ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2013-06

An Ordinance Authorizing the Port Director to Negotiate and Execute a Lease of ATS 1170, Located at Approximately 13395 Glacier Highway.

WHEREAS, the State of Alaska conveyed management authority for ATS 1170 (also referred to as Alaska Tidelands Lease No. ADL 101598) to the City and Borough on February 8, 2001; and

WHEREAS, at the time of the conveyance, the holder of the existing lease between it and the State was John D. Gitkov and Jane H. Hawkins, husband and wife, d.b.a. Gitkov Dock; and

WHEREAS, the lease between John D. Gitkov and Jane H. Hawkins, husband and wife, and the State of Alaska, assumed by the City and Borough, expired on September 12, 2012; and

WHEREAS, Gitkov and Hawkins wish to renew their lease, and the Port Director recommended that the lease renewal constitute a new lease with the City and Borough under terms and conditions in accordance with City and Borough ordinances and regulations, with Gitkov and Hawkins paying the appropriate fair market value rental rate for continued use of ATS 1170; and
WHEREAS, it is the intent of the Docks and Harbors Board, and Gitkov and Hawkins, that the new lease agreement memorialize the intent and conduct of the parties under which Gitkov and Hawkins remain the responsible leaseholders of ATS 1170, despite the fact that a new lease document with the City and Borough was not signed when the underlying original lease expired; and

WHEREAS, in accordance with the 2012 appraisal report, the Port Director recommended an annual rental rate of $11,030 (73,529 square feet at $0.15 per square foot, rounded up to the nearest whole dollar), which was approved by the Docks and Harbors Board on December 20, 2012; and

WHEREAS, the parties now desire to enter into a lease agreement for ATS 1170, as recommended and approved by the Docks and Harbors Board; and

WHEREAS, the Board is authorized by CBJ 85.02.060(a)(5) to lease lands as provided in CBJ Chapter 53.20, and any action required by CBJ Title 53 of 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 ordinance is a noncode ordinance.

Section 2. Authorization to Lease. The Port Director is authorized to negotiate and execute a lease to John D. Gitkov and Jane H. Hawkins, husband and wife, of Alaska Tidelands Survey No. 1170, Plat 82-43, Juneau Recording District, First Judicial District, State of Alaska, containing approximately 73,529 square feet of property, as shown on Exhibit A to this ordinance.

Section 3. Minimum Essential Terms and Conditions. The lease is subject to the following minimum essential terms and conditions:

(A) The leased property shall be used by Lessees for its commercial dock and marine services related operations.

(B) The lease shall be for a term of thirty-five years, beginning September 24, 2012, with one thirty-five year renewal option, subject to City and Borough approval of any renewal.

(C) The annual lease payment for the initial five-year period (September 24, 2012 - September 23, 2017) shall be $11,030 plus sales tax. Annual rent under this lease agreement shall be due by September 23rd.
(D) Beginning with the first year after the initial five-year period of the term of this lease agreement, the Port Director will re-evaluate and adjust the annual lease payment for the leased property, equipment, and improvements for the next five-year period of the term in accordance with CBJ 53.20.190(2). Regardless of the timing of the adjustment, the new annual lease payment amount shall be paid retroactively to the beginning of the lease payment adjustment period for which no adjustment has yet been made.

(E) Lessees shall be responsible for obtaining all necessary permits and approvals for any further development of the leased property or improvements. In addition, Lessees are required to obtain approval of any development plans from the City and Borough Docks and Harbors Board prior to any further development of the leased property or improvements.

(F) Lessees shall indemnify, defend, and hold harmless the City and Borough and its officers and employees for any claims related to or arising out of Lessees' use, operation, or maintenance of the leased property, equipment, and improvements, including any further development of the leased property or improvements by Lessees.

(G) The lease shall include all provisions of the standard City and Borough 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.

Section 5. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this day of 2013.

Merrill Sanford, Mayor

Attest:

Laurie J. Sica, Clerk