield has no plans on developing Lot 3 at this time, but would like to proceed with the process in order to sell Lot 2.

Juliann Tucker pointed out that she felt the addition of the flagpole lot would create confusion at the 3-way stop and had concerns about water run-off if the ravine was altered.

Chair Tran asked the commissioners if they wanted to vote on this resolution tonight or postpone their decision. Commissioner Gehring made a motion to approve Resolution 2015-19, Commissioner Earnshaw seconded. Chair Tran asked if there were any further questions or comments. Hearing none, Chair Tran called for a vote to approve Resolution 2015-19. The vote was unanimous (5-0), and the motion was carried and adopted.

## **REGULAR MEETING:**

**7. Resolution 2015-20:** *A resolution adopting and recommending approval to the Unalaska City Council the Unalaska Land Use Plan: 2015 as a component of the Comprehensive Plan.*

Mr. Grande presented the final draft of the Unalaska Land Use Plan to the commissioners. At the July 16<sup>th</sup> Planning Commission meeting, the commissioners let staff know that they were comfortable voting for the final draft with some language changes. Mr. Grande made the following requested changes to the plan:

- Added language in the Alyeska Subarea about the historic value of the Iliuliuk River.
- Added language to the Captain Bay Subarea explaining that there may be recreational/subsistence value in the developable tidelands.
- Removed language in the Amaknak Retail Subarea related to limiting industrial development in Margaret Bay.
- Added language to the existing conditions clarifying that some vacant land is owned by the City.

Staff informed the commission that approval of Resolution 2015-20 would adopt this plan as part of the Comprehensive Plan and recommend its approval to City Council. Chair Tran asked the commissioners if they had any questions regarding the changes that were made. Commissioner Earnshaw wanted to thank Planning Staff for their work on the plan and their patience with the process. Chair Tran also expressed her thanks.

Last revised: 9/1/2015 9:16:58 AM

Chair Tran asked if there were any members of the public that would like to comment on the plan. Hearing no comments, Chair Tran closed the public hearing. Commissioner Earnshaw made a motion to approve Resolution 2015-20, Commissioner Roll seconded. There being no further commission discussion, Chair Tran called for a vote to approve Resolution 2015-20. The vote was unanimous (5-0), and the motion was carried and adopted.

**WORK SESSION:** *None*

**OTHER BUSINESS:** *None*

**8. ADJOURNMENT:** Chair Tran adjourned the meeting at 12:37 PM.

PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2015 BY THE CITY OF UNALASKA, ALASKA PLANNING COMMISSION.

\_\_\_\_\_  
Doanh Tran  
Commission Chair

\_\_\_\_\_  
Date

\_\_\_\_\_  
Anthony Grande  
Secretary of the Commission

\_\_\_\_\_  
Date

Prepared by Kelly Tompkins and Anthony Grande, Planning Department

## **BEFORE THE CITY COUNCIL FOR THE CITY OF UNALASKA, ALASKA**

This is an appeal of the Platting Board's (represented by **Planning Director, Erin Reinders**) decision on August 6, 2015 to grant a variance and approve a preliminary plat application submitted by **Mr. Jay Hatfield**. The appeal was filed by **Ms. Juliann Tucker** and **Mr. Jarrard Parker** on August 12, 2015. Having considered Ms. Tucker's and Mr. Parker's appeal after conducting a public hearing pursuant to UCO § 8.12.220(C)1(c), the City Council for the City of Unalaska, Alaska, makes the following findings of fact and conclusions with regard to the appeal:

### **FINDINGS OF FACT**

1. Jay Hatfield is the owner of Lot 2, A.R.C. Subdivision Addition No. 1, P-2000-04, Aleutian Islands Recording District (06-09-180), and has submitted a plat application to split the existing lot into three lots.
2. The plat submitted contained a nonconforming 20-foot lot width for Lot 3 whereas the minimum lot width requirement is 60 feet found in UCO § 8.08.090 SUBDIVISION DESIGN STANDARDS (D) (b), requiring a subdivision variance.
3. The City of Unalaska Planning Commission/Platting Board held a public hearing on August 6, 2015 to consider this platting action and variance, and to hear testimony of the public in accordance with UCO § 8.08.020 (H) Platting Authority Public Hearings.
4. As the minutes of this August 6, 2015 public hearing show, Juliann Tucker spoke and shared her concerns regarding the application's potential negative impact on density, the family friendly neighborhood, traffic at the three way stop, and run off from a ravine if the property were to be altered.
5. UCO § 8.08.110 VARIANCES (A) states that the Board may grant a variance from the provisions of this chapter when it deems necessary because of an undue hardship or that it finds desirable from the standpoint of public interest, so long as it meets the

three test of code. The Planning Commission unanimously approved the variance for the 20-foot lot width for Lot 3 which met the tests of code as outlined below:

*1. There are special circumstances or conditions affecting the proposed subdivision such that strict application of the provisions of this chapter would clearly be impractical or undesirable to the general public or that strict application would be unreasonable or cause undue hardship to the applicant requesting the variance.*

The property is shaped and sized in such a way that the rear of the property is expansive enough to contain a separate lot, but can only be accessed through a narrow strip of land leading to the roadway. Granting this 20-foot lot width makes the subdivision practical and promotes the interest of the general public.

*2. The granting of a specified variance will not be detrimental to the public welfare or injurious to other property in the area in which the proposed subdivision is located.*

As the applicant has demonstrated that all other land use and subdivision requirements will be able to be addressed, and no known hardship will exist for neighboring properties, the granting of this variance is not anticipated to negatively impact the area surrounding the subdivision.

*3. Such variance will be in accord with the intent and purpose of this chapter and of the Comprehensive Plan of the city.*

The variance is within the intent and purpose of UCO Chapter 8.08 (Platting and Subdivision) and promotes the Comprehensive Plan of the city by making more land available for housing.

6. Platting Board was then able to approve the preliminary plat of Hatfield Subdivision with the nonconforming 20-foot lot width for Lot 3, as a three tests of code for the variance had been met, with the following conditions of approval in accordance with the standards outlined in UCO Chapter 8.08 (Platting and Subdivision):

1. All utility lines serving this subdivision must be shown on the final plat, including relevant mainlines.

2. Utility service lines shall be installed to all three lots prior to approval of the final plat, and their locations shall be shown on the final plat. Utility service lines for any lot shall not cross through another lot without a dedicated utility easement.
3. Note 5 shall be updated to state: "The Hatfield Subdivision is zoned Single-Family/Duplex Residential at the time of this platting action. A maximum of 2 residential units are allowed on each lot. The front and rear yard requirements are 20 feet. The side yard requirement is 10 feet. The maximum height of structures is 35 feet, and the maximum lot coverage is 40%."
4. A closure report shall be submitted.
5. Electronic versions of the final shall be provided to the Department of Planning at the time of mylar plat submittal, allowing for incorporation into the City's CADD and GIS programs.
7. The Platting Board/Planning Commission granted the variance and approved of the Preliminary Plat through Planning Commission Resolution 2015-19 with the conditions and reasoning described above and as noted in the meeting minutes.
8. The appeal of this decision was filed on August 12, 2015 by Ms. Tucker and Mr. Parker. This letter outlined a concern of density and lot size; of increased traffic and population in the area, stating that this area should be family friendly; regarding the location of a new driveway; a "ravine issue" and other topographic issues of development; and variances being a norm.
9. As the memo to Council dated September 22, 2015 addressed, this subdivision remains one of the lowest density areas of town, maintains a family friendly environment in the Single Family Duplex Zoning District, the potential driveway for lot 3 would be directly adjacent to an existing driveway and is not anticipated to cause a significant impact; a presence of a ravine was determined to not be a significant issue in relation to the granting of a variance or in subdividing of the property; and the granting of a variance is not a given or a guarantee and each request is evaluated individually against the tests of code.



10. In response to the letter of appeal, a public hearing to consider the Platting Board's decision and objections thereto was scheduled for September 22, 2015 at 6:00, as noticed to the appellants, the property owner and the Planning Department.
11. The Public Hearing following the guidance found in UCO § 8.12.220 (C) 1(c). The City Council considered all relevant evidence.

### **CONCLUSIONS**

1. Ms. Tucker and Mr. Parker notice of appeal was timely filed on August 12, based upon the date of the Platting Boards Action of August 6, 2015.
2. UCO Chapter 8.08 (Platting and Subdivision) outlines when a variance can be granted and the requirements for a platting action.
3. The granting of the variance and the conditional approval subdivision plat via 2015-19 was in accordance with Unalaska's Comprehensive Plan, city code and desirable from the standpoint of public interest.

THEREFORE, upon motion approved by a majority of the members of the City Council of the City of Unalaska hearing the appeal, the Council hereby MAINTAINS the ruling of the Platting Board, approving Hatfield Subdivision Plat and granting the associated variance.

Ms. Tucker and Mr. Parker are hereby notified that they have a right to appeal this decision of the City Council of the City of Unalaska to the Superior Court in accordance with UCO § 8.08.130(A).

DATED, this \_\_\_\_ day of \_\_\_\_\_, 2015.

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Shirley Marquardt  
Mayor

ATTEST:

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Catherine Hazen  
City Clerk

## **RESOLUTION NO. 2015-54**

### **A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING AMENDMENT AND RESTATEMENT OF A TIDELANDS LEASE BETWEEN THE CITY OF UNALASKA AND UNISEA, INC**

**WHEREAS**, in 1989, the State of Alaska granted Unisea, Inc. a 55-year lease to the tidelands (“Tidelands Lease”) described as Alaska Tidelands Surveys (“ATS”) 808A and 808B; and

**WHEREAS**, the Tidelands Lease contains terms granting the State of Alaska Department of Transportation and Public Facilities the right to use certain areas of 808A to support a public small boat harbor (now the Robert Storrs Small Boat Harbor, “Storrs Harbor”) for the first twenty years of the lease term; and

**WHEREAS**, in consideration of 808A’s use for the Storrs Harbor, the Tidelands Lease exempted Unisea from paying rent for 808A for the first twenty years of the lease term; and

**WHEREAS**, title to ATS 808A and ATS 808B, the tidelands subject to the Tidelands Lease, was conveyed to the City in 1994; and

**WHEREAS**, as a result of the conveyance, the City assumed the role of lessor under the Tidelands Lease; and

**WHEREAS**, the City also assumed the rights granted to DOT/PF for operation of the Storrs Harbor when the City took over operation of the Storrs Harbor; and

**WHEREAS**, the City’s right to use portions of 808A for the Storrs Harbor and the corresponding rent abatement expired in 2009; and

**WHEREAS**, Unisea has not paid rent on the 808A portion of the Tidelands Lease, which it has been required to do since 2009; and

**WHEREAS**, the City has continued to operate a small boat harbor for public use on portions of 808A, although without a defined legal right to do so since 2009; and

**WHEREAS**, real property tax has not been assessed on that portion of 808A that has traditionally been used by the City, an interest identified as Tax Lot 04-05-400; and

**WHEREAS**, real property tax has been assessed, and paid by Unisea, on the Galaxy Dock portion of 808A, an interest identified as Tax Lot 04-08-401; and

**WHEREAS**, the interests of the public and Unisea are served by this arrangement; and

**WHEREAS**, the Tidelands Lease does not reflect this mutually beneficial arrangement; and

**WHEREAS**, the City will expand the Storrs Harbor in the near future; and

**WHEREAS**, the State of Alaska’s 1989 form lease agreement that served as the template for the Tidelands Lease contains terms that are not well suited to the City as lessor;

**NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:**

The City Manager is authorized to negotiate an amended and restated Tidelands Lease that:

1. Grants the City primary possession and use of 808A, except that portion commonly referred to as Galaxy Dock;
2. Waives the City's claim for rent for 808A owed prior to amendment;
3. Waives Unisea's claim for the City's trespass to 808A occurring prior to amendment;
4. In recognition of the City's primary possession and use of 808A, eliminates rent for 808A, except as to that portion commonly referred to as Galaxy Dock;
5. Establishes annual rent on the Galaxy Dock at a rate equal to 10% of the appraised value, to be periodically adjusted in accordance with the current terms of the Tidelands Lease or UCO 7.12.050;
6. In recognition of the City's primary possession and use of 808A, acknowledges that the non-Galaxy Dock portion of 808A, an interest identified as Tax Lot 04-05-400, is not "leased" by Unisea as that term is used in UCO Chapter 6.28 as Unisea shall not have primary possession and use, and Tax Lot 04-05-400 is therefore not subject to real property taxation as long as the City retains primary possession and use; or otherwise provides that primary possession and use of 808A is granted to the City of Unalaska in lieu of property tax payment for Tax Lot 04-05-400;
7. Grants the City use of upland areas around the Storrs Harbor necessary for the City's planned Storrs Harbor expansion project;
8. Addresses disposition of the Galaxy Dock and other improvements following expiration or termination of the Tidelands Lease;
9. Adds, deletes, or modifies other terms, or conforms the Tidelands Lease to requirements of UCO Chapter 7.12, so long as the following terms are substantively unchanged from the current Tidelands Lease, except as provided above:
  - a. The duration of the lease,
  - b. The property subject to the lease, and
  - c. Lease renewal.

**PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE  
UNALASKA CITY COUNCIL THIS 8th DAY OF SEPTEMBER, 2015.**

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SHIRLEY MARQUARDT  
MAYOR

ATTEST:

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CAT HAZEN  
CITY CLERK

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**MEMORANDUM TO COUNCIL**

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**TO: MAYOR AND CITY COUNCIL MEMBERS**  
**THRU: DON MOORE, CITY MANAGER**  
**FROM: ERIN REINDERS, DIRECTOR OF PLANNING**  
**DATE: AUGUST 25, 2015**  
**RE: A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING  
AMENDMENT AND RESTATEMENT OF A TIDELANDS LEASE BETWEEN THE  
CITY OF UNALASKA AND UNISEA, INC (RESOLUTION 2015-54)**

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**SUMMARY:** The State of Alaska transferred ownership of ATS 808 A and B to the City of Unalaska in the 1990's, when the City also inherited the associated leases between Unisea and the State of Alaska. ATS 808 A is home of the Bobby Storrs Boat Harbor A and B floats as well as Unisea's Galaxy Dock. The City Attorney has provided a memo describing the complex history and recommended actions for a clear path forward. Staff recommends approval of Resolution 2015-54, drafted by the City Attorney as well.

**PREVIOUS COUNCIL ACTION:** The City Manager Regulations for Tidelands Leasing, License, Exchange or Sale were endorsed by the City Council on April 24, 2012.

**BACKGROUND:** Title 7 and Regulations for Tidelands Leasing, License, Exchange or Sale provide the guidance and identify requirements for new tideland leases of tidelands owned by the City of Unalaska.

The State of Alaska transferred ownership of ATS 808 A and B to the City of Unalaska in the 1990's, and inherited the associated leases between Unisea and the State of Alaska. ATS 808 A is home of the Bobby Storrs Boat Harbor A and B floats as well as Unisea's Galaxy Dock. This history is complex and the details of the agreements are unclear.

**DISCUSSION:** The Planning Director and Port Director have been working with the City Attorney to draft the memo describing the history of these tidelands and identifying a path forward. A Resolution has also been drafted and presented to the commercial processor (Unisea) for their review and comment since that business is affected by any action and outcome involving these leases. Attached is a memo and resolution, as well as an overview photo.

After obtaining the City Council's agreement on how to move forward in the form of the approval of Resolution 2015-54, City Staff will continue working with Unisea and the City Attorney on discussing and drafting related agreements to resolve the many complex issues affected by the leases and changes in this area. Such agreements will come before City Council for their review and approval.

**ALTERNATIVES:** If the City Council finds that it is in the best interest of the City to reject Resolution 2015-54 as is, they may disapprove or modify the agreements in favor of the alternatives identified in the City Attorney's memo.

**FINANCIAL IMPLICATIONS:** Financial implications depend will depend on what final agreements are reached. Potential implications are reviewed in the City Attorney's memo.

**LEGAL:** The Memo and Resolution have been prepared by the City Attorney.

**STAFF RECOMMENDATION:** Staff recommends approval of Resolution 2015-54.

**CITY MANAGER COMMENTS:** The tidelands issues outlined in the attached documents have a long and complex history that must be resolved in order to avoid serious land ownership problems for both the City and one of its major industries. These problems must be addressed in a comprehensive way because although there are multiple issues involved they are interdependent upon one another. Attempting to modify any one point in isolation will almost certainly cause problems elsewhere in this proposed solution.

The City Manager recommends City Council approval of Resolution 2015-54.

**Attachments:**

- *Memo from City Attorney*
- *Resolution 2015-54*
- *Overview Photo*

## MEMORANDUM

To: Don Moore  
Interim City Manager

Erin Reinders  
Director of Planning

From: Charles Cacciola  
Boyd, Chandler & Falconer, LLP

Date: July 7, 2015

Re: Storrs Harbor Real Property Interests

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### **I. SUMMARY**

The Robert Storrs Small Boat Harbor (“Storrs Harbor”), operated by the City, occupies most of Alaska Tidelands Survey (“ATS”) 808A, as shown on the attached drawing. Unisea’s Galaxy Dock also occupies a part of ATS 808A.

Director of Planning Erin Reinders asked us to determine the legal interests held by Unisea and the City in ATS 808A and the surrounding uplands. Based on our review of DNR and City records, we conclude:

- The Storrs Harbor trespasses on tidelands the City leases to Unisea. This trespass dates back to 2009.
- Unisea owes rent to the City for ATS 808A from 2009 through the present, approximately \$215,000.
- Unisea owes additional rent to the City for ATS 808B because the rent amount adjusted upward in 2014 but the adjusted amount was not invoiced or paid.
- Parking areas adjacent to A&B and C floats have been dedicated to public use, although actual use may slightly exceed the area dedicated to parking.

Based on these conclusions we recommend the City, together with Unisea, amend the Tidelands Lease to:

- Grant the City the right to operate the Storrs Harbor.
- Forgive past-due rent from Unisea for 808A and forgive the City’s trespass onto 808A.

- Establish rent for the Galaxy Dock portion of 808A that Unisea will continue to occupy (approximately \$11,000 annually<sup>1</sup>).
- Grant the City a modest expansion of upland areas used for public parking and Storrs Harbor expansion, if necessary.
- Clarify that real property tax is not assessed on the portion of 808A used by the City for the Storrs Harbor.

## II. ATS 808 & TIDELANDS LEASE HISTORY

ATS 808 has a knotty history as a result of a 1970s lawsuit and miscommunication between the Department of Natural Resources, Unisea, and the Department of Transportation. In short, DOT began constructing the present Storrs Harbor before either DOT or Unisea had a legal right to use ATS 808A. To resolve this problem, the State granted Unisea a 55-year lease to both ATS 808A and ATS 808B (“Tidelands Lease”), but the Tidelands Lease contains unusual, special conditions to accommodate the Storrs Harbor. However, these special conditions expired in 2009. According to the Tidelands Lease:

- DOT was granted use of most of 808A to accommodate the Storrs Harbor until 2009. Unisea continued the use the Galaxy Dock portion of 808A.
- Unisea did not owe rent for any of 808A until 2009. From 2009, the rent owed for 808A is 10% of the appraised value (same as the calculation for 808B after 2014).
- Unisea allowed approximately .3 acres of the uplands adjacent to 808A to be used as a parking lot until 2009.
- For 808B, Unisea was to pay \$3,500 annually until 2014, when the rent increased to 10% of 808B’s appraised value.<sup>2</sup>

In 1993, Unisea dedicated rights-of-way *and* parking space to public use.<sup>3</sup> This dedication by plat moots the 2009 expiration of the special parking condition in the Tidelands Lease, but does not affect the other special conditions that expired in 2009.

Around 1993, the City took over operation of the Storrs Harbor, assuming DOT’s 20-year right to use ATS 808A for the Storrs Harbor. In 1994, DNR conveyed ownership of ATS 808A and ATS 808B (and much more tideland) to the City. As a result, the City stepped into the shoes

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<sup>1</sup> MacSwain Associates, LLC. Summary Appraisal Report: Galaxy Dock Tidelands – 36,500 SF (May 10, 2009).

<sup>2</sup> Unisea has consistently paid the \$3,500 invoiced each year, including in 2014 when the invoice amount should have been significantly larger following the rent adjustment.

<sup>3</sup> Plat 93-18, Document No. 1993-000307-0 in Aleutians Islands Recording District, Third Judicial District, State of Alaska. A portion of that plat is attached.

of DNR as the landlord under the Tidelands Lease with Unisea.<sup>4</sup> From 1994-2009, the City was, in a sense, sublessee of 808A, less the Galaxy Dock, from Unisea even though Unisea leased 808A (and 808B) from the City. To summarize the relationships and interests as of 1994:

- The City owns ATS 808A and 808B.
- The City, through the Tidelands Lease that expires in 2044, leases ATS 808A and 808B to Unisea.
- Unisea lets the City use most of 808A for the Storrs Harbor until 2009, retaining use of the Galaxy Dock only during this period.
- The City does not charge rent for 808A until 2009.
- Unisea pays the City \$3,500 a year for 808B until 2014, when the rent adjusts to market value.
- Public parking exists through Unisea's dedication of uplands by plat.

Now that it is 2015, according to the Tidelands Lease:

- Unisea has the right to exclusive use of *all* of 808A; the City has no right to operate the Storrs Harbor.
- Unisea is to pay annual rent on 808A equal to 10% of 808A's market value, approximately \$35,000 a year.<sup>5</sup>
- Unisea is to pay annual rent on 808B equal to 10% of 808B's market value. That value has not been appraised, but should be substantially similar to the amount for 808A (~\$35,000) given the parcels similar size and character.

### **III. REAL PROPERTY TAXES**

In theory, the City should have assessed and collected property tax on the full assessed value of the entire Tidelands Lease - 808A and 808B - since 2009. The City has not. Instead, the City assessed and collected property taxes on 808B<sup>6</sup> and the Galaxy Dock<sup>7</sup> only. 808B and the Galaxy Dock are the leased areas Unisea in fact uses while the City uses the remainder of 808A.<sup>8</sup>

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<sup>4</sup> In June of 1995, DNR transferred \$10,384.93 to the City for rent paid by Unisea for 808B since May 27, 1992.

<sup>5</sup> This estimate, \$35,000, is based upon a 1993 appraised rental value of \$29,000 for the parcel and a 2009 assessment, which valued the land at \$356,730. The appraisal is quite stale and the assessment is not for market value. Nevertheless, the two data points suggest rent for 808A should be around \$35,000, perhaps higher. See MacSwain Associates, LLC. *Retrospective Appraisal Report: Market Rent Estimate of 3.102-Acre Tideland Parcel, Valuation date January 1, 1993* (March 1, 2005); MacSwain Associates, LLC. *Summary Appraisal Report: Galaxy Dock Tidelands – 36,500 SF* (May 10, 2009).

<sup>6</sup> Tax lot 4-05-410.

<sup>7</sup> Tax lot 4-08-401.

<sup>8</sup> Tax lot 4-05-400.



The City's property tax treatment of the Tidelands Lease is fair and equitable, reflecting actual use by Unisea and the City. But that use is in conflict with Unisea's and the City's legal interests and the City needs to assess taxes according to legal interests. Put another way, the City and Unisea need to make their legal interests match actual use and current tax treatment can then continue as is.

As *lessee* of all of 808A, Unisea is liable for property tax on the full assessed value of 808A, approximately \$1.5 million.<sup>9</sup> The City has been collecting property taxes on the Galaxy Dock portion of 808A *only*, assessed at \$318,200.<sup>10</sup> The City has also collected property tax on 808B. Again, the amounts assessed and paid are fair in substance but legally incorrect given the legal interests.

#### **IV. LEGAL REMEDIES AVAILABLE TO THE CITY & UNISEA**

As lessor under the Tidelands Lease, the City has a significant set of legal rights. **(1)** The City is entitled to approximately \$210,000 in rent for 808A dating back to 2009. The City can demand that Unisea pay this amount within 60 days or the City will terminate the Tidelands Lease, which includes ALL of 808A, the Galaxy Dock, *and 808B*. **(2)** The City has the right to assert an easement to the portions of 808A necessary for the harbor. The City does not have to pay Unisea anything to take this easement and can continue to collect the full rent due on 808A. **(3)** The City has the right to condemn Unisea's lease interest in 808A, although it would to pay Unisea the value of that interest. Following condemnation, the City has the option to continue leasing the Galaxy Dock to Unisea or terminate the Tidelands Lease. **(4)** The City is legally entitled (and arguably obligated) to collect the full property tax value of all of ATS 808A (not just the Galaxy Dock) from Unisea until an agreement is reached.

Unisea could assert a claim for trespass against the City, likely reaching back two years due to the statute of limitations.

#### **V. RIGHTING THE SHIP**

The City's and Unisea's use of 808A, the Galaxy Dock, and 808B is fundamentally satisfactory, but does not have the correct legal support. Getting the Tidelands Lease, which covers 808A, the Galaxy Dock, and 808B, to reflect actual use should be straightforward. The City's and Unisea's interests are basically aligned: Both benefit from having their legal interests and obligations match their actual uses and needs. Those uses and needs are largely, if not

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<sup>9</sup> UCO 6.28.030(A)(1)(private leaseholds in city-owned land are subject to property tax); MacSwain Associates, LLC. *Summary Appraisal Report: Galaxy Dock Tidelands – 36,500 SF* (May 10, 2009). The land is appraised at \$356,730 and the improvements at \$1,104,840. The full assessed value of the land and improvements is subject to tax, distinct from the rent valuation, which is the market value of the land alone.

<sup>10</sup> Tax lot 4-08-401. The tax basis is the value of the dock only and does not include *any* of the surrounding tidelands.

entirely, compatible. The City “gets” 808A to operate the Storrs Harbor, Unisea keeps the Galaxy Dock, and rent and taxes are paid accordingly. In addition, the City wants to be able to increase its use of the uplands near A&B floats, which should not overly inconvenience Unisea.<sup>11</sup>

The City is well positioned to achieve its goals *without* Unisea’s cooperation. Given that Unisea’s goals are fundamentally compatible with the City’s, Unisea is almost certain to prefer an amicable, negotiated resolution that permits it to maintain its use of the Galaxy Dock and 808B without having to pay large sums in back rent or taxes. And a negotiated resolution is better for the City.

The City’s and Unisea’s goals can be accomplished by any number of legal structures. Amending the current Tidelands Lease to reflect the City’s and Unisea’s actual interests, as identified in introduction to this memo, is the best one.

## **VI. CONCLUSION**

The Tidelands Lease should be amended to support the City and Unisea’s actual use. As the current lease agreement is based on a DNR template lease, which does not fit the reality of the City as tideland owner, and the lease agreement is already a mess from the expired Storrs Harbor-related provisions, we suggest entirely restating the agreement to conform to the requirements of the Unalaska Code of Ordinances Chapter 7.12 and the substantially changed circumstances, though as a continuation of the original Tidelands Lease. The lease agreement can be cleaned up and certain terms, such as who owns the Galaxy Dock and other improvements when the lease expires in 2044,<sup>12</sup> can be clarified. By restating and cleaning up the written agreement, the City avoids continuing the present problem – a baffling lease that requires digging through volumes of City and DNR records to determine who owns what property rights – again 15, 20, or 30 years from now.

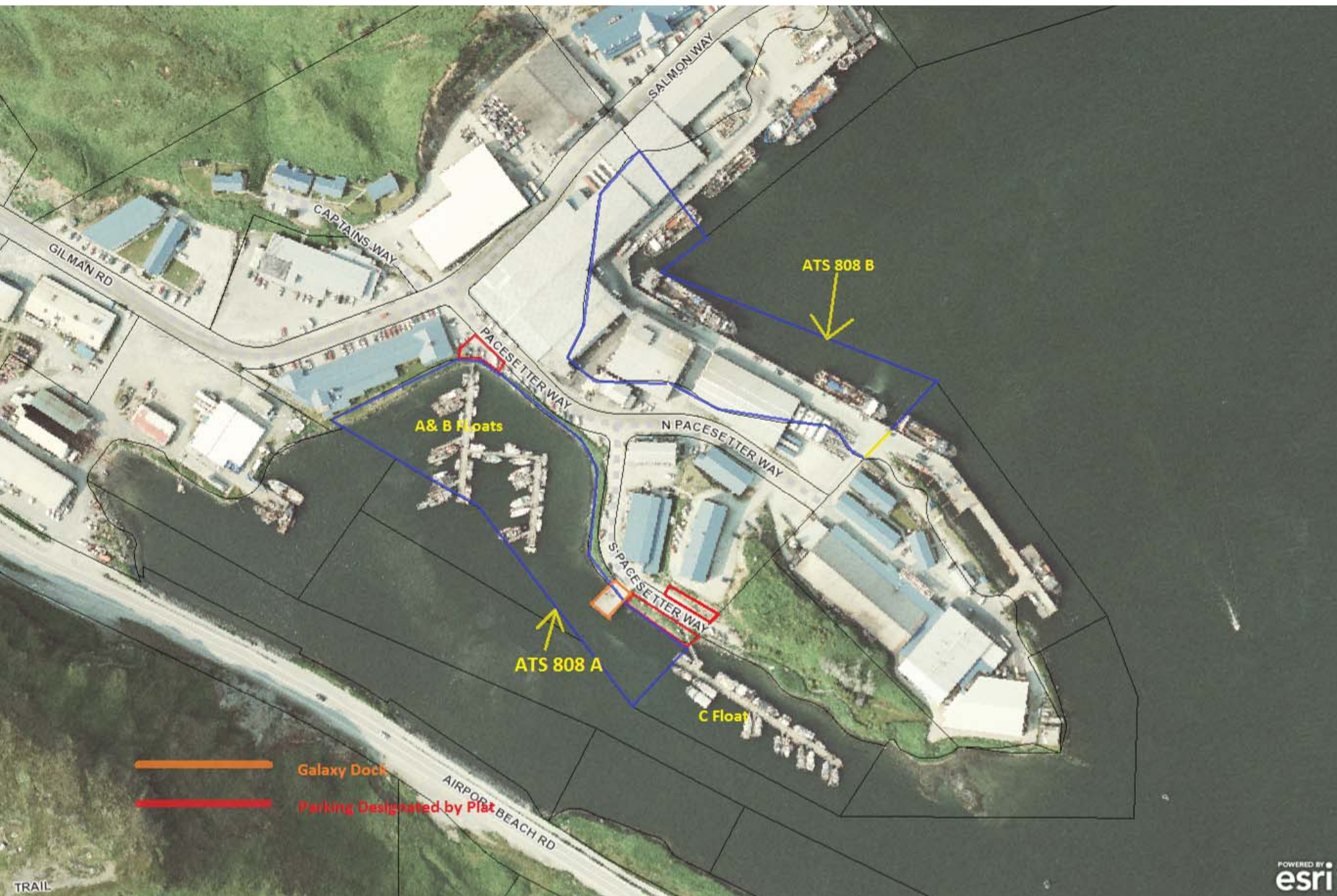
A proposed term sheet in the form of a resolution is attached. Please let us know if you have any questions.

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<sup>11</sup> The City’s planned harbor improvement project may require expanded use of the uplands, though the increased burden on Unisea property, if any, will be modest.

Depending upon the version of the proposed harbor expansion, most of the additional parking will occur on property the City has a right to use. A small portion of uplands between the current right-of-way and waterline may be burdened, but this strip does not significantly exceed 10’ feet in width, is currently unused by Unisea, and has little practical use except to expand parking. Finally, Unisea does not appear to be assessed property tax on the area that may be needed for the expansion project and presumably does not want to start paying taxes. Unisea is generally aware of the City’s expansion plans.

<sup>12</sup> Unisea has made significant improvements on 808B. The current lease provisions regarding ownership of these improvements at the end of the lease term are likely undesirable to both Unisea and the City.



**CITY OF UNALASKA  
UNALASKA, ALASKA**

**RESOLUTION 2015-62**

**A RESOLUTION OF THE UNALASKA CITY COUNCIL APPOINTING JUDGES AND CLERKS FOR THE REGULAR MUNICIPAL ELECTION ON OCTOBER 6, 2015 AND JUDGES TO SERVE ON THE CANVASS COMMITTEE.**

WHEREAS, Unalaska City Code Section 4.08.020 states that the City Council will appoint judges and clerks who will conduct the City of Unalaska regular election to be held October 6, 2015; and

WHEREAS, Unalaska City Code Section 4.08.020 states that the City Council will appoint three judges to constitute the canvass committee that will canvass all votes after the election.

NOW THEREFORE BE IT RESOLVED by the Unalaska City Council that the following are appointed judges and clerks for the Unalaska precinct and shall attend at the Unalaska Precinct Polling place, namely Unalaska City Hall at 7:30 a.m. on October 6, 2015, and shall continue until polls close at 8:00 p.m.; thereafter, the judges and clerks shall count and check all votes cast against the poll listed in the manner required by law:

CAT HAZEN, CHAIR	- JUDGE	KERRY MAHONEY	- CLERK
KAREN PILANDE	- JUDGE	MINERVA FERNANDEZ	- CLERK
ROXANNA WINTERS	- JUDGE		

BE IT FURTHER RESOLVED by the Unalaska City Council that the following are appointed canvass committee judges for the Unalaska precinct and shall meet the first Friday after the October 6, 2015 election to canvass all votes after the election judges have completed their tally of votes:

ROXANNA WINTERS	- JUDGE
YUDELKA LECLERE	- JUDGE
CAT HAZEN	- JUDGE

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF UNALASKA THIS 22ND DAY OF SEPTEMBER 2015.

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MAYOR

ATTEST:

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CITY CLERK

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## MEMORANDUM TO COUNCIL

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TO: MAYOR AND CITY COUNCIL MEMBERS  
THROUGH: DON MOORE, CITY MANAGER  
FROM: CAT HAZEN, CITY CLERK  
DATE: SEPTEMBER 22, 2015  
RE: **RESOLUTION NO. 2015-62:** APPOINTING JUDGES AND CLERKS FOR THE REGULAR MUNICIPAL ELECTION ON OCTOBER 6, 2015 AND JUDGES TO SERVE ON THE CANVASS COMMITTEE.

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**SUMMARY:** Unalaska City Code Section 4.08.020 requires that Council appoint three election judges and two election clerks for the regular municipal election to be held on October 6, 2015, and three judges to serve on the canvass committee. Code also allows for the appointment of up to three additional clerks should they be needed. All named judges and clerks have agreed to participate on Election Day or as part of the canvass committee. Staff recommends approval of the resolution.

**PREVIOUS COUNCIL ACTION:** Per UCO §4.08.020, Council approves the appointment of election judges and clerks annually prior to each municipal election.

**DISCUSSION:** State Statute and Unalaska City Code require Council to appoint election judges and clerks who will conduct the regular municipal election. UCO 4.08.020(A) requires the appointment of three judges and two clerks. However, it also allows for the appointment of additional clerks should the need arise.

In addition, the Council appoints three judges to constitute the canvass committee that will canvass all votes following the election. Traditionally, one Council member serves on the canvass committee; this year Yudelka Leclere has agreed to be a canvass committee judge.

**ALTERNATIVES:** None

**FINANCIAL IMPLICATIONS:** Per UCO 4.04.050 Expenses, “Salaries for non-employee election judges and clerks shall be \$10.00 per hour.” Salaries for election workers are included in the Clerk’s FY16 budget.

**LEGAL:** None

**STAFF RECOMMENDATION:** Staff recommends Council approve Resolution 2015-62.

**PROPOSED MOTION:** Motion to approve Resolution 2015-62.

**CITY MANAGER’S COMMENTS:** The Manager recommends City Council approval of Resolution 2015-62.



**CITY OF UNALASKA  
UNALASKA, ALASKA**

**RESOLUTION 2015-52**

**A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING A WAIVER OF  
NICHOLAI S. LEKANOFF, SR.'S FAILURE TO MAKE TIMELY APPLICATION FOR THE  
SENIOR CITIZENS PROPERTY TAX EXEMPTION FOR 2014**

WHEREAS, through Alaska Statute (AS) 29.45.030 and Unalaska Code of Ordinances (UCO) 6.28.030, senior citizens who are 65-years-old or older are allowed a \$150,000 property tax exemption on the assessed value of real property they own and occupy as their primary abode and permanent place of residence, provided they file an application on the form provided by the State and made available to them by the City Clerk's Office; and

WHEREAS, Unalaska Code of Ordinances (UCO) 6.28.030(F) sets the deadline for filing as March 1<sup>st</sup> of each year; and

WHEREAS, Nicholai S. Lekanoff, Sr., a senior citizen, did not file an application timely and has asked that a waiver be granted and that his application be accepted as if timely filed;

WHEREAS, AS 29.45.030(F) and UCO 6.28.030(F) state that the City Council may, for good cause shown, waive a claimant's failure to make timely application for exemption and authorize the assessor to accept the application as if timely filed;

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council authorizes a waiver of Nicholai S. Lekanoff, Sr.'s failure to file timely for the senior citizen property tax exemption.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS 22<sup>ND</sup> DAY OF SEPTEMBER 2015.

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MAYOR

ATTEST:

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CITY CLERK

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## MEMORANDUM TO COUNCIL

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**TO:** MAYOR AND CITY COUNCIL MEMBERS  
**THROUGH:** DON MOORE, CITY MANAGER  
**FROM:** CAT HAZEN, CITY CLERK  
**DATE:** SEPTEMBER 22, 2015  
**RE:** RESOLUTION 2015-52 AUTHORIZING A WAIVER OF NICHOLAI S. LEKANOFF, SR.'S FAILURE TO MAKE TIMELY APPLICATION FOR THE SENIOR CITIZENS PROPERTY TAX EXEMPTION FOR 2014

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**SUMMARY:** The State of Alaska and the City of Unalaska, on behalf of the State, provide a \$150,000 property tax exemption on the assessed value of real property owned by residents who are 65-years-old and older. UCO 6.28.030(F) sets March 1<sup>st</sup> each year as the deadline for submitting an application to the program. Nicholai S. Lekanoff, Sr., a senior citizen who filed after the deadline, has written a letter of appeal asking that the deadline be waived and his late application be accepted. Through Resolution 2015-52, Council is asked to authorize a waiver of the March 1<sup>st</sup> deadline for filing for the senior citizens property tax exemption for Nicholai S. Lekanoff, Sr.

**PREVIOUS COUNCIL ACTION:** Council has not acted on this specific case in the past. However, Council has waived the senior citizen tax exemption application deadline for four other taxpayers.

**BACKGROUND:** Through Alaska Statute (AS) 29.45.030 and Unalaska Code of Ordinances (UCO) 6.28.030, senior citizens who are 65-years-old or older are allowed a \$150,000 property tax exemption on the assessed value of real property they own and occupy as their permanent place of residence, provided they file an application on the form provided by the State and made available to them by the City Clerk's Office. Alaska Administrative Code (3 AAC 135.040[a]) requires that the application be filed no later than January 15<sup>th</sup> of the assessment year, or no later than a date set by the municipality. UCO 6.28.030(F) sets the deadline for filing as March 1<sup>st</sup> of each year. However, per UCO 6.28.030(F), "the City Council for good cause shown may waive the claimant's failure to make timely application for the exemption year and authorize the assessor to accept the application as if timely filed."

The property for which the exemption is claimed must be "real property owned and occupied as the primary residence and permanent place of abode" by the senior citizen (AS 29.45.030).

**DISCUSSION:** Each year, during the January 1 – March 1 application period, in an effort to ensure that all eligible property owners can take advantage of the senior citizen property tax exemption, the Clerk's office advertises the exemption program by posting flyers, sending 'blast-faxes', running public service announcements on local radio and television, and putting information on the City website and City Facebook page. In addition, this year the Clerk's office mailed a letter about the program to all local box holders.

In July of 2015, the City Clerk's office received a letter from Nikolai S. Lekanoff, Sr. requesting a waiver of the application deadline for the prior year, 2014, which, if granted, will allow the City Clerk to accept an application for the senior citizen tax exemption from Mr. Lekanoff as if it had been timely filed. Prior to 2014 Mr. Lekanoff's property had been treated as exempt under the Aleutian Housing Authority exemption, so 2014 was the first year that Mr. Lekanoff was required to file an application in order to receive a property tax exemption.

Unalaska Code of Ordinances 6.28.030(F) authorizes the City Council, "for good cause shown", to "waive the failure to make timely application for the exemption year and authorize the assessor to accept the application as if timely filed."

**ALTERNATIVES:** Deny the waiver of Mr. Lekanoff's failure to make timely application, or authorize the waiver and accept the late application as if it were filed timely.

**FINANCIAL IMPLICATIONS:** With a mil rate of 10.5, authorizing the exemption of \$150,000 of assessed value will result in a loss of \$1,575 of real property tax revenue.

**LEGAL:** None sought

**STAFF RECOMMENDATION:** This is a Council decision.

**PROPOSED MOTION:** Motion to approve Resolution 2015-52

**CITY MANAGER'S COMMENTS:** The City Manager recommends Council approval of Resolution 2015-52.

Attachments:

- Letter of Appeal
- UCO 6.28.030(E) and (F)
- AS 29.45.030



City of Unalaska

Tax Assessor – Cat Hazen

P.O. Box 610

Unalaska, Alaska 99685-0610

Attn: Mayor Shirley

Nicholai S. Lekanoff, Sr.

Post Office Box 133

Unalaska, Alaska 99685-0133

**Re: Real Estate Tax Bill**

Honorable Shirley,

I am writing on behalf my 90 year old dad, Starosta Nicholai S. Lekanoff, Sr. whom you know. And, the majority of the city council knows him as well. He has been a resident of Unalaska prior to its incorporation. And, he hasn't been paying Real Estate taxes as the Aleutian Housing Authority used to until he paid his home off. Anyways, apparently an oversight in mine...but, we are wondering if the city of Unalaska would be so kind as to waive his 2014 Real Estate taxes. We truly apologize for Not doing the paperwork that was required.

If you have any questions, please don't hesitate to stop by and talk to me at 402 Bayview.

Or, call my daughter: O. Patricia Lekanoff Gregory (907)581-1747.

Thanks/Qagaasakung,

 for NSL

Starosta Nicholai S. Lekanoff, Sr.

NSL/oplg



obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560 – 44.62.570.

(f) To be eligible for an exemption under (e) of this section for a year, a municipality may by ordinance require that an individual also be eligible for a permanent fund dividend under AS 43.23.005 for that same year or, if the individual does not apply for the permanent fund dividend, that the individual would have been eligible for the permanent fund dividend had the individual applied. An exemption may not be granted under (e) of this section except upon written application for the exemption. Each municipality shall, by ordinance, establish procedures and deadlines for filing the application. The governing body of the municipality for good cause shown may waive the claimant's failure to make timely application for exemption and authorize the assessor to accept the application as if timely filed. If an application is filed within the required time and is approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of (e) of this section. If the application for exemption is approved after taxes have been paid, the amount of tax that the claimant has already paid for the property exempted shall be refunded to the claimant. The assessor shall require proof in the form the assessor considers necessary of the right to and amount of an exemption claimed under (e) of this section, and shall require a disabled veteran claiming an exemption under (e) of this section to provide evidence of the disability rating. The assessor may require proof under this subsection at any time.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section. However, reimbursement may be made to a municipality for revenue lost to it only to the extent that the loss exceeds an exemption that was granted by the municipality, or that on proper application by an individual would have been granted under AS 29.45.050(a). If appropriations are not sufficient to fully fund reimbursements under this subsection, the amount available shall be distributed pro rata among eligible municipalities.

(h) Except as provided in (g) of this section, nothing in (e) – (j) of this section affects similar exemptions from property taxes granted by a municipality on September 10, 1972, or prevents a municipality from granting similar exemptions by ordinance as provided in AS 29.45.050.

(i) In (e) – (i) of this section,

(1) "disabled veteran" means a disabled person

(A) separated from the military service of the United States under a condition that is not dishonorable who is a resident of the state, whose disability was incurred or aggravated in the line of duty in the military service of the United States, and whose disability has been rated as 50 percent or more by the branch of service in which that person served or by the United States Department of Veterans Affairs; or

(B) who served in the Alaska Territorial Guard, who is a resident of the state, whose disability was incurred or aggravated in the line of duty while serving in the Alaska Territorial Guard, and whose disability has been rated as 50 percent or more;

(2) "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes.

(j) One motor vehicle per household owned by a resident 65 years of age or older on January 1 of the assessment year is exempt either from taxation on its assessed value

## TITLE 6: REVENUE AND FINANCE

### § 6.28.030 REQUIRED EXEMPTIONS.

(E) The real property owned and occupied as a permanent place of abode by a (1) resident sixty-five (65) years of age or over, (2) disabled veteran, or (3) resident at least sixty (60) years old who is the widow or widower of a person who qualified for an exemption under (1) or (2) of this subsection, is exempt from taxation on the first \$150,000 of the assessed value of the real property. In a case of hardship, the City of Unalaska hereby provides for exemption beyond the first \$150,000 of assessed value in accordance with regulations of the State of Alaska. Only one (1) exemption may be granted for the same property and, if two (2) or more persons are eligible for an exemption for the same property, the parties shall decide between or among themselves which shall receive the benefit of the exemption. Real property may not be exempted under this subsection if the assessor determines, after notice and hearing to the parties concerned, that the property was conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor may be appealed under AS 44.62.560-44.62.570.

(F) No exemption may be granted except under (E) of this section except upon written application for the exemption on a form prescribed by the State assessor for use by local assessors. The claimant must file the application no later than March 1 of the assessment year for which the exemption is sought. The City Council for good cause shown may waive the claimant's failure to make timely application for the exemption for that year and authorize the assessor to accept the application as if timely filed. The claimant must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and approved by the assessor, the assessor shall allow an exemption in accordance with the provisions of this section. If a claimant whose failure to file by March 1 of the assessment year has been waived as provided in this subsection and application for exemption is approved, the amount of tax which the claimant may have already paid for the assessment year for the property exempted shall be refunded to the claimant. The assessor shall require proof in the form the assessor considers necessary of the right to and amount of an exemption claimed under (E) of this section, and shall require a disabled veteran claiming an exemption under (E) of this section to provide evidence of the disability rating. The assessor may require proof under this section at anytime.

**CITY OF UNALASKA  
UNALASKA, ALASKA**

**RESOLUTION NO. 2015-58**

**A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE CITY MANAGER TO  
DISPOSE OF CITY OF UNALASKA PERSONAL PROPERTY – POLICE HANDGUNS, SHOTGUNS  
AND RIFLES TO A GUN SHOP (GUNRUNNERS OR ANCHORAGE), AND TO NON-PROFIT  
ORGANIZATIONS (ALASKA PEACE OFFICERS ASSOCIATION & ALASKA ASSOCIATION OF  
CHIEFS OF POLICE).**

WHEREAS, Section 7.20.010(B) of the Unalaska Code of Ordinances (UCO) allows for the disposal of City of Unalaska surplus property, with a value of less than \$25,000.00, and is no longer needed for municipal purposes; and

WHEREAS, the Department of Public Safety has multiple handguns, shotguns, and rifles that have been identified as forfeited or surplus property and are no longer needed for municipal purposes; and

WHEREAS, it has been determined that the value of these weapons is less than \$25,000.00; and

WHEREAS, the Unalaska Department of Public Safety does not support direct association with the disposal of firearms at public auction; and

WHEREAS, UCO 7.20.010(B) states: Personal property no longer needed for municipal purposes shall be disposed of in one or more of the following manners: (3) to the best qualified proposal who responds to a request for proposal to acquire property; and (4) to an education, religious, charitable or non-profit association or corporation providing services to the residents of Unalaska; and

WHEREAS, the Department of Public Safety has purchased departmental ammunition and firearms from Gunrunners of Anchorage on a regular basis; and

WHEREAS, the gun dealer (Gunrunners) has offered to take surplus and forfeited firearms from the department for a credit towards future purchases of ammunition and firearms; and

WHEREAS; the Department of Public Safety is affiliated with the Alaska Peace Officers Association's Aleutian Island Chapter (APOA) which provides services to residents of Unalaska; and

WHEREAS, the Department of Public Safety is affiliated with the Alaska Association of Chiefs of Police (AACOP) which provides services to residents of Unalaska; and

WHEREAS, the non-profit organizations (AACOP & APOA) would take the surplus or forfeited firearm and raffle it to help raise funds.

NOW THEREFORE BE IT RESOLVED that the Unalaska City Council authorizes the City Manager to dispose of City of Unalaska personal property – police handguns, shotguns and rifles to a gun shop (Gunrunner's of Anchorage), and to non-profit organizations (AACOP and APOA).

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF UNALASKA THE 8<sup>TH</sup> DAY OF SEPTEMBER, 2015.

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MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

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**MEMORANDUM TO COUNCIL**

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**TO:** MAYOR AND CITY COUNCIL MEMBERS  
**FROM:** MIKE HOLMAN, DEPUTY POLICE CHIEF  
**THRU:** DON MOORE, CITY MANAGER  
**FROM:** DEPARTMENT OF PUBLIC SAFETY  
**DATE:** AUGUST 20, 2015  
**RE:** **RESOLUTION 2015 – 58 DISPOSAL OF SURPLUS FIREARMS**

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**SUMMARY:** During the September 8, 2015 meeting, we will discuss the disposal of surplus firearms that have a total value of less than \$25,000.00. These are surplus and forfeited firearms which are no longer needed for municipal purposes.

**PREVIOUS COUNCIL ACTION:** Council has addressed disposal of forfeited/surplus firearms twice in the past. The first time was in 2001 (Resolution 2001-35) where two firearms were sold to a firearms dealer in Jefferson, Indiana. The second time was in 2004 (Resolution 2004-74) where Department of Public Safety surplus and forfeited firearms were traded to Gunrunners in Anchorage for future purchases of ammunition and firearms.

**BACKGROUND:** In the past handguns, shotguns and rifles have been traded to gun dealers for credit and they have also been auctioned off within the community during the City's surplus sale.

**DISCUSSION:** By Alaska State law any surplus of forfeited firearms cannot be destroyed (AS 18.65.340) and must be disposed of by public auction, donation or trade in for credit. Disposal through public auction can be difficult in Unalaska as Federal law requires that a licensed firearms dealer oversee all sales/transfers of firearms to community members during the City's surplus auction. Additionally, there is an increase level of civil liability associated with disposing of firearms through public auction.

The gun dealer (Gunrunners of Anchorage) is a known gun dealer that the Department of Public Safety routinely does business with. They have offered to take surplus and forfeited firearms and apply them towards future department purchases of ammunition and firearms.

The non-profits Alaska Peace Officers Association (APOA), and Alaska Association of Chiefs of Police (AACOP), are both law enforcement related non-profits that provide services to residents of Unalaska that include scholarships for graduating seniors and a medical alert program for senior citizens. Both organizations would raffle the donated surplus firearm to help raise funds.

**ALTERNATIVES:** The alternatives to approving this resolution include: dispose of surplus and forfeited firearms within the community through the City's surplus auction; donate all surplus firearms to non-profits; or continue to store all surplus and forfeited firearms at Public Safety.

**FINANCIAL IMPLICATIONS:** Disposing of surplus and forfeited firearms in exchange for credit on future purchases of departmental ammunition and firearms is in the financial interest of the City of Unalaska.

**LEGAL:** There is potential civil liability for disposing of surplus and forfeited firearms during the City's surplus auction.

**STAFF RECOMMENDATION:** Staff recommends the Council approve the disposal of surplus and forfeited weapons to Gunrunners of Anchorage in exchange for credit towards future purchases, and the disposal of one firearm to each of the non-profit organizations (Alaska Peace Officers Association & Alaska Association of Chiefs of Police) for fund raising purposes.

**PROPOSED MOTION:** Request a motion to adopt Resolution 2015 – 58, allowing the City Manager to dispose of surplus and forfeited firearms by trading them to Gunrunners of Anchorage for credit on future purchases of firearms and ammunition for a period of one calendar year; and to dispose of one surplus or forfeited firearm to the non-profit Alaska Peace Officers Association, and one surplus of forfeited firearm to the non-profit Alaska Association of Chiefs of Police.

**CITY MANAGER'S COMMENTS:** I support the disposal of surplus firearms by trading them for credit towards future purchases, and donating one firearm to each of the law enforcement non-profits (APOA & AACOP). The Manager recommends the City Council approve Resolution 2015-28.



## UNALASKA DEPARTMENT OF PUBLIC SAFETY

### Division of Police Services

Service - Pride - Integrity - Commitment – Excellence

PO Box 370 Unalaska, Alaska 99685

Phone (907) 581-1233 – Fax (907) 581-5024

Michael Holman, Deputy Chief of Police



## Memorandum

TO: Mike Holman, Deputy Chief

FROM: Kyle Haskins, Police Officer

DATE: July 30, 2015

SUBJECT: Firearms available for Trade In

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The following firearms are available for trade in. They are in varying degrees of serviceability. It is likely that there will be additional firearms becoming available for trade in as various criminal cases are resolved with the court.

1. Taurus Revolver .44 mag
2. Ruger 10/22 .22cal
3. S&W M&P 9mm
4. Ruger SR1911 .45 Cal
5. Beretta M92
6. Charter Arms .44 spl Revolver
7. Phoenix Arms NP224
8. Henry .44 Mag Lever Action
9. Colt AR15 .223
10. RG14 Revolver .22cal
11. Springfield M1A SOCOM .308
12. "Pellet Gun"
13. Remington Field Master Pump .22 Cal
14. Marlin Papoose .22cal
15. Beeman Air Rifle
16. Winchester Win-Lire 12 gauges semi auto
17. (2) Smith & Wesson .357 cal revolvers
18. Colt .45 cal Model 80
19. Romar 7.62 AK-47 semi auto
20. Berreta .40 cal Cougar

CITY OF UNALASKA  
UNALASKA, ALASKA

RESOLUTION 2015-63

**A RESOLUTION OF THE UNALASKA CITY COUNCIL AUTHORIZING THE  
MAYOR TO SIGN AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF  
UNALASKA AND DAVID A. MARTINSON, TO SERVE AS CITY MANAGER OF THE  
CITY OF UNALASKA**

WHEREAS, the City Code of the City of Unalaska at UCO 2.24.010 empowers the City Council to appoint the City Manager; and

WHEREAS, the City is in need of the services of a City Manager; and

WHEREAS, the Council of the City of Unalaska desires to retain the services of David A. Martinson as its City Manager upon the terms set forth of the Employment Agreement herein; and

WHEREAS, David A. Martinson desires to serve as City Manager of the City of Unalaska upon the terms set forth in the Employment Agreement herein.

NOW, THEREFORE, BE IT RESOLVED THAT THE UNALASKA CITY COUNCIL authorizes the Mayor to sign an Agreement between the City of Unalaska and David A. Martinson to serve as City Manager of the City of Unalaska.

PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE UNALASKA CITY COUNCIL THIS 22<sup>nd</sup> DAY OF SEPTEMBER, 2015.

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SHIRLEY MARQUARDT, MAYOR

ATTEST:

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CITY CLERK



## **EMPLOYMENT AGREEMENT CITY MANAGER**

THIS AGREEMENT is between the City of Unalaska, a municipal corporation of the State of Alaska, acting through its City Council, hereinafter referred to as "City", and David A. Martinson hereinafter referred to as "City Manager" or "Employee".

WHEREAS, the City Code of the City of Unalaska empowers the Council of the City to appoint and remove the Manager; and

WHEREAS, the City is in need of the services of a City Manager; and

WHEREAS, the Council of the City of Unalaska desires to retain the services of David A. Martinson as its City Manager upon the terms set forth herein; and

WHEREAS, David A. Martinson desires to serve as City Manager of the City of Unalaska upon the terms set forth herein.

THEREFORE, THE PARTIES AGREE AS FOLLOWS:

### Section 1 Appointment.

A. The City Council of the City of Unalaska, Alaska appoints David A. Martinson as City Manager of the City of Unalaska, subject to terms and conditions set forth herein. Employee is an at-will Employee who serves at the pleasure of the City Council.

B. Employee shall perform all duties and functions assigned to the Employee by law or ordinance and such other duties and functions as the City Council shall from time to time prescribe.

C. The parties understand and agree the position of City Manager is an executive position which routinely involves work in excess of eight (8) hours per day and forty (40) hours per week, and is intended to be exempt from the overtime compensation provisions of the Fair Labor Standards Act ("FLSA").

### Section 2 Hours of Accessibility.

The City Manager shall make himself available and be present in the City of Unalaska's

city offices, or other city facilities, during normal business hours Monday through Friday of each week, excluding holidays. The Manager shall be accessible to the Mayor, City Council Members and City Department Heads via telephone on a 24 hour basis, seven days per week. The Mayor and Manager, if necessary, may mutually agree to some flexibility in this schedule to accommodate the needs of both the Manager and the City.

### Section 3       Term.

A.       This agreement shall commence October 26, 2015 and shall remain in effect until October 25, 2018. At least ninety (90) days prior to the termination of the Agreement, both Employer and Employee shall declare their intentions as to whether to extend this Agreement for additional term(s), as provided in paragraph D of this Section.

B.       Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of Employee at any time, subject only to the provisions set forth in Section 14, paragraph A, of this Agreement.

C.       Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from his position with Employer, subject only to the provisions set forth in Section 14, paragraph B, of this Agreement.

### Section 4       Salary.

A.       In consideration of the services to be rendered by the City Manager, the City shall pay the City Manager for services rendered hereunder an annual base salary of \$159,500, payable in installments at the same time as other employees of the City are paid. Effective each anniversary date during the term of this Agreement, Employer agrees to increase said base salary on the basis of a favorable annual review of Employee in an amount equal to the total percentage increase (if any) in the Anchorage Consumer Price Index Urban (CPI-U) for the previous year as is regularly published by the U.S. Bureau of Labor Statistics, San Francisco, California.

B.       In addition to the compensation in subsection (a) above:

1.       Employee will receive compensation for holidays recognized in Section 3.44.060 of the Unalaska City Code.

2.       Employee will be afforded the same travel and per diem privileges as provided to all city Employees and elected officials when conducting business outside of the City of Unalaska.

3. Employee will be afforded the same travel benefit as provided to all city Employees as set forth in UCO 3.60.120.

Section 5 Professional Development.

Employer recognizes that the duties of Employee require a certain amount of travel by Employee including travel to AML, SWAMC and ICMA. Payment for such travel and entertainment shall be made by Employer upon presentation of actual and reasonable expenses, excluding alcohol.

Section 6 Dues and Subscriptions.

Employer agrees to pay the following dues and expenses on behalf of Employee:

1. Membership dues for the Alaska Municipal Manager's Association and International City Manager's Association.
2. Actual and reasonable expenses for Employee to attend the Alaska Municipal Manager's Association Conference, ICMA annual conference, SWAMC annual conference, Alaska Municipal League Local Government Conference, and other conferences mutually agreed to in writing by both parties.

Section 7 Housing.

Employer agrees to provide Employee with City Housing at the rental rate established by City policy, excluding utilities.

Section 8 Vehicle.

Employer agrees to provide Employee with exclusive use of a vehicle at all times during employment with the City. Employer shall provide for insurance, repair and operation and maintenance of said vehicle.

Section 9 Personal Leave.

Employee shall accrue personal leave at the rate of eight (8) weeks per year. The Manager will be allowed to take leave during the month of December, 2015.

Section 10 Retirement System.

Employee shall be covered by the State of Alaska Public Employees' Retirement System.

Section 11 Medical Benefits.

Employee and spouse shall be entitled to medical benefits as specified in Section 3.48.020 of the Unalaska City Code.

Section 12 Evaluations.

Employee shall be given a performance evaluation sixty (60) days before each anniversary date of this Agreement.

Section 13 Moving Expenses.

A. Employer agrees to reimburse Employee for actual and necessary moving expenses to Unalaska not otherwise reimbursed to Employee by the United States in an amount not to exceed \$4,000 for moving expenses plus two one way air fares for the Employee and Employee's spouse to travel from the lower 48 states to Unalaska. Employee shall supply information of unreimbursed moving expenses to Employer. If the employee voluntarily leaves the employment of the city before completing 12 continuous months of employment, the employee will be required to repay the city for all moving expenses reimbursed. The repayment of the moving expenses may be waived by the City Council.

B. Upon termination or non-renewal of this Agreement by Employer, Employer shall repay Employee's reasonable actual expenses of moving personal belongings from Unalaska not to exceed Four Thousand Dollars (\$4,000), plus two (2) one-way fares to Anchorage from Unalaska.

Section 14 Termination of Agreement.

A. The City Council may terminate the Employee at any time, for any reason or for no reason, by delivering to the Employee written notice of termination. Said notice is not required to specify any reasons for the termination. In the event Employee is terminated by Employer before expiration of the aforesaid term of employment and during such time that Employee is willing and able to perform the duties of City Manager, Employer agrees to pay Employee a lump sum cash payment equal to twelve (12) weeks aggregate salary plus accrued and unused personal leave as of the date of termination in lieu of any and all other damages or monies that Employee might claim. Provided, however, that in the event Employee is terminated because of any illegal act involving personal gain to him, then Employer shall have no obligation to pay the aggregate severance sum designated in this paragraph.

B. In the event Employee voluntarily resigns his position with Employer before expiration of the aforesaid term of employment, then Employee shall give Employer three (3) months' notice in advance and Employer agrees to pay Employee any accrued and unused

personal leave. Provided that such notice is given, there will be no breach of this Agreement by reason of said resignation, and Employee shall not be responsible for any damages hereunder.

C. Prior to any termination for cause, Employee shall be entitled to a hearing before the Council, at which he may be represented by counsel, present and cross-examine witnesses. Upon termination for cause, City shall not be responsible for making any payment of the balance of the Employee's accrued annual leave to the date of termination.

Section 15 Title 3 Provisions Superseded.

This is an individual employment agreement as that term is used in Section 3.60.090 of the Unalaska City Code and supersedes provisions of Title 3 not specifically referenced and incorporated into this agreement.

Section 16 Indemnification.

City shall defend and save harmless Employee from and against losses, damages, liabilities, expenses, claims and demands arising out of any act or omission of Employee while acting within the scope of Employee's duties under this agreement.

Section 17 Entire Agreement.

The text of this Agreement constitutes the entire agreement between the parties. Any representations, statement, promises or understandings not contained herein shall be of no continued force, effect of validity.

Section 18 Severability.

The invalidity in whole or in part of any provision hereof shall not affect the validity of any other provision hereof and this Agreement shall remain in full force except as to such invalid provision.

**PASSED, APPROVED AND ADOPTED** by the Mayor and City Council of the City of Unalaska, Alaska this \_\_\_\_ day of \_\_\_\_\_, 2015.

**CITY OF UNALASKA**

BY: \_\_\_\_\_  
**SHIRLEY MARQUARDT, MAYOR**

**ATTEST**

**EMPLOYEE**

\_\_\_\_\_  
Catherine Hazen, City Clerk

BY: \_\_\_\_\_  
**DAVID A. MARTINSON**