ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2009-20

An Ordinance Authorizing the Port Director to Negotiate and Execute a Lease of a Portion of Alaska Tidelands Survey No. 43, Located at Approximately 1.5 Mile North Douglas Highway on Gastineau Channel, for an Existing Mobile Home Park Known as Waterside Park, and Waterfront Related Uses.

WHEREAS, on August 8, 1961, the State of Alaska entered into a 55-year lease agreement for a portion of Alaska Tidelands Survey No. 43, expiring on August 8, 2016, which lease was identified by the State as Tideland Lease No. ADL 2798 ("the lease"); and

WHEREAS, the lease was amended in 1963 to modify the legal description of the property being leased; and

WHEREAS, over the years the lease was assigned by the original lessees, and by subsequent lessees, and, ultimately, in 1996 the lease was assigned to Myron W. Klein, the current lessee; and

WHEREAS, in 2001, the State of Alaska conveyed ATS No. 43 to the City and Borough of Juneau and transferred management and administration of the lease to the City and Borough; and
WHEREAS, Lessee Myron W. Klein has requested that the City and Borough renew the lease at this time in order to facilitate his long-term financing needs for the property; and

WHEREAS, the lease renewal will constitute a new lease of the property, with terms and conditions in accordance with this ordinance and the City and Borough leasing code; and

WHEREAS, the leased premises have for many years been used for a portion of Waterside Park, a 32-space mobile home park located at 5010 North Douglas Highway, and that use, as well as waterfront related uses and operations, will continue under the new lease authorized by this ordinance; and

WHEREAS, at its meeting on March 27, 2008, the Docks and Harbors Board approved a lease rate adjustment for the lease to the current $6,040.00 per year ($.04 per square foot per year) and the Port Director has determined that that rate is appropriate for the first five-year period of the term of the lease authorized herein; and

WHEREAS, the Docks and Harbors Board reviewed this proposal at its meeting on August 27, 2009, and recommended that the Assembly approve this ordinance; and

WHEREAS, the Assembly Lands Committee reviewed this proposal at its meeting on August 31, 2009, and recommended that the Assembly approve this ordinance; and
WHEREAS, the Docks and Harbors Board is authorized in CBJ 85.02.060 to lease lands as provided in CBJ Chapter 53.20 and any action required by the City Manager may be performed by the Port Director; and

WHEREAS, CBJ 53.20.020 authorizes the lease of lands owned by the City and Borough, including tidelands and submerged lands, by ordinance under such procedures and minimum terms and conditions as set forth in the ordinance.

NOW, THEREFORE, BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

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

Section 2. Authorization to Lease. The Port Director is authorized to negotiate and execute a lease with Myron W. Klein of a portion of ATS No. 43 containing 3.465 acres more or less, described as follows:

A parcel of tidelands seaward of the mean high tide line of Gastineau Channel, on Douglas Island, approximately 1½ miles N.W. of Juneau, Alaska, containing 3.465 acres, more or less; beginning at Corner No. 1 of Lot 1, ATS 43, (CR 41S67E) identical with Corner No. 2, M.C., Lot 1, U.S. Survey 2960; then from Corner No. 1 by metes and bounds, N. 2° 51’ W., 325.71 feet to Corner No. 2, N. 39° 33’ W., 116.47 feet to Corner No. 3, N. 58° 30’ E., 386.04 feet to Corner No. 4, S. 31° 30’ E., 322.89 feet to Corner No. 5, S. 50° 02’ W., 531.54 feet to Corner No. 1, the actual point of beginning.

The leased premises described above are generally depicted on Exhibit A to this ordinance.
Section 3. Minimum Terms and Conditions. The lease authorized by this ordinance is subject to the following minimum essential terms and conditions:

(a) The leased premises shall be used by Lessee for an existing mobile home park and waterfront related uses and operations;

(b) The lease shall be for a term of 35 years (the lease term beginning on the effective date of the new lease agreement), with one 35-year renewal option;

(c) The lease rental rate for the first five-year period of the term shall be $6,040.00 per year ($0.04 per square foot per year), plus sales tax. The annual lease payment shall be due and paid by Lessee to the City and Borough on or before the first day of each year of the term, provided the first annual lease payment shall be due and paid on or before July 1, 2010;

(d) The Port Director shall review and adjust the lease rental rate every fifth year beginning with the first year after the initial five-year period of the term, in accordance with CBJ 53.20.190(2) and CBJ 85.02.060(a)(5), as well as the Docks and Harbors lease administration regulations, 05 CBJAC Chapter 50;
(e) Lessee shall be responsible for obtaining all necessary permits and approvals for its use and development of the leased premises. In addition, Lessee is required to obtain approval of its development plans from the Docks and Harbors Board prior to any further development of the leased premises or improvements;

(f) Lessee shall indemnify, defend, and hold harmless the City and Borough and its officers and employees for any claims related to or arising out of Lessee’s use, operation, or maintenance of the leased premises, equipment, and improvements, or any further development of the leased premises or improvements by Lessee; and

(g) The lease shall include all provisions of the standard CBJ land lease form not in conflict with this ordinance, and any other provisions that the Port Director determines to be in the public interest.

Section 4. Execution. The lease authorized by this ordinance may be enforced according to its terms notwithstanding any procedural or substantive deviations or differences from CBJ Title 53 or CBJ Chapter 85.02.
Section 5. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this day of 2009.

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Bruce Botelho, Mayor

Attest:

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Laurie J. Sica, Clerk