

COOPERATIVE RESOURCE MANAGEMENT AGREEMENT

between

THE CITY OF GUSTAVUS

and

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

ADL 108940

GUSTAVUS BEACH TRACTS

This Agreement is made and entered by and between the State of Alaska, Department of Natural Resources, Division of Mining, Land and Water, whose address is 400 Willoughby Avenue, P.O. Box 111020, Juneau, AK 99801-1020 (hereinafter referred to as "the State") and the City of Gustavus, P.O. Box 1, Gustavus AK 99826 (hereinafter referred to as "the City").

The City does hereby agree to this Cooperative Resource Management Agreement (hereinafter referred to as "the Agreement") in accordance with the following terms and conditions.

I. PURPOSE

WHEREAS, the Gustavus beach area is an important recreational area for residents and visitors alike; and,

WHEREAS, increased visitors to the community and a growing resident population mean the area is being used more than any time in the past; and,

WHEREAS, children and pets especially are at risk from increasing amounts of trash, human and dog waste, and broken glass; and,

WHEREAS, vehicle tracks now extend from public land far onto private property on the east side of the Dock Road; and,

WHEREAS, vehicles have caused and continue to cause damage to the sand berms and vegetation on adjacent private property against the wishes of the private property owners; and,

WHEREAS, many residents of Gustavus have expressed support for responsible care and protection of the beach area, public and private; and,

WHEREAS, management of the beach area by the City will facilitate responsible use of this resource;

NOW, THEREFORE, the State and the City enter into the Agreement described herein.

## II. AUTHORITY

This Agreement is entered into under the authority of AS 38.05.027. In signing this Agreement, the Director of the Division of Mining, Land and Water finds that it is in the State's best interest to enter into this Agreement.

## III. LEGAL DESCRIPTION<sup>1</sup>

### Tract A:

A parcel of land located within Township 40 South, Range 59 East, Copper River Meridian, Section 19, located to the west of the centerline of the existing dock road, and containing 16.26 acres, more or less.

### Tract B:

A parcel of land located within Township 40 South, Range 59 East, Copper River Meridian, Section 19, and located east of the centerline of the existing dock road, and containing 16.19 acres, more or less.

## IV. MANAGEMENT INTENT

To provide for management of Tracts A and B for the purpose of facilitating recreational uses consistent with the United States District Court Judgment Quieting Title, No. J-76-9 CIVIL, while preventing resource damage, unsanitary and unsightly conditions, and potential public safety problems on the property.

## V. CITY RESPONSIBILITIES

- a) The City, itself or through the authorization of third parties agreements or contracts, may construct a parking area, install traffic barriers, construct recreational facilities such as trails or shelters, and may conduct work to restore the natural habitat. This may include cleanup, restoration and minor relocation of surface material necessary for the construction of improvements. However, the City may not permit any unlawful occupation, business, or trade to be conducted, nor may it engage in or authorize activity that would contravene the covenants of J-76-9 CIVIL.
- b) The City, its agents or employees, including contractors, subcontractors, licensees, or invitees, shall be liable for any damage to the underlying land resulting from activities occurring as a result of any City-approved third-

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<sup>1</sup> For a more detailed legal description of both Tracts A and B, see United States District Court Judgment Quieting Title, No. J-76-9 CIVIL, included as Attachment A.

party actions.

- c) The City shall ensure that all agreements, licenses, and other permits necessary to the performance under this Agreement are acquired and maintained in good standing.
- d) The City shall submit to the State a report of all third-party agreements, licenses and other permits issued by the City under the authority of this Agreement on a quarterly basis for the duration of the Agreement.
- e) The City shall include, on any third-party authorizations, stipulations designed to prevent site and water contamination from hazardous or potentially hazardous materials, and may require performance bonds in an amount commensurate with the scope and intensity of site use, including site cleanup.
- f) The City assumes all responsibility, risk and liability for its future activities and those of its agents, employees, contractors, subcontractors, licensees, or invitees directly or indirectly related to this Agreement, including environmental and hazardous substance risk and liability, whether accruing during or after the term of the Agreement. The City shall defend, indemnify, and hold harmless the State of Alaska, its agents and employees, from and against any and all suits, claims, actions, losses, costs, penalties, and damages of whatever kind or nature, including all attorney's fees and litigation costs, arising out of, in connection with, or incident to any act or omission under this Agreement by the City, its agents or employees, contractors, subcontractors, licensees, or invitees, unless the sole proximate cause of the injury or damage is the negligence or willful misconduct of the State or a person acting on the State's behalf. Within 15 days, City shall accept any such cause, action or proceeding upon tender by the State. This indemnification shall survive the termination of this Agreement and shall hold the State harmless for any unsafe or hazardous conditions occurring on State land interests defined in this Agreement with the City.
- g) All actions taken by the City under this Agreement shall comply with applicable statutes, ordinances, rules, regulations and the provisions of this Agreement.
- h) Any use or development by the City, its agents or employees, including contractors, subcontractors, licensees, or invitees, under this Agreement must be consistent with the development plan approved by the State. Before any change in use or development occurs, including starting new operations, making any additional improvement or constructing any new structures, the City must propose revisions to the approved plan of operation and development and the revised plan must be approved in

writing by the State.

- i) The City shall properly locate all activities and improvements and may not commit waste of the parcel. The City shall maintain the land and improvements in a reasonably neat and clean condition, and shall take all necessary precautions to prevent erosion, unreasonable deterioration, or destruction of the land or improvements.
- j) The City, and its agents or employees, including contractors, subcontractors, licensees, or invitees, shall remain in continuous compliance with all applicable federal and state laws, regulations, rules and orders, and with all of the conditions of this Agreement.
- k) Obtaining this Agreement does not fulfill the City's obligation to obtain any and all other authorizations that may be required by other state, federal, or local agencies.
- l) Construction of improvements and facilities described in this Agreement will be the responsibility of the City. The City will be responsible for coordinating construction activities with the appropriate state agency, including the Alaska Department of Transportation and Public Facilities the Alaska Department of Fish and Game.
- m) The City, its agents or employees, including contractors, subcontractors, licensees, or invitees, may use dead and down timber, but shall not cut standing timber on the premises unless specifically authorized by the DNR Division of Forestry. Brush clearing is allowed only to the extent necessary for authorized uses.
- n) The City, its agents or employees, including contractors, subcontractors, licensees, or invitees, shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires and assumes full liability for any damage to State land resulting from the negligent use of fire. The State is not liable for damage to City's personal property and is not responsible for protection of City's activity from fire.
- o) All solid waste and debris generated from authorized activities shall be stored and disposed of in accordance with the requirements of the Alaska Department of Environmental Conservation (DEC). Any disposal of wastewater to State lands or waters is specifically prohibited unless approved by DEC.
- p) The City, its agents or employees, including contractors, subcontractors, licensees, or invitees, may not dispose of hazardous waste on this site. All hazardous waste shall be removed and disposed of in accordance with DEC requirements.

- q) The use and storage of hazardous substances by the City, its agents or employees, including contractors, subcontractors, licensees, or invitees, must be done in accordance with all applicable state, federal, and local laws, statutes, and regulations. Hazardous substances must be removed from the site and managed in accordance with applicable state and federal law. Soil and other debris that is contaminated with used motor oil, solvents, or other chemicals may be classified as a hazardous substance and must be removed from the site and managed and disposed of in accordance with state and federal law.
- r) Fuel storage containers with a total combined capacity greater than 55 gallons shall not be placed within 100 feet of the ordinary high water mark of any water body. Containers that exceed a total combined capacity of 110 gallons must be stored within an impermeable diked area or portable containment structure capable of storing 110 percent of the capacity of the largest single container. All fuel storage containers must be clearly marked with the contents and the City's name. Drip pans and absorbent pads must be available to contain and to clean up spills resulting from any transfer or handling of fuel. All fuel storage containers and associated materials must be removed prior to the expiration date of this Agreement.
- s) The City, its agents or employees, including contractors, subcontractors, licensees, or invitees, shall immediately notify DEC of any unauthorized discharge of oil or hazardous substances. Notification must be made to the DEC Area Response Team during work hours in Juneau, Alaska, at (907) 465-5340, or by fax at (907) 465-2237, or outside normal business hours at (800) 478-9300.
- t) In accordance with the Alaska Historic Preservation Act, the City, its agents or employees, including contractors, subcontractors, licensees, or invitees, shall consult with the Alaska Heritage Resources Survey, (907) 269-8721, to ensure that known historic, archaeological or paleontological sites are avoided. The Alaska Historic Preservation Act (AS 41.35.200) prohibits the appropriation, excavation, removal, injury, or destruction of any State owned historic, prehistoric (paleontological) or archaeological site without an agreement from the DNR Commissioner. If any such site is discovered during the course of developing the site, the City shall cease any activity that may damage the site and immediately notify the Office of History and Archaeology, DNR Division of Parks and Outdoor Recreation, at (907) 269-8721.
- u) The City is responsible for ensuring that all activities undertaken pursuant to this Agreement are consistent with the covenants enumerated in United States District Court Judgment Quieting Title, No. J-76-9 CIVIL, included as Attachment A.

- v) The City is responsible for obtaining written, notarized approval from the adjacent landowners, Ben DeBoer and Donna DeBoer, of their agreement with the City's development plan for Tracts A and B, included as Attachment C.

#### VI. STATE RESPONSIBILITIES

- a) The State will not create or approve any additional third-party interest in the lands covered by this Agreement without first consulting with the City. The State shall give the City a minimum of 30 days to review and comment on any such proposals, and shall take all steps necessary to ensure that land management objectives for programs remaining under the State's jurisdiction do not conflict with the City's management of the recreational uses of this land.
- b) The State shall work in cooperation with the City, user groups, community members and local landowners to facilitate the City's goals for this facility as described in the Development and Operation Plan, included as Attachment C.

#### VII. SHARED RESPONSIBILITIES:

- a) If any changes to the management of the beach area are proposed, both the City and the State shall agree in writing to any changes before they become effective. In the event that the parties agree in writing to any changes, a new comprehensive Cooperative Resource Management Agreement shall be signed by the parties so that all the terms and conditions of the new agreement is memorialized in one document.
- b) The City and State shall meet as needed to discuss planning and management issues associated with this Agreement.

#### VIII. GENERAL PROVISIONS:

- a) This Agreement conveys no property interest from the State to the City. Ownership of the land described herein remains with the State of Alaska.
- b) This Agreement is subject to the Public Trust Doctrine, which guarantees public access and the public right to use navigable and public waters and the land beneath them for navigation, commerce, fishing, and other purposes. Pursuant to Alaska Statute 38.05.127 and the Alaska Administrative Code, 11 AAC 51.045, all navigable water adjacent to Tracts A and B, which includes the Salmon River to the west and Icy Passage to the south, shall have a continuous access easement extending

50 feet upland from mean high water. The State reserves the right to grant other interests consistent with the Public Trust Doctrine.

- c) Each person executing this Agreement purporting to bind a particular entity warrants that he or she has the authority to do so.
- d) This Agreement is intended to be consistent with the State's obligations in United States District Court Judgment Quieting Title, No. J-76-9 CIVIL, included as Attachment A, and to implement the covenants of that Judgment.

#### IX. TERM

This Agreement is entered into for a term of 20 years, and may be renewed with the written approval of both parties.

#### X. TERMINATION/AMENDMENT

Amendments to this Agreement may be proposed in writing by the State or the City at any time. Changes to the original agreement will become effective immediately upon the written approval of both the State and City.

#### XI. NOTICES


Notice required under this agreement shall be sent to the following addresses for the respective parties:

City: Mayor  
City of Gustavus  
P.O. Box 1  
Gustavus, Alaska 99826


State: Southeast Regional Manager  
Division of Mining, Land and Water  
Alaska Department of Natural Resources  
400 Willoughby Avenue, Suite 400  
P.O. Box 111020  
Juneau, Alaska 99801-1020

XII. ADOPTION

This Agreement shall be effective from the date of signature of both parties. This Agreement has been reviewed, agreed to, and executed by the following parties:

  
MARTIN W. PARSONS, DIRECTOR  
Division of Mining, Land, and Water  
Department of Natural Resources

4/2/19  
Date

  
Mayor  
City of Gustavus

2/20/2019  
Date

XIII. ATTACHMENTS

- Attachment A— United States District Court Judgment Quieting Title, No. J-76-9  
CIVIL
- Attachment B – Site Diagram
- Attachment C – Development and Operation Plan



FILED

FEB 27 1985

UNITED STATES DISTRICT COURT  
DISTRICT OF ALASKA

By [Signature] Deputy

ADL 108940  
Cooperative Resource Management  
Agreement  
Attachment A (8 pages)

FAULKNER, BANFIELD, COOGAN & HOLMES  
A PROFESSIONAL CORPORATION  
601 WEST TENTH STREET - SUITE 200  
P.O. BOX 1180 PHONE (907) 584-2210  
JUNEAU, ALASKA 99802-1180

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~~Not Filing~~  
IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

CHARLES W. DeBOER,  
Plaintiff,

vs.

UNITED STATES OF AMERICA and  
STATE OF ALASKA,  
Defendants.

NO. J-76-9 CIVIL

JUDGMENT QUIETING TITLE

Pursuant to stipulation of the parties, the court  
enters the following judgment:

1. Fee simple title to the following described lands  
is quieted in Charles W. DeBoer:

A tract of land adjacent to Lot 2,  
Section 17 and Lots 8 and 9, Section 18,  
Township 40 South, Range 59 East of the  
Copper River Meridian, Juneau Recording  
District, First Judicial District, State of  
Alaska, described as:

Judgment - 1

Certified to be a true and correct  
copy of original filed in the office

Dated March 27, 1985

By [Signature] Deputy

PAULINER, SANFIELD, DOOGAN & HOLLAND  
 A PROFESSIONAL CORPORATION  
 801 WEST TENTH STREET - SUITE 200  
 P.O. BOX 1198  
 JUNEAU, ALASKA 99801-1198

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Beginning at the point on the original GLO meander line being the Southeast corner of Lot 2, Section 17; thence S 0°06'30"E 1772 feet, more or less, to the existing mean high water line of Icy Passage; thence meandering westerly along said mean high water line the following courses, more or less;

- 1) N 84°21'50"W 86 feet
- 2) N 27°50'40"W 608 feet
- 3) S 2°56'30"E 802 feet
- 4) S 13°57'10"W 324 feet
- 5) S 44°13'30"W 362 feet
- 6) S 71°18'30"W 633 feet
- 7) S 74°57'20"W 527 feet
- 8) S 82°55'40"W 463 feet

to the point common to the easterly boundary of State designated Tract B; thence N 7°13'30"E along said common boundary 970 feet, more or less; thence West along the comon northerly boundary of said Tract 753.48 feet to the centerline of the existing road; thence continuing West 711 feet, more or less, along the common northerly boundary of State designated Tract A to the mean high water mark of the Salmon River; thence meandering northerly along said high water mark the following courses, more or less;

- 1) N 2°07'40"W 279 feet
- 2) N 21°14'15"W 176 feet
- 3) N 17°20'30"W 174 feet
- 4) N 21°50'00"E 251 feet
- 5) N 31°05'20"W 488 feet
- 6) N 29°02'30"W 170 feet
- 7) N 20°57'00"W 268 feet
- 8) N 14°39'20"W 247 feet
- 9) N 7°00'00"E 702 feet

to a point West of the original Northwest corner of GLO Lot 8; thence East 188 feet, more or less, to said corner of GLO Lot 8; thence along the original record GLO meander line of said Lots 8, 9 and 2

- 1) S 7°00'W 283.48 feet
- 2) S 11°15'E 1056.00 feet
- 3) N 89°30'E 1735.80 feet
- 4) N 38°00'E 957.00 feet

to the original meander corner of Sections 17 and 18

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5) S 89°30'E 1319.80 feet  
to the point of beginning. The hereon  
described parcel contains 170.30 acres,  
more or less.

2. Fee simple title to the following described lands  
is quieted in the State of Alaska:

TRACT "A"

The following unsurveyed parcel of land  
described and designated herein as Tract A,  
is located within Township 40 South, Range  
59 East, Copper River Meridian, Alaska and  
is located on the Easterly side of the  
Salmon River at its confluence with Icy  
Passage.

The point of beginning of this description  
being the intersection of the southerly  
extension of the centerline of the existing  
road to the dock, with the mean high  
water line of Icy Passage; thence northerly  
along the centerline of the existing road a  
distance of 900 feet; thence West a  
distance of 711 feet, more or less, to the  
mean high water line of the Salmon River;  
thence meandering southerly along the mean  
high water line of the Salmon River and Icy  
Passage the following courses:

- 1) South 2°07'40" East 266 feet, more or less;
- 2) North 77°19'20" West 232 feet, more or less;
- 3) South 63°12'00" West 76 feet, more or less;
- 4) South 6°37'30" West 336 feet, more or less;
- 5) South 11°40'40" East 117 feet, more or less;
- 6) South 74°36'20" East 600 feet, more or less;
- 7) South 83°29'00" East 320 feet, more or less, to the point of beginning.

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A PROFESSIONAL CORPORATION  
401 WEST TENTH STREET - SUITE 200  
P.O. BOX 1180 JUNEAU, ALASKA 99801-1180  
PHONE (907) 846-3310

1 The herein described parcel contains 18.26  
2 acres, more or less.

3 and

4 TRACT "B"

5 The following unsurveyed parcel of land,  
6 described and designated herein as Tract B,  
7 is located within Township 40 South, Range  
8 59 East, Copper River Meridian, Alaska and  
9 is located east of the centerline of the  
existing road to the dock and being  
easterly of the confluence of the Salmon  
River with Icy Passage.

10 The point of beginning of this description  
11 being the intersection of the southerly  
12 extension of the centerline of the existing  
13 road to the dock, with the mean high  
14 water line of Icy Passage; thence northerly  
15 along the centerline of the existing road a  
16 distance of 900 feet; thence East a  
17 distance of 753.48 feet; thence South  
18 7°13'30" West, parallel to the centerline  
19 of the road, a distance of 970 feet, more  
20 or less, to the mean high water line of the  
21 Icy Passage; thence South 82°55'40" West  
22 along the mean high water line of Icy  
23 Passage a distance of 80 feet, more or  
24 less; thence North 83°11'25" West along the  
25 man high water line of Icy Passage a  
26 distance of 670 feet, more or less, to the  
point of beginning. The herein described  
parcel contains 18.19 acres, more or less.

subject to the following restrictive covenant: The State of  
Alaska and Charles W. DeBoer, each claiming an interest in the  
accretions seaward of the DeBoer homestead, agree that the  
state shall use the above-described property for the purpose of  
continuing the historic recreational uses of the land without  
interference or disruption and that the land vested in the  
state will be used for recreational purposes, including

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PHONE (907) 544-2810

1 walking, jogging, horseback riding, picnicking, camping,  
2 sun-bathing, hunting, fishing, recreational boating, beach  
3 combing, berry picking, cross-country skiing and other similar  
4 recreational uses. It is intended that the recreational use  
5 shall be consistent with the natural state of the land and be  
6 of a low intensity nature. This covenant does not restrict the  
7 state from using the area in proximity to the dock for more  
8 intensive recreational development consistent with and inciden-  
9 tal to the above recreational uses. This covenant does not  
10 prevent the state from conducting public protection and erosion  
11 control activities as it deems appropriate. This covenant does  
12 not restrict the state from placing improvements upon the land  
13 which are compatible with and incidental to these recreational  
14 uses. Finally, the covenant does not restrict historic use of  
15 the land for barge loading, but no permanent alterations or  
16 changes to the land may be made in conjunction with barge  
17 loading and materials which are off-loaded may not be stored  
18 outside of the dock road right-of-way, which is described in  
19 paragraph 4. The state, however, has no obligation to enforce  
20 this storage restriction.

21  
22 3. Charles W. DeBoer grants to the State of Alaska  
23 an easement for purposes of obtaining access to and maintaining  
24 what is commonly known as Glen's Ditch, to the extent Glen's  
25 Ditch lies upon the DeBoer homestead and the tract of land  
26 described in paragraph 1 of this stipulated entry of judgment.

1 This easement shall extend 25 feet on either side of the  
2 boundaries of Glen's Ditch.

3 4. Charles W. DeBoer grants to the State of Alaska a  
4 right-of-way extending fifty feet on either side of the  
5 centerline of the existing dock road where that road crosses  
6 the DeBoer homestead and the property described in paragraphs 1  
7 and 2 of this stipulation. The State of Alaska relinquishes  
8 and grants to Charles W. DeBoer whatever right, title, and  
9 interest it may have in that right-of-way retained by the  
10 United States in United States Homestead Patent No. 1224602 to  
11 Charles DeBoer done on December 22, 1961.

12 5. The parties agree that Charles W. DeBoer may have  
13 an easement for ingress and egress by non-track vehicles across  
14 the property described in paragraph 2 for access to the  
15 property described in paragraph 1.

16 6. The United States renounces and disclaims any and  
17 all interest in the land that is the subject of this action,  
18 provided that the land quieted in Charles W. DeBoer shall be  
19 subject to the same reservations and restrictions set forth in  
20 United States Homestead Patent No. 1224602 to Charles DeBoer  
21 done on December 22, 1961, except that paragraph 4 of this  
22 stipulation shall control over the right-of-way exclusion  
23 described in that patent: provided further that the land  
24 quieted in the State of Alaska shall be subject to the  
25 provisions of the Alaska Statehood Act, 72 Stat. 339.  
26

Judgment - 6

1           7. The state shall be charged 183 acres against its  
2 entitlement under § 6(b) of the Alaska Statehood Act, 72 Stat.  
3 339.

4           8. The State of Alaska shall perform the survey and  
5 engineering work and place appropriate monumentation necessary  
6 to provide a metes and bounds description of the property  
7 described in paragraph 2 as well as the easement described in  
8 paragraph 3.

9           9. Any deed, lease, conveyance, or contract made in  
10 violation of this stipulation shall be void and may be set  
11 aside on petition by one or more of the parties hereto, and all  
12 successors in interest, heirs, executors, administrators, or  
13 assigns shall be deemed parties to the same effect as the  
14 original signers. This paragraph, however, does not prohibit  
15 the State of Alaska from making any lease, conveyance, or  
16 contract for the sole purpose of improving, but not expanding,  
17 the currently existing fuel storage area or in compliance with  
18 land use, safety or environmental statutes and regulations of  
19 the State of Alaska.

20           10. The stipulation and agreement constitutes a  
21 mutual covenant running with the land and all successive future  
22 owners shall have the same right to revoke and enforce its  
23 provisions as the original signers.  
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11. It is agreed that all parties shall bear their own costs and attorney's fees.

DATED this 25 day of February, 1985.

*James A. ...*  
United States District Judge

85-002277

NC

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DISTRICT

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REQUESTED BY *Dept of Natural Resources*  
ADDRESS *Division of Lands*  
*400 Willoughby Room 400*  
*Juneau A.K 99801*


PAULNER, BAMFIELD, DOOGAN & HOLMES  
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401 WEST TENTH STREET, SUITE 200  
P.O. BOX 1190 JUNEAU, ALASKA 99803-1190

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 Existing Fire Pit  
 Existing Bench

 Proposed Parking Area  
Proposed Barriers

**Gustavus Beach Development Plan Map**  
submitted August, 2018

**Development Plan  
Gustavus Beach Tracts**

The Gustavus Beach is very important to the citizens of Gustavus. It is where residents and visitors take walks, picnic, pick berries and enjoy the views of the Fairweather Range and of Icy Strait. The Alaska Marine Highway dock is located at the Gustavus Beach, and it is therefore the first view and impression visitors have of Gustavus. The public beachlands in question comprise approximately 32 acres on either side of Dock Road (see Figure 1). These lands, known as Tracts A and B, are owned and managed by Alaska Department of Natural Resources.

These lands are priceless for the beauty and recreation opportunities they provide to the residents of and visitors to Gustavus. As Gustavus continues to grow, it becomes even more critical that these lands are

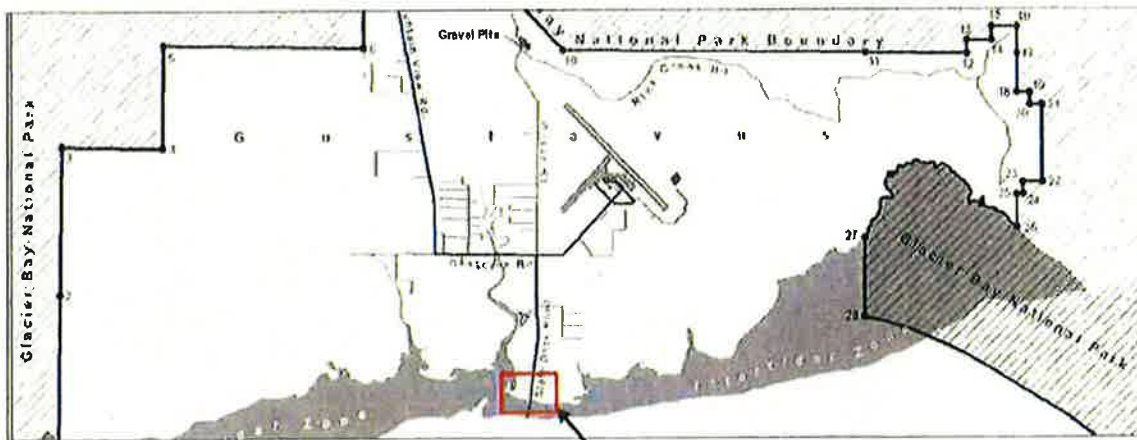


Figure 1. City of Gustavus

Location of Gustavus Beach Tracts A and B

protected for future generations. This development plan will result in the following outcomes:

- Beach lands will be protected and remain accessible to all citizens and visitors to Gustavus for the purposes of recreation.
- Infrastructure (trails, roads, picnicking, benches, etc.), appropriate to the collective desires of the citizens of Gustavus, will be developed and appropriately managed.
- Beach areas that are currently degraded will be restored or hardened to accommodate appropriate use.
- Gustavus citizens will take pride in their beach and care for it.
- Adjacent private land owners will be satisfied with appropriate and respectful recreational use of their lands.

These outcomes are in alignment with the legal judgement settling title of the two 16-acre tracts with the State and recognize the rights of the adjacent landowners. The two tracts of land in question were acquired by the state in 1985 because of a lawsuit that was ultimately settled in the 9<sup>th</sup> Federal Circuit Court of Appeals in San Francisco. This judgement (No. J-76-9 CIVIL) recognized the rights of the upland land owner (the DeBoer Family) and awarded them accreted acreage down to mean high tide line.

But the judgment also set aside 32 acres for the public in recognition of historic recreational use and created a covenant that stressed the intention that the recreational use on these tracts should be “low intensity” in its nature. The covenant states:

*“(We) agree that the state shall use the above-described property for the purpose of continuing the historic recreational uses of the land without interference or disruption and that the land vested in the state will be used for recreational purposes, including walking, jogging, horseback riding, picnicking, camping, sun-bathing, hunting fishing, recreational boating, beach-combing, berry picking, cross-country skiing and other similar recreation uses. It is intended that the recreational use shall be consistent with the natural state of the land and be of a low-intensity nature.”*

Documentation exists within the file system of the City of Gustavus that the community residents became concerned about an increase in recreational use in this area as early as 1981, when the land in question was included in a bill to create a State Game Refuge (city files). The first mention of public concern regarding motorized vehicle use is recorded in 1994 (city files). A letter dated October 26, 1994 to the Department of Natural Resources from the Gustavus Community Association (this was prior to the City becoming incorporated) requested assistance in defining acceptable access and uses for the areas in question, in “accordance with the [DeBoer] court judgement and existing [state] regulations.” The letter and public postings detail some of the impacts being observed including: defined roadways through the dunes, increased size of parking areas, and criss-crossed dunes. No response from DNR is located within the files from this time period (City files).

The issue of beach impacts came to public attention again in 2010. This time the City of Gustavus was incorporated and an official Beach Committee was established by the City to address recreational use issues at the Gustavus Beach. The committee was comprised of citizens both for and against motorized vehicle use at the Beach. They met several times to try to adopt a recommendation to the City for management of the area. All indications are the group was unable to establish trust and could not move beyond internal discord to present a recommendation to the City regarding motorized use.

Currently the Gustavus Beach is unmanaged, and there is visible and growing evidence of disturbed vegetation and soil. Parking areas within the dunes have grown in size and new motorized tracks have developed over the years. Community members have also claimed that ground nesting birds and a short-eared owl nest have been disturbed by motorized use. This spring (2018) the first-ever Artic tern nest was discovered at the beach. Additionally, the DeBoer family has continued to allow non-motorized recreational access to their adjacent private lands, but repeated efforts to halt motorized traffic on their lands have failed. The ability of the City to manage the motorized use on the state-owned tracts will aid the private land owners in enforcing their desire for no motorized access on their property.

When Gustavus residents were asked in a 2016 survey to rate reasons for appreciating our community, 86.9% rated “scenic beauty” as very important and 75.4% rated “pristine

environment” as very important. Slightly more than half (55.9%) believe “protection for the beach near the dock” will have positive impacts for the community, while 72.4% believe “mechanized use of beaches and wetlands” will have negative impacts.

These statistics demonstrate community support of a cooperative management agreement and development plan for the beach parcels on each side of the Dock Road, Tracts A and B, currently managed by the Alaska State Department of Natural Resources. The role of the City of Gustavus under a Cooperative Management Agreement with the state will be a stewardship role assisting the Department of Natural Resources with the management of the tracts.

### **Development Plan Elements**

#### **Legal description:**

Provide a legal description of the parcel, i.e. a metes and bounds description, survey, lot and block, part, or other legal description.

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Tract A is located within Township 40 South, Range 59 East, Copper River Meridian, Alaska and is located on the Easterly side of the Salmon River at its confluence with Icy Passage. The point of beginning of this description being the intersection of the southerly extension of the centerline of the existing road to the dock, with the mean high water line of Icy Passage; thence northerly along the centerline of the existing road a distance of 900 feet; thence West a distance of 711 feet, more or less, to the mean high water line of the salmon River thence meandering southerly along the mean high water line of the Salmon River and Icy Passage.

Tract B is located within Township 40 South, Range 59 East, Copper River Meridian, Alaska and is located east of the centerline of the existing road to the dock and being easterly of the confluence of the Salmon River with Icy Passage. The point of beginning of this description being the intersection of the southerly extension of the centerline of the existing road to the dock, with the mean high water line of Icy Passage; thence northly along the centerline of the existing road a distance of 900 feet; thence East a distance of 753.48 feet; thence South & 13°30' West along the mean high water line of Icy Passage a distance of 80 feet, more or less; thence North 83°11'25" West along the mean high water line of Icy Passage a distance of 670 feet, more or less, to the point of beginning. The herein described parcel contains 16.19 acres, more or less.

#### **Terrain/ground cover:**

Describe the existing terrain/ground cover, and proposed changes to the terrain/ground cover.

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The shoreline between Salmon River and Glen's Ditch is fronted by a series of sandy rises and swales built by Salmon River sediments moving eastward by prevailing currents. These features are built atop former beach flats and sloughs that now form the backshore to the north. The landscape is rising about an inch a year due to glacial rebound. Facilities anchoring the former and present docks have tended to interrupt the pattern of deposition.

The first dock had much to do with capture of the sand and initiation of the basic swale and rise features. The modern dock (abutment, island, sheetpile) now appears to be modifying the seaward sedimentation pattern, accelerating deposition to the eastward and initiating erosion to the westward.

Plant communities have developed according to their salt tolerance, response to disturbance and soil characteristics. The communities can be divided in this way:

- Ryegrass sod along the outer shore and slough margins
- Beach sedge/saltgrass/beach asparagus sod below the ryegrass in some sheltered slough margins
- Strawberry/small herb meadow above the ryegrass on the outer shore
- Grass/tall herb/small spruce meadow above the strawberries on the swales and higher parts of the backshore
- Young spruce groves on the highest swales

As uplift has moved the landscape into the upper intertidal and above-tide zones, the communities have matured and tended to shift seaward. Zones seem to have various near-term futures. Ryegrass is being eliminated by traffic just east of the dock. Erosion west of the dock is tending to pinch the strawberry/small herb meadow between ryegrass and tall meadow; it is being erased in widening roadways but perhaps retained by more moderate foot disturbance elsewhere. Tall meadows are being increasingly dominated by grasses and young spruces in some places. Spruce groves are aggressively spreading on the rises and backshore.

**Proposed Changes to the terrain/ground cover:**

The overarching goal of any vegetation management shall be to maintain the historic viewshed which can be characterized as open with sweeping views of Icy Strait and the Fairweather. To this end the City will designate and retain some spruce groves and take active measures to reduce or eliminate spruce succession onto meadows.

**Access:**

Describe existing and planned access, and mode of transportation. If public access is to be restricted, define possible alternative public access routes.

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Existing access to both parcels is from Dock Road. Many residents and visitors park on or near the road and walk the length of the beach. Others use bicycles, and others drive vehicles both along the top of the dune and behind the main dune. Planned access will remain the same in terms of origination point at Dock Road; proposed changes are intended to restore natural vegetation, prevent erosion, and to protect the beach and dune vegetation from further damage from uncontrolled motorized vehicle use while still providing for public access. Under all alternatives vehicle access to the beach to allow for kayak and small boat drop-off will be retained at the existing location on the east side of the dock. The City does not intend to manage or enforce motorized vehicle use on the actual non-vegetated beach portion of the tracts below the vegetated dunes. Instead, the state regulations regarding motorized vehicle use will remain in effect.

**Parking and Access:** The parking area in the sand on the east side of the dock will be hardened and delineated and will be able to accommodate a vehicle turnaround for kayak and passenger drop-off as well as unhindered access to the beach. No parking will be allowed on the west side of the dock. Additional parking will be created on City-owned property near the current bathroom facility on the existing gravel pad. No motorized traffic will be allowed beyond the established parking areas. Adjacent private land owners will retain the right to access their property through these tracts, however temporary barriers will restrict access until they request their removal for such access.

**Trails:** A hardened, wheelchair-accessible walking trail will be developed to the current viewing bench, and eventually continuing on to create a loop trail along the river, through the meadow, and back to Dock Road, ending approximately across from the Tank Farm.

**Future Access:** The City requests authorization to develop additional trails and/or boardwalks as well as handicap parking if and when deemed necessary or desirable.

#### **Buildings and other structures:**

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Describe each building or structure, whether permanent or temporary, including a description of the foundation as well as the building and floor construction; the date when the structure is to be constructed or placed on the parcel; the duration of use; and what activities are to occur within each structure.

Attractive fencing, bollards, barriers, curbed sidewalks and signage will create an overall visual identity for the public use beach area. Simple yet effective fencing, planter boxes, and barriers will surround the parking area and identify boundaries for vehicles, while only minimally impacting views to Icy Straits. The existing concrete barriers at the entrance to the dock will be replaced with the same materials and design utilized elsewhere.

An existing fire pit on the west side would be further developed/hardened and/or moved to minimize haphazard use and habitat destruction. Another public fire pit area may be developed on the eastern side of the dock near the new parking lot by the public bathrooms.

No buildings or structures beyond the current benches and picnic tables are planned at this time, but the City requests authorization to build temporary structures in the future which could include covered picnic areas, benches and/or wheelchair accessible trails.

**Power source:**

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No power source is necessary.

**Waste types, waste sources, and disposal methods:**

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Trash undoubtedly will continue to be generated by users of the beach and the City already provides bear proof trash containers for disposal (co-located with the current City-owned bathroom facility). These bear proof garbage disposal containers are currently available seasonally from May-September and are checked daily during that time period. The City of Gustavus has already added beach cleanup to the Marine Facility Coordinator position job duties and shall continue to participate in and promote volunteer cleanup duties.

**Hazardous substances:**

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NA

**Water supply:**

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There is no water supply currently provided or planned.

**Parking areas and storage areas:**

Describe long-term and short-term parking and storage areas, and any measures that will be taken to minimize drips or spills from leaking vehicles or equipment. Describe the items to be stored in the storage areas.

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Currently, residents and visitors park on both sides of the road near the beach and on the "island" located midway to the terminus of the Gustavus dock (except on the days when the ferry is scheduled to land in Gustavus, currently Monday's and Wednesday's). On ferry days, many of those who normally park on the island will park on the sand areas to the east and west of the ferry dock. Ferry travelers often leave their

cars for several days at a time, in designated spaces and off the paved road; those coming to the beach for short-term recreation park on and off the paved road as well.

Long-term and short-term parking will be retained on the paved road. Expanded long-term ferry parking could be provided adjacent to the Tank Farm. Alternatives for continued parking options are described thoroughly in the Access section, above.

**Number of people using the site:**

State the number of people employed and working on the parcel, and describe the supervisor/staff ratio. Estimate the number of clients that will be using the site.

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The beach is utilized by practically all Gustavus citizens and visitors. No visitation estimates are available.

**Closure/reclamation plan:**

Provide a closure/reclamation plan, if required for the type of authorization being applied for, e.g. material sale.

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NA

**Maintenance and operations:**

Describe the long-term requirements, how they will occur and who will perform the work. Specify if any subcontractors will be involved, and explain the tasks they will perform.

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Maintenance of the public use beach area will primarily consist of regular trash pick-up and removal, added as responsibilities of the City of Gustavus Marine Facilities Coordinator position. Additional maintenance chores on an irregular basis will include repair of built structures authorized under the Cooperative Management Agreement. This type of task could be potentially taken on by citizen volunteers.

A simple monitoring plan will be developed to document effects on minimizing impacts to dune and beach vegetation and erosion. Developing a monitoring plan adds rigor to the local knowledge already amassed regarding the recreation impacts at the Gustavus Beach.



A baseline set of data will be collected to document the current extent of motorized vehicle impacts on Tracts A and B. The type of data collected will at a minimum include photo-documentation of existing conditions and could also possibly include site attributes such as: trail depth and width measurements, soil surface conditions (rutting/erosion, exposed sand etc.), estimated percentage of vegetation loss on road/trail surface as compared to vegetative cover adjacent to area, types of trail use, and the observed presence/absence of: noxious weeds, trail hazards, campfires, localized tree/shrub damage, unsanitary waste, and litter.

Data collection will be conducted by citizen volunteers in collaboration with the City of Gustavus. The overall goal of the simplified monitoring program is to establish the current status of motor vehicle and other recreation impacts and assess whether implementation of this cooperative management agreement has an effect on reducing those impacts.

#### **Camping:**

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While not required in the Environmental Development Plan, the City desires the authority to address camping in the future if conditions necessitate. Currently the camping limit of 14 days allowed under the states Generally Acceptable Uses applies. Under this development plan, camping will become walk-in camping only. Actions the City may take include designating campsites, instituting shorter camping limits, and/or providing minimal campsite infrastructure.



**City of Gustavus, Alaska**  
PO Box 1  
Gustavus, Alaska 99826  
Phone: 907.697.2451  
Fax: 907.697.2631

January 29, 2019

Benjamin DeBoer  
P.O. Box 51  
Gustavus, Alaska 99826

Subject: Development Plan for the Gustavus Beach Management Agreement

Dear Mr. DeBoer:


The purpose of this letter is to obtain your agreement for the City's development plan of Tracts A and B of ADL 108940 for the Cooperative Resource Management Agreement (Agreement) between the City of Gustavus and the State of Alaska.

As an adjacent landowner, the Agreement requires that a written, notarized approval be obtained that recognizes your agreement with the elements for the development plan. Attached is a copy of the Agreement with the development plan.

Thank you for your participation in the City's effort to protect and restore the Gustavus Beach.

Sincerely,

  
Tom Williams, Ph.D.  
City Administrator

  
Benjamin DeBoer

2-13-2019

Notary



 2/13/19



**City of Gustavus, Alaska**  
 PO Box 1  
 Gustavus, Alaska 99826  
 Phone: 907.697.2451  
 Fax: 907.697.2631



January 29, 2019

Donna DeBoer  
 1617 196<sup>th</sup> Place, SW  
 Lynnwood, Washington 98036

Subject: Development Plan for the Gustavus Beach Management Agreement

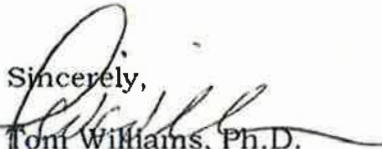
Dear Ms. DeBoer:


The purpose of this letter is to obtain your approval of the City's development plan for Tracts A and B of the Cooperative Resource Management Agreement (Agreement) between the City of Gustavus and the State of Alaska.

As an adjacent landowner, the Agreement requires that a written, notarized approval be obtained that recognizes your agreement with the elements for the development plan. Attached is a copy of the Agreement with the development plan.

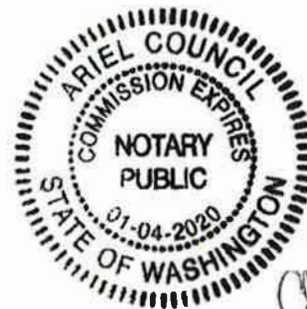
Thank you for your participation in the City's effort to protect and restore the Gustavus Beach.

Sincerely,

  
 Tom Williams, Ph.D.  
 City Administrator

  
 Donna DeBoer-WILLIAMS  
 DDW

Notary





02/14/19  
 Notary public

