# COOPERATIVE RESOURCE MANAGEMENT AGREEMENT between THE CITY OF GUSTAVUS and STATE OF ALASKA DEPARTMENT OF NATURAL RESOURCES DIVISION OF MINING, LAND AND WATER GOVERNMENT LOT 6 SALMON RIVER BOAT HARBOR

# **ADL 107456**

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.

# I. PURPOSE

WHEREAS, the people of Gustavus have utilized the Salmon River Boat Harbor since its completion prior to World War II;

WHEREAS, all seaborne freight that arrives in Gustavus must enter the community through this harbor area;

WHEREAS, the City has identified improvements to the harbor area essential to improving its safety and efficiency, including a new transfer facility to be constructed at the site, and desires also to undertake cleanup of the property and to provide parking and staging areas to facilitate this purpose;

WHEREAS, the City desires to operate, maintain and manage the harbor area and these improvements until such time as the land is conveyed to the City;

WHEREAS, the City has committed to obtaining, the State lands comprising the Salmon River Boat Harbor, either under the provisions of the Public and Charitable Use statute, AS 38.05.810, or as part of the City's municipal land entitlement under AS 29.65.030;

WHEREAS, the City has passed Resolution No. 2005-13 expressing its commitment to obtain ownership of this property;

WHEREAS, the State has required the City to identify and select its municipal land entitlement prior to the acquisition of additional lands for public and charitable use; and

WHEREAS, management of the Salmon River Boat Harbor by the City will facilitate the construction, maintenance and management of harbor improvements until such time as these lands are conveyed to the City;

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, Division of Mining, Land and Water finds that it is in the State's best interest to enter into this agreement.

# **III. LEGAL DESCRIPTION**

Parcel A, Uplands: All uplands within Government Lot 6, within Section 18, Township 40 S., Range 59 E., Copper River Meridian, excluding that fraction of Government Lot 6 consisting of approximately 12 acres that is associated with the Gustavus Landfill, for which management authority was transferred to the City under ADL 107314, for a total of approximately 24 acres, more or less; said Parcel A will be designated Tract B by Alaska State Land Survey (ASLS) 2005-50.

Parcel B, Tide and Submerged Lands: All tide and submerged lands adjacent to Government Lot 6 extending seaward from mean high water (MHW) to the threadline of the deepest channel of the Salmon River and bounded by projected sidelines extending perpendicular from MHW, consisting of approximately 10 acres, more or less.

Diagrams are included as Attachment A.

# **IV. MANAGEMENT INTENT**

To provide for the construction, maintenance, repair, and management of the Salmon River Boat Harbor and the improvements agreed upon within the approved development and operations plan, included as Attachment B, including management of both recreational and commercial use. The City will also manage the area for the purpose of preventing resource damage, unsanitary and unsightly conditions, and potential public safety problems on the property.

# V. CITY RESPONSIBILITIES

- a) The City may undertake, or may authorize third parties through agreements and contracts to undertake, construction of the parking area, freight staging area, and freight transfer facility, as well as other activities related to the construction, operation and maintenance of the harbor facility. 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.
- 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 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 at least an annual basis.
- 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.
- 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 State. Before any change in use or development occurs, including starting new operations, making any additional improvement or constructing any new structure, 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.
- I) 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 Alaska Department of Transportation and Public Facilities, the Alaska Department of Fish and Game Sport Fisheries Division, and the Economic Development Association (EDA).
- 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

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- 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 which exceed a total combined capacity of 110 gallons must be stored within an impermeable diked area or portable containment structure capable of containing 110 percent of the capacity of the largest single container. All fuel storage containers must be clearly marked with the contents and City's name. Drip pans and absorbent pads must be available to contain and clean up spills resulting from any transfer or handling of fuel. All fuel storage containers and associated materials must be removed by 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 working hours in Juneau at (907) 465-5340, fax (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.

# **VI. STATE RESPONSIBILITIES**

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- 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 and commercial 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 (Attachment B).

# **VII. SHARED RESPONSIBILITIES:**

- a) If any changes to the management of the harbor area are proposed, public notice of these changes will be conducted by both the City and State prior to their adoption.
- 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. The State reserves the right to grant other interests consistent with the Public Trust Doctrine, subject to Section IV (a) of this agreement.
- c) This agreement is subject to public access easements along the Salmon River, extending 50 feet upland and 50 feet seaward of the line of mean high water, and public access easements 60 feet wide extending from Dock Road to the line of mean high water as seen on Attachment A. These public access easements can be temporarily and intermittently closed if required for construction, maintenance, operation and use, consistent with State and federal regulations, and for purposes of protecting public health and safety and maintaining security. This agreement may not be assigned, in whole or in part, without the written approval of both the State and the City.

d) Each person executing this Agreement purporting to bind a particular entity warrants that he or she has the authority to do so.

# 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

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

Dick Mylius, Director

Division of Mining, Land, and Water Department of Natural Resources

Ms. Sandi Marchbanks, Mayor

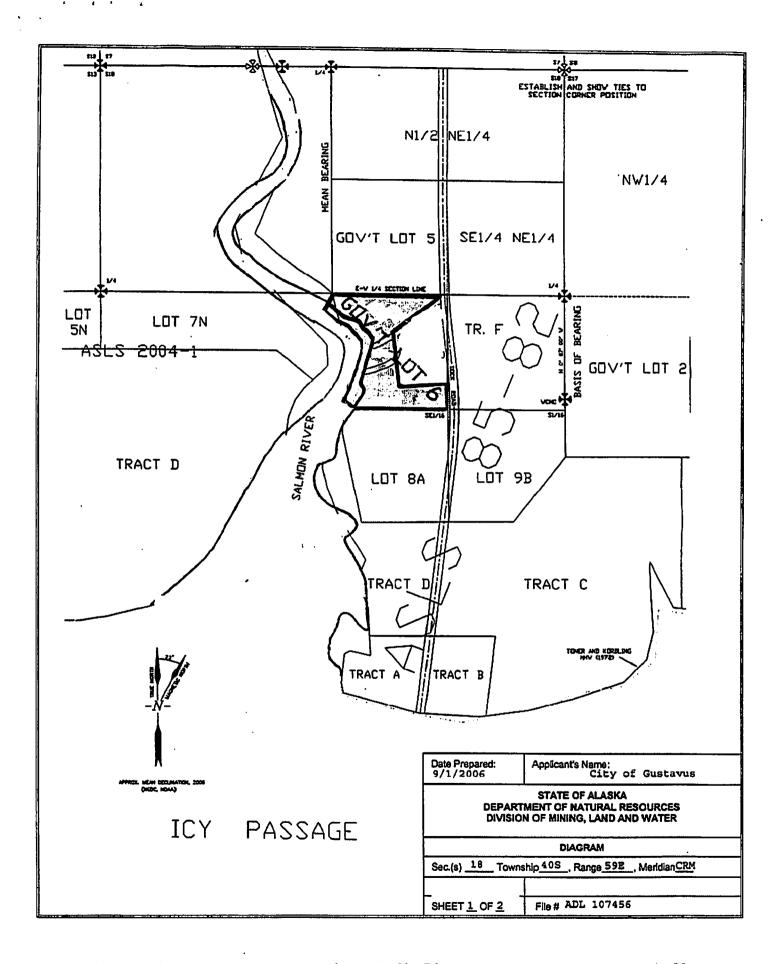
City of Gustavus

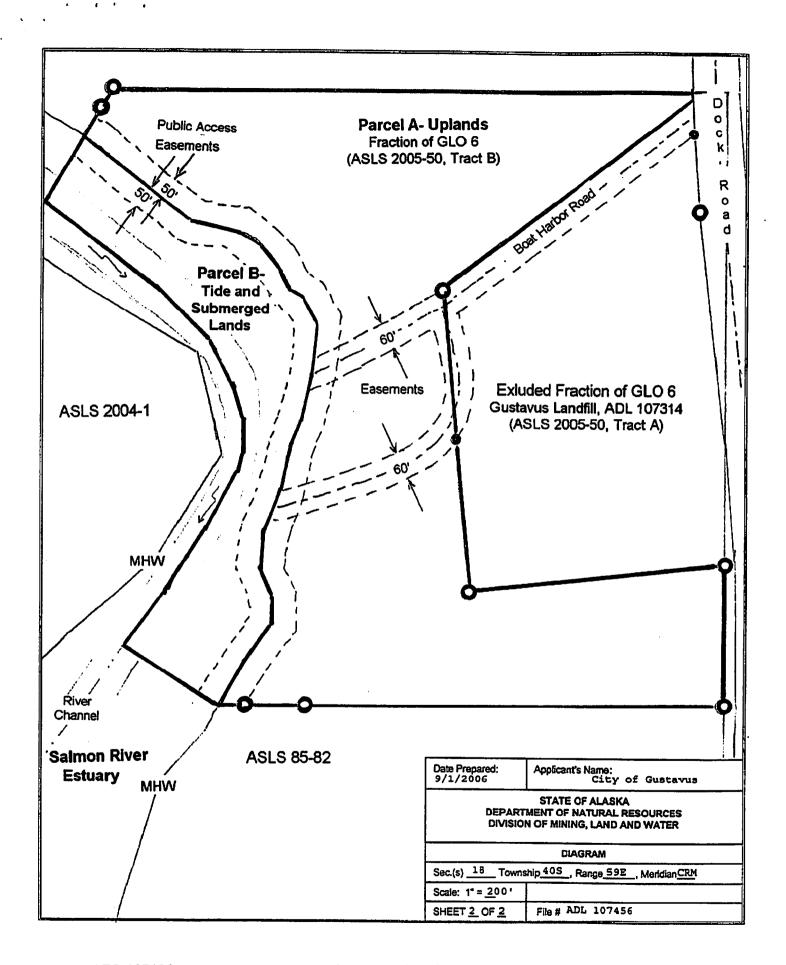
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# XIII. ATTACHMENTS

Attachment A- Site Diagram
Attachment B- Development and Operation Plan





# The City of Gustavus Development Plan for the Gustavus Boat Harbor Area Government Lot 6

#### Introduction

The land within Government Lot 6, the Gustavus Salmon River Boat Harbor, has been used as a boat launching and freight transfer area since the 1930's. The Army Corps of Engineers dredged a portion of the uplands in the 1940's using the fill from this action. along with creosote pile, to create a bulkhead for protecting the present launch ramp from river action. (A few piles are all that remain of this protective bulkhead.) Presently the land belongs to the State of Alaska and is managed by the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW). The entire parcel consists of 35.65 acres of land with 12 acres to be subdivided out which will serve as the Gustavus Disposal Recycling and Composting (landfill). The State of Alaska will deed the 12 landfill acres to the City of Gustavus for ownership once surveying is completed. The City of Gustavus is in the process of identifying municipal entitlement lands at the present and must have the task completed by Dec. 06. The City has agreed to seek and accept conveyance of Government Lot 6 under AS 38.05.810 and AS 38.05.825 as their next priority. (See attached Resolution No. 2005-13) The City presently has a five year 'Land Use Permit #LAS 25299' for .56 acres in the area where a dual launch ramp/ramp barge facility will be constructed in the fall of '06.

The City of Gustavus is presenting this development plan for the Salmon River Boat Harbor area to DNR requesting the City of Gustavus enter into a Cooperative Resource Management Agreement (CRMA) with DNR - DMLW to manage the entire parcel of land, Government Lot 6, until City ownership can be accomplished.

Purpose - The City of Gustavus is requesting a 20 year CRMA for Government Lot 6 to;

- Make the boat harbor area more useable for all citizens by the removal of abandoned boats, cars and other assorted junk.
- Assure that no more items will be abandoned and left in the boat harbor area by providing regulations and active, on site management and enforcement.
- Assure that no more private structures will be put onto the tideland and submerged river area without proper permitting.
- Provide an adequate freight staging area, since all of our freight will be delivered to this Salmon River facility until the Icy Passage dock is replaced.
- Provide a safe area for the; a.) off-loading and on-loading of freight, b.) launching of boats, c.) vehicle & trailer parking, d.) staging of freight prior to loading, and by developing ordinances that speak to these safety issues.
- Begin clean-up of the Salmon River Boat Harbor area, a number one priority in the Gustavus Community Strategic Plan, thus increasing the value of the property and its usefulness for the entire community.

#### Need

Since no freight carrier will deliver freight to our functionally obsolete and structurally impaired/inadequate dock, Gustavus and the National Park Service must depend on small landing craft to bring freight to the Salmon River Launch Ramp from Juneau. This has already doubled the price of freight delivery and has adversely affected all businesses because the delivery is neither scheduled nor reliable.

Therefore, in an attempt to lower these freight rates we must provide an adequate place for landing craft use, while allowing sports/charter users a place to safely pull and launch boats. We also will construct a ramp barge landing within this area to accommodate mid sized barges with the capability of delivering containerized freight, thus providing competition and reducing freight costs.

At the present time no parking area exists for vehicles launching boats and boaters must compete with, and often wait for the landing craft to finish loading/unloading freight. Many times there will be three fork lifts jockeying for position to get freight unloaded, creating unsafe conditions. Much of the maneuvering space needed for launching boats, parking and freight demands is taken up by derelict boats, trailers, abandoned vehicles and junk. The City of Gustavus would like to have the authority to remove unwanted and abandoned items from the immediate boat launch/freight unloading area which create these unsafe conditions. Residents would first be asked to voluntarily assist in the removal of inappropriate materials and then the City would follow the approved ordinances for impound and removal of abandoned, nuisance or derelict vessels and other items. With this CRMA, the city would have the authority to clear and sculpture a portion of approximately 2 acres of the upland area to provide for parking, staging of freight and also to prepare for the fall construction of the dual launch ramps and ramp barge landing. (See attached maps and pictures which show the area proposed for development and the location of boats and other items in the region.

# Activities - Three Phases of activity within the Salmon River Boat Harbor Area Phase 1 - Clean-up

The Gustavus Salmon River Boat Harbor is presently without order or management. There are derelict vessels of all types and description, rusted crab traps, old vehicles, unusable boat trailers, rock piles and assorted junk that must be removed and given back to the owners for storage or disposal. Any future development at this site is dependent upon an extensive clean-up within the target area. See Map Attached.

The phase 1 clean-up will be conducted within the area of the proposed vehicle and trailer parking and the area to be used for freight staging and transfer (Approx. 3 acres). This clean-up and the subsequent removal of unwanted items will take place in accordance with Harbor Ordinances passed by the City Council of Gustavus. This will assure that the removal or destruction of derelict vessels and other unwanted items conform to the law and the ordinances of the city.

Phase 2 - Creation of a parking and freight staging area

All freight for the city and the National Park must come through this facility prior to delivery. This includes all building and construction supplies as well as heavy equipment to complete the upcoming infrastructure projects. Presently the area is small

and provides a dangerous challenge for both the public who wish to use the boat ramp and for the workers who are charged with the duties of unloading freight. It is essential that a safe and suitable area be established for both the parking of vehicles and for the staging of freight. This phase would require the removal of the vegetative material that now exists on the land, sculpturing the landscape for grade and proper drainage, and the addition of domestically obtainable pit run gravel making a level area needed for the parking and staging. The area will then be topped with 6 inches of a much higher grade D-1 aggregate to serve as a final surfacing. A substantial amount of fill will be used on the lower slopes of the terrain in order to provide an adequate foundation. There is one small area that will be filled which is below the Higher High Tide level. Permitting for this fill will be obtained prior to completion of the work. The sculpting of the terrain will provide a more level area on which to park and to deliver and stage freight items.

Phase 3 - Construction of the Sports Launch Ramp/Landing Craft Ramp and the Ramp Barge Landing facility.

This, the 3<sup>rd</sup> and final phase of the entire project for the Salmon River Boat Harbor will be completed during the fall of 2006. The construction of the harbor facility has been engineered and permitted through all segments. The Sport Ramp is being funded by the ADF&G Sport Fisheries (Dingle Johnson Funds) and the Landing Craft Launch is being funded by the Alaska Dept. of Transportation and Public Facilities (ADOT/PF). The City of Gustavus is seeking Economic Development Administration (EDA) funds to complete the Ramp Barge portion of the facility. The requirement of EDA that the city retain a long term (20 Year) lease of this property is the reason for this Development Plan.

The above mentioned work phases are the only plans the City of Gustavus presently has for the development of the area. The city will take control of the entire area of the Salmon River Boat Harbor through the Public and Charitable provisions within Alaska Statute AS 38.05.810. Final completion of the city's quest for control of the land should be completed in 2007 or 2008.

## Description of the types of activities and development planned for the site.

The Salmon River Boat Harbor will be a facility, managed, maintained and operated by the City of Gustavus. There will be no leased or rented commercial uses of any portion of the land under this CRMA. Commercial carriers of freight will be charged a fee for the transfer of freight and for the temporary use of the staging area; however, nothing will be rented or leased to such commercial users. Sports/charter/recreational users would also be charged fees to pay for maintenance and operation of the facility,

Legal Description – Salmon River Boat Harbor: Township: 40 S., Range: 59 E., Section: 8, Copper River Meridian, Government Lot 6, 35.65 acres of land lying westerly of Dock Road. See attached.

Terrain/ground cover - There are several small roads crossing the land but only one main road which serves as an entrance road from the asphalted Dock Road. The ground is gravel, sand and silt with a covering of grasses. There are only a few spruce trees in the effected area of change with a scattering of willow, mostly eaten back by moose. The

terrain is generally level with one slope of three feet tapering off to the North. A portion of this would be filled to provide the staging area for freight.

#### Access -

There is only one road into the Salmon River Boat Harbor area. It is a well graveled road with ditching on both sides. This road separates into smaller roads that access many locations of the boat harbor and the Gustavus Disposal and Recycling Center (DRC). One local residence has access to their lodge by crossing the Boat Harbor Land.

### Buildings and other structures -

There are no structures on the land excluding the DRC buildings which are on what will become city owned land during the fall of 2006. There are several boat docks in the river which were placed there without the permission of DNR but they are still in place. These may eventually be removed in the future.

#### Power Source -

There is electrical power only to the DRC through an underground electric cable. The boat harbor presently has no electrical power.

# Waste Types, Waste sources, and disposal methods -

There will be no waste material generated on the site. The DRC presently has a very effective and efficient recycling method for community waste but this has nothing to do with the Salmon River Boat Harbor.

#### Hazardous Substances -

There are no known hazardous substances at the site. Outboard motors serve as a method of boat propulsion in the harbor. There are several old deteriorating creosote piles that once served as a retaining wall to protect the initial boat launch originally constructed in the 1930's. These will be pulled during the construction of the Sport Boat Ramp and Landing Craft Ramp construction in early fall of 2006, the remains of which will be properly disposed.

# Water supply -

There presently is no freshwater available at the boat harbor and none is expected during the design and construction of the facility.

# Parking areas and storage areas -

A parking area will be constructed for the temporary parking of vehicles and boat trailers. An extension of this area will be used to stage freight for transfer from the landing crafts or ramp barges to the vehicles which will haul them to the owners. There will be no storage area established during the effective time of this CRMA.

#### Number of people using the site -

There will be one part time harbormaster employed at the site with duties elsewhere during the work day. Almost every citizen will utilize the area in one way or another during any year. All freight, equipment, building supplies, food, etc. must enter the city or the Glacier Bay National Park through this facility.

# Maintenance and operations -

The City of Gustavus will be the ultimate authority over the maintenance and operation of this facility. The city will also be the government entity to provide funding for the development of the parking area and the freight staging area. The clean-up will be performed by volunteers and through the donated time of equipment use needed to move boats and to clear unwanted and derelict items from the area. Long term upgrades and physical maintenance jobs will be performed by individual contractors with suitable equipment for the task.

# Closure/Reclamation plan -

The Boat Ramp/Ramp Barge portion of this project will not be closed during the life of the CRMA. The project now described is the reclamation of the area for a greater good and for use by the entire community.

#### Conclusion

The City of Gustavus desires to enter into a CRMA with DNR – DMLW for the control, management and development of the Salmon River Boat Harbor through a 20 year lease of the 23.65 acres of Government Lot 6 which are outside the Landfill subdivision. Throughout this lease the city will assume all management and maintenance of the area through city harbor ordinances. The city will also complete the three phases of development that are so vital to the survival of the Gustavus community.

Phase 1 – Boat Harbor Arca Clean-up

Phase 2 – Develop a parking area for temporary use by vehicles and boat trailers & a level area for the staging of freight and equipment from barges and landing Crafts

Phase 3 – Construction of the Multiple Boat Ramp Facility for the Salmon River Boat Harbor

The City of Gustavus looks forward to working with DNR in the development of a Cooperative Resource Management Agreement which would provide the city with the legal authority to manage and enhance the usefulness, beauty, and the safety of this valuable facility which is so vital to the life and economic success of this community.

#### Contacts:

Marine Facilities Chair:

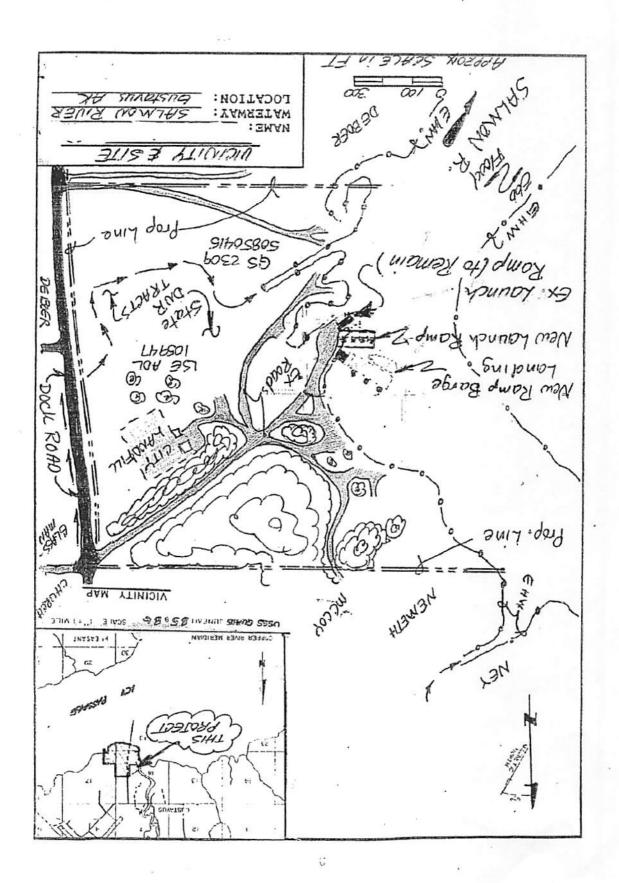
Diane Klawunder, 907-697-2422, kdklawunder@gustayus.ak.us

Mayor Gustavus:

Sandi Marchbanks, 907-697-2741, info@glacierbayalaska.com

Gustavus City Clerk:

Lexa Meyer, 907-697-2451, clerk@gustavus-ak.gov

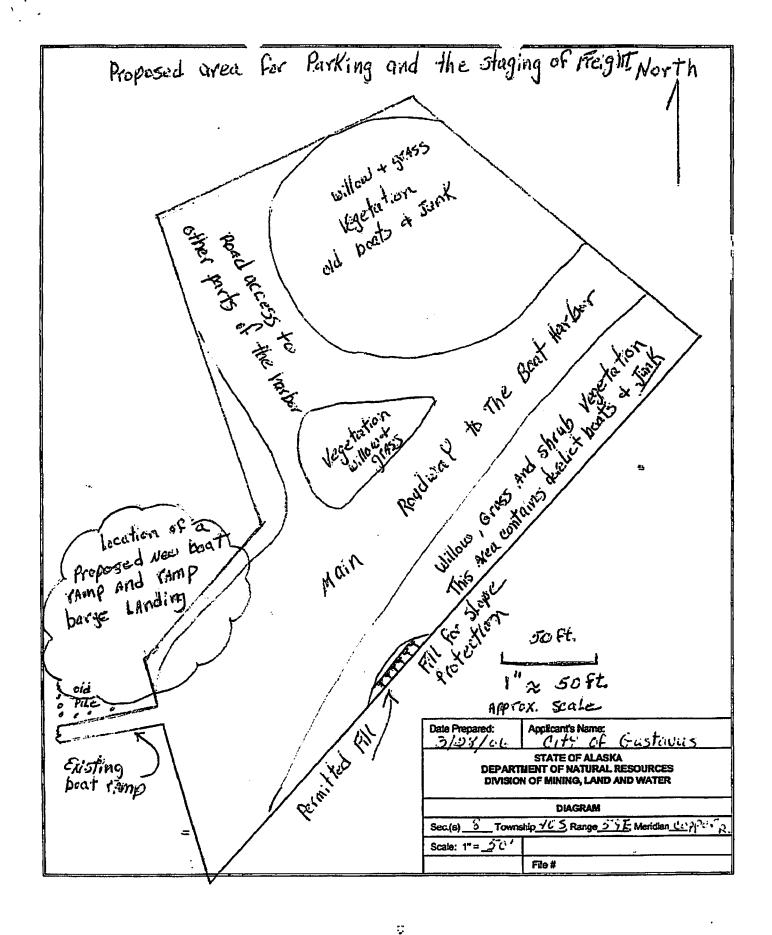


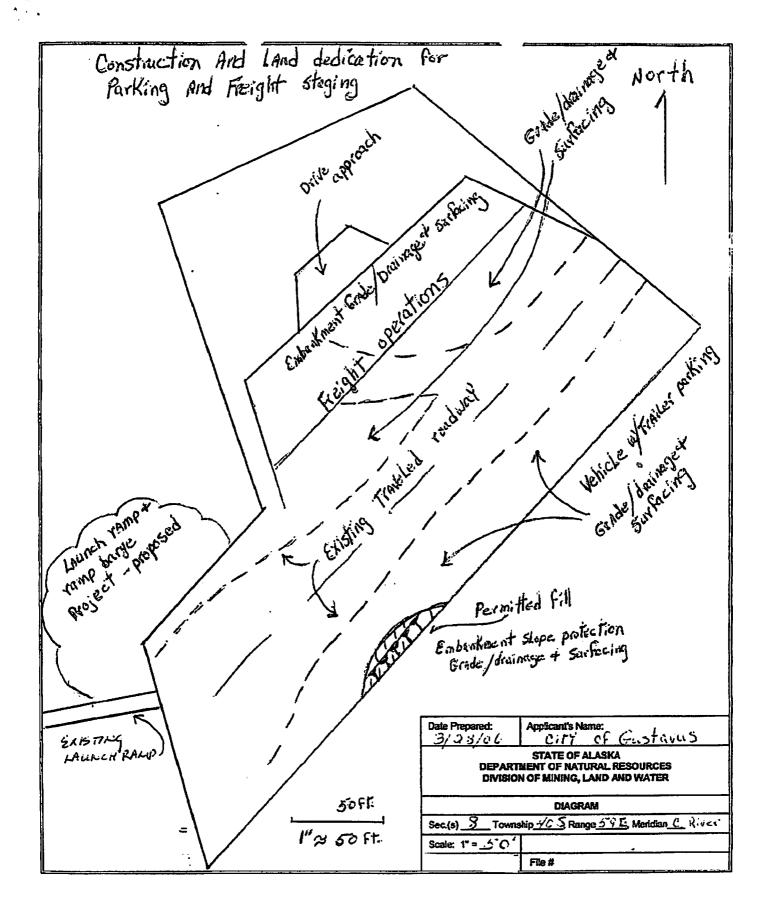


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Attachment B: Development Plan







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