



MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
(PHONE) (907) 983-2297
(FAX) (907) 983-2151
www.skagway.org

This Lease Amendment dated November for the purpose of modifying and extending the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the Municipality of Skagway (hereinafter Municipality) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of Municipal owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

1. DURATION:

This lease shall be in effect until December 15, 2031.

Amended Lease Amount:

The amended lease amount effective January 1, 2019, is based on the Appraisal Report of June 1, 2018 performed by Horan & Company (Attachment A) is as follows:

The lease amount shall be determined by multiplying:

- The appraised annual value of the land on a per square foot basis*, by
- 5,400 square feet, by
- Eight percent (8%)

***The annual value of the land on a per square foot basis is \$22.00.**

The lease amount shall be \$9,504.00 per year payable in advance annually, on or before the first day of September of each year the lease is in effect.

All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.

Monica Carlson, Mayor
For the Municipality of Skagway

Dan & Eileen Henry
Lessee

Date _____

Date _____

Attest

Emily Deach, Municipal Clerk
(seal)

ATTACHMENT A

**APPRAISAL REPORT
IN FEE SIMPLE INTEREST OF TAX LOT 5C, ATS 4
LEASED TO THE SKAGWAY FISH CO.
LOCATED ON CONGRESS WAY,
SKAGWAY, ALASKA**



(031418_1743)

PREPARED FOR: Michelle Gihl, Deputy Clerk
Municipality of Skagway
P O Box 415
Skagway, Alaska 99840

PREPARED BY: William G. Ferguson
HORAN & COMPANY, LLC
403 Lincoln Street, Suite 210
Sitka, Alaska 99835

INSPECTION DATE March 14, 2018

EFFECTIVE DATE: May 31, 2018

REPORT DATE: June 1, 2018

OUR FILE NO.: 18-032

ATTACHMENT A
HORAN & COMPANY

REAL ESTATE APPRAISERS/CONSULTANTS

CHARLES E. HORAN, MAI / WILLIAM G. FERGUSON,
JOSHUA C. HORAN, AND SLATER FERGUSON

403 LINCOLN STREET, SUITE 210, SITKA, ALASKA 99835

PHONE NUMBER: (907)747-6666 FAX NUMBER (907)747-7417 commercial@horanappraisals.com

June 1, 2018

Michelle Gihl, Deputy Clerk
Municipality of Skagway
P O Box 415
Skagway, Alaska 99840

Re: Summary Appraisal Report In Fee Simple Interest of Tax Lot 5C, ATS 4;
Leased to the Skagway Fish Co., Congress Way Skagway, Alaska; Our File 18-032

Dear Ms. Gihl:

I have completed the attached appraisal report of the above-referenced property per your request. The report is provided in a brief narrative format with analysis of five comparables found within the report. The market value as of May 31, 2018, for this leased tract is estimated at:

\$118,800 or \$22.00/SF

Your attention is invited to the attached report which sets forth the Certification of Appraisal, Extraordinary Assumptions, Limiting Conditions, the most pertinent data considered in the analysis used in arriving at this final opinion of value.

If you have any questions or comments, please don't hesitate to call. Thank you for this opportunity to be of service.

Respectfully submitted,



William G. Ferguson
HORAN & COMPANY, LLC

ATTACHMENT A

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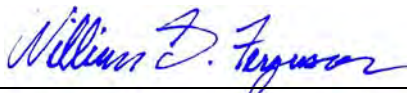
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CERTIFICATION OF APPRAISAL

I certify that, to the best of my knowledge and belief:

- The statements of fact contained in this report are true and correct.
- The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and no personal interest with respect to the parties involved.
- I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation for completing this assignment is not contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.
- The reported analyses, opinions, and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics & Standards of Professional Appraisal Practice of the Appraisal Institute, which include the Uniform Standards of Professional Appraisal Practice.
- The use of this report is subject to the requirements of the Appraisal Institute relating to the review by its duly authorized representatives.
- William Ferguson inspected the site on March 14, 2018. This is the effective date of the report.
- No one provided significant real property appraisal assistance to the person signing this certification.
- Our office has performed assessment services regarding the subject property within the prior three years, as contract assessors for the Skagway Municipality. We have performed no other appraisal services with regard to the subject property in the previous three years.



William G. Ferguson, AA618

June 1, 2018

Report Date

May 31, 2018

Effective Date

ATTACHMENT A

1 INTRODUCTION

1.1 LOCATION

The subject property is referred to as the Skagway Fish Company lease site. It is located on Congress Way, Skagway, Alaska. The property is land leased from the Municipality of Skagway and is identified as tax parcel 5C, a portion of ATS 4, from the City of Skagway's assessment records.

1.2 PURPOSE OF APPRAISAL; INTENDED USE AND USER

The purpose and intended use of this appraisal is to estimate the fair market value to be used as a basis for annual lease rates. The market value estimated is limited by the Assumptions and Limiting Conditions herein. The site is leased to Dan and Eileen Henry/Skagway Fish Company for continued use as a restaurant business. The intended user and client is the Municipality of Skagway.

1.3 PROPERTY RIGHTS APPRAISED

The subject property is appraised in its fee simple interest.

1.4 INSPECTION AND EFFECTIVE DATE

The subject property was inspected by William G. Ferguson on March 14, 2018. The effective date of this report is May 31, 2018. It is an extraordinary assumption of this report that the land is in the same condition as the date of inspection.

1.5 THREE YEAR PROPERTY HISTORY AND OSTENSIBLE OWNER

The subject property is owned by the Municipality of Skagway and has been for some time. It has not sold in the last three years. It is proposed to be in a continued use and leased to a private business, in this case, the Skagway Fish Company. It has been leased by this business since 1996. The annual rent was previously adjusted in 2013 to \$8,640.

1.6 SCOPE OF APPRAISAL

This appraisal employs the Comparable Market Data Approach. I have also considered capitalized leases as value indicators. Sales data was collected and developed through interviews with primary market sources such as buyers and sellers, as well as secondary sources including brokers, lenders, assessors, attorneys, and appraisers.

ATTACHMENT A

1.7 ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal report and valuation contained herein are expressly subject to the following assumptions and/or conditions:

Extraordinary Assumption: It is an extraordinary assumption of this report that the land was in the same condition on the effective date of this report, May 31, 2018 as observed during the date of inspection, March 14, 2018.

1. It is assumed that the data, maps and descriptive data furnished by the client or his/her representative are accurate and correct. Photos, sketches, maps, and drawings in this appraisal report are for visualizing the property only and are not to be relied upon for any other use. They may not be to scale.
2. The valuation is based on information and data from sources believed reliable, correct and accurately reported. No responsibility is assumed for false data provided by others.
3. No responsibility is assumed for building permits, zone changes, engineering or any other services or duty connected with legally utilizing the subject property.
4. This appraisal was made on the premise that there are no encumbrances prohibiting utilization of the property under the appraiser's estimate of the highest and best use.
5. It is assumed that the title to the property is marketable. No investigation to this fact has been made by the appraiser.
6. No responsibility is assumed for matters of law or legal interpretation.
7. It is assumed no conditions existed that were undiscoverable through normal diligent investigation which would affect the use and value of the property. No engineering report was made by or provided to the appraiser.
8. Unless otherwise stated in this report, the existence of hazardous material, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation, or other potentially hazardous materials may affect the value of the property. The value estimate is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for any such conditions, or for any expertise or engineering knowledge required to discover them. The client is urged to retain an expert in this field, if desired.
9. The value estimate is made subject to the purpose, date and definition of value.
10. The appraisal is to be considered in its entirety, the use of only a portion thereof will render the appraisal invalid.
11. Any distribution of the valuation in the report between land, improvements, and personal property applies only under the existing program of utilization. The separate valuations for land, building, and chattel must not be used in conjunction with any other appraisal and is invalid if so used.
12. The appraiser shall not be required to give testimony or appear in court by reason of this appraisal with reference to the property described herein unless prior arrangements have been made.

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1.8 TERMINOLOGY

Market Value

A type of value that is the major focus of most real property appraisal assignments. Both economic and legal definitions of market value have been developed and refined, such as the following:

1. The most widely accepted components of market value are incorporated in the following definition: The most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.
2. Market value is described, not defined, in the Uniform Standards of Professional Appraisal Practice (USPAP) as follows: A type of value, stated as an opinion, that presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date, under specific conditions set forth in the definition of the term identified by the appraiser as applicable in an appraisal. Comment: Forming an opinion of market value is the purpose of many real property appraisal assignments, particularly when the client's intended use includes more than one intended user. The conditions included in market value definitions establish market perspectives for development of the opinion. These conditions may vary from definition to definition but generally fall into three categories:
 - a. the relationship, knowledge, and motivation of the parties (i.e., seller and buyer);
 - b. the terms of sale (e.g., cash, cash equivalent, or other terms); and
 - c. the conditions of sale (e.g., exposure in a competitive market for a reasonable time prior to a sale).

The Dictionary of Real Estate Appraisal, 6th Edition, Appraisal Institute, Pages 141-143

Fee Simple Estate

Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.

The Dictionary of Real Estate Appraisal, 6th Edition, Appraisal Institute, Page 90

ATTACHMENT A

2 AREA ANALYSIS

2.1 SKAGWAY AREA ANALYSIS

It is assumed the readers and reviewers of this report are familiar with the social and economic conditions and trends of the Skagway market. Skagway is situated at the northern most point of the inside passage in Southeast Alaska. It has historically been a transportation point connecting these protected waterways to the interior of Alaska and the Yukon Territory. Skagway is about 90 miles northwest of the state capital of Juneau.

Real Estate Market Trends

The increased seasonal demand has caused significant appreciation in general real estate housing and commercial land. Statistics kept for assessment adjustments show that values have gone up about 160% since 1995 for real estate land in general and over 200% for land in the central Historic Business District. The suburban Hillside District and Dyea area has not experienced the same level of overall appreciation, with assessment values increasing just 110% in the same time period. There was a 10% decline in 2010 and another 15% decline in 2011 in the assessment values for Skagway's core town land, reflecting the market's reaction to the decline of tourism visitation. Tourism numbers have again been increasing, and assessed values proved stable for 2012 and 2013 and gradually increased in varying degrees 2014 – 2018, depending on the area.

ATTACHMENT A

2.2 NEIGHBORHOOD ANALYSIS

The subject neighborhood is generally the waterfront side of Congress Way just north of the White Pass Dock. This area is approximately 1/4 mile south of the downtown core and serves as access to town from the cruise ship dock. Immediate improvements include the dock, the city harbor, a small lease for Petro Marine's fuel service for the harbor, and two restaurants on leased lands (including the subject). There is an RV campground just to the north of the subject and the harbor parking area. This area generally encompasses the entire White Pass Dock and goes to Pullen Creek to the north. The sea walk along the bulkhead has redirected pedestrian traffic away from Congress Way and along the walkway. The walkway is appealing with benches, architectural features and paved walks.

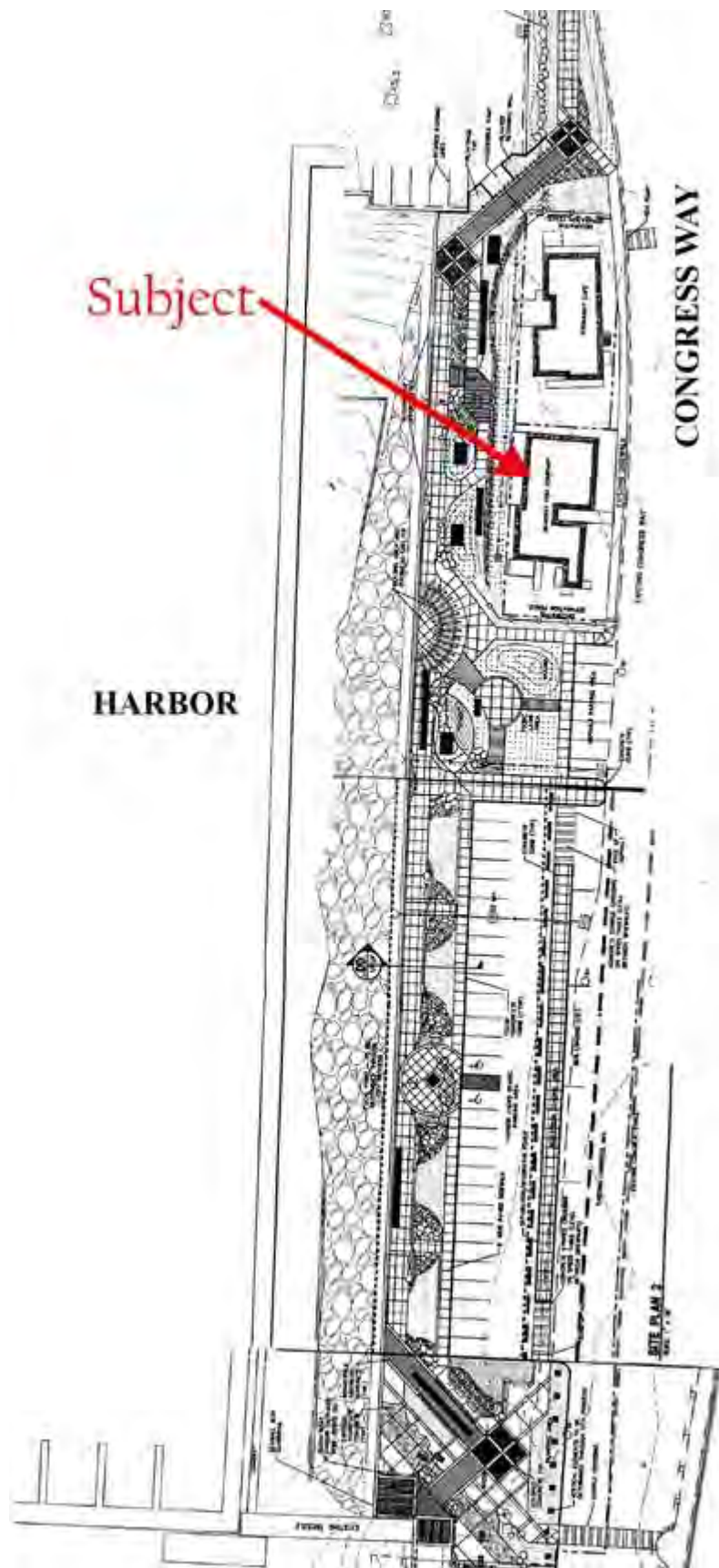


FIGURE 1 – Subject Location Map

ATTACHMENT A

3 PROPERTY DESCRIPTION

3.1 SITE DESCRIPTION

The subject site is located between the fringe of the downtown core and the cruise ship dock, directly adjacent to the public harbor. It serves as view property along the sea walk and overlooking the small boat harbor. It is felt to have the same economic, social, and government influences as the entire community. The site is 5,400 SF in size (54' deep x 100'.wide) The sea walk and bulkhead provides a public walkway along the water between the cruise ship dock and harbor parking and downtown. The neighborhood is developed with two land lease areas which house restaurants as well as several tourist related facilities, the small boat harbor and the harbor master building. The ferry terminal, some leased storage areas, a small RV campground and the boat launch ramp are also in the general vicinity. As noted, the site is a portion of land within ATS 4.

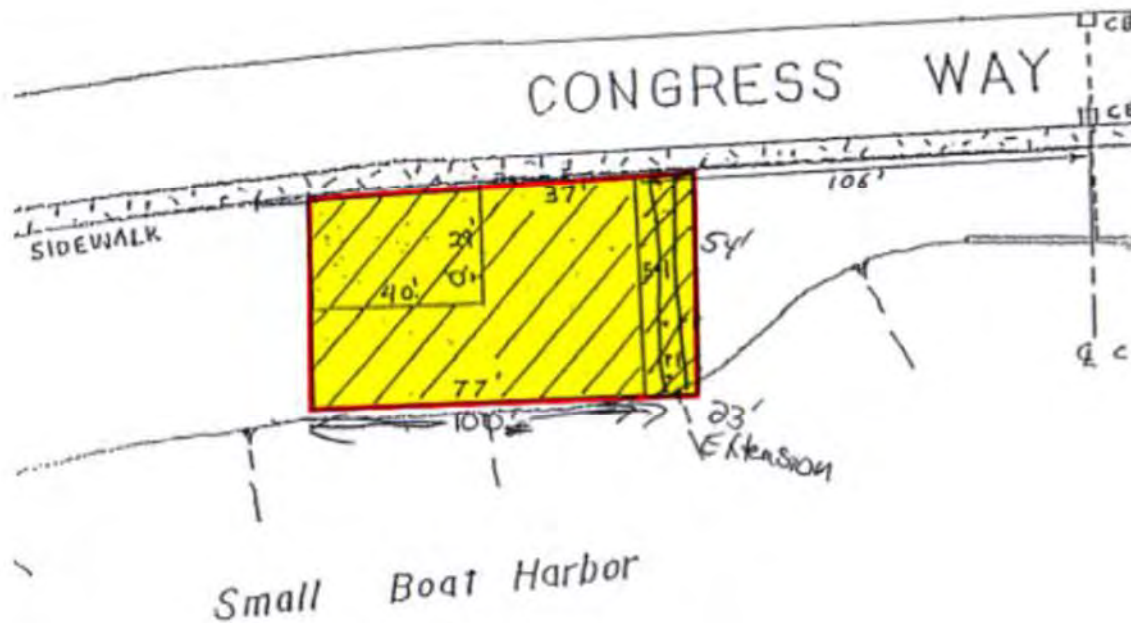


Figure 2 – Site map of subject property

Access, Topography & Utilities

Access to the subject is along the publicly-maintained, paved Congress Way with all public utilities available to the site. Congress Way also includes a concrete sidewalk on the subject's side of the road. The opposite side of the road borders the railroad right-of-way. The sea walk provides pedestrian access to the water side of the property.

The subject site is generally level and similar to the road elevation on Congress Way. There is a very slight change in grade between the sea walk and the building, which is taken up with a landscaped strip.

ATTACHMENT A

3.2 ZONING

The subject site is zoned Waterfront (W). This zoning area was created to protect the relatively limited developable waterfront property in Skagway. “W” zoning generally allows for public, private, and commercial moorage, warehousing and storage, marine fuel, water and sanitation facilities, research and educational facilities related to the water, port and harbor facility, seafood processing plant, boat storage yard, fish and shell fish propagation, parks and open space, and water dependent or related visitor services, as well as sales related to maritime activity that requires or benefits from a shoreline location. The subject’s use as a seafood restaurant conforms to the zoning.

3.3 EASEMENTS AND ENCROACHMENTS

There are no known easements or encroachments on the subject parcel.

3.4 ASSESSED VALUATION AND TAXES

The subject site is owned by the Municipality of Skagway. It is subject to taxation based on possessory interest. The assessor parcel number is 2TOWN142080. The 2018 assessed value for the possessory interest of the land is \$45,000 based on a fee simple value of \$118,800.

ATTACHMENT A

4 VALUATION

4.1 HIGHEST AND BEST USE

1. H&B Use is defined as: The reasonably probable use of property that results in the highest value. The four criteria that the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum productivity.

The Dictionary of Real Estate Appraisal, 6th ed., Appraisal Institute, Page 109

With the current waterfront zoning regulations, as well as location directly along the primary traffic line of cruise ship passengers, the current use of the property being leased to a commercial restaurant is felt to be the highest and best use. Retail use is not allowed in this area unless it is related to a maritime use that requires or benefits from a shoreline location. The adjacent property has a similar marine-related restaurant use.

4.2 LAND VALUATION

The subject land is valued by the Sales Comparison Approach. This approach employs the principal of substitution, whereby willing buyers would typically pay no more for a property than what could be found as a substitute property within a reasonable period of time. This approach compares sales or capitalized leases of vacant land relatively similar to the subject, or at least bracketing the subject, as superior or inferior, on a price per unit basis. Since there are no two properties alike, some adjustments or ranking of the comparable sales will be performed. Following is a summary of the comparable sales or capitalized leases used in developing a market value estimate for the subject property.

FM#	#	Location	Date	Price	SF	\$/SF
10137	1	Lots 11 and 12, Blk 38, ST	08/16	\$188,700	10,000	\$18.87/SF
10135	2	Lot 10, Blk 34, ST	10/16	\$232,500	5,000	\$46.50/SF
10750	3	M&M Brokerage Lse- Congress Way	01/18	\$38,000*	2,000	\$19.00/SF
10434	4	Tax Lot 5A, Petro Marine Lse – Congress Way	01/18	\$25,600**	1,600	\$16.00/SF
7926	5	Congress Way; ATS 4, Tax Lot 5D, Stowaway Cafe Lease	05/13	\$110,000**	5,500	\$20.00/SF
Subject			05/18	Solve	5,400	Solve

*Land Allocation Capitalized Lease

**Capitalized Lease

ATTACHMENT A



Comp 1 (030917_0118)

Comparable 1 is the 2016 sale of a much larger property. This property was zoned BG and further from the main tourist core on State Street. Due to the distance from the core as well as the larger lot size, this would be ranked **inferior** to the subject on a price per square foot basis.



Comp 2 (030917_0120)

Comparable 2 is the late 2016 sale of a 5,000 SF BH zoned lot just one lot west of Broadway on 2nd Ave. It was purchased by the adjacent property owner for expansion, etc. It is similar in size. It is superior in zoning and has less restrictive use parameters. There also may have been a premium paid by the adjacent property owner. It is ranked **superior** on a square foot basis.



Comp 3 (FM 10750)

Comparable 3 is the capitalized lease of the estimated land portion of the M&M Tour Broker site located towards the cruise ship dock at the head of the sea walk. It is ranked slightly inferior since the site is limited to a specific use. It is in a more congested area and the more industrial petro marine lease is located directly behind it. It is ranked **inferior** on a unit basis.



Comp 4 (080317_1289)

Comparable 4 is the capitalized land lease for the Petro Marine facility near the intersection of the Breakwater and Congress Way. It is inferior in its location being out on the breakwater. It is similar in zoning and smaller in size at 1,600 SF. It was updated for early 2018. The site's use is limited as a marina fuel storage facility and is also considered inferior in that respect. It is considered due to its location and zoning. For ranking purposes on price /SF basis, it is considered **inferior** to the subject.



Comp 5 (031418_1745)

Comparable 5 is the capitalized lease of the Stowaway Cafe, adjacent to the subject. The lease is from 2013 and is under review for an update to a higher rate. It is given less weight than the current data. It is, however, one of the few indicators on Congress Way and is similar in use and location. It is comparable in size. For ranking purposes on price /SF basis, it is considered **inferior** primarily due to the age of the lease.

ATTACHMENT A

TABLE 4.2 - COMPARABLE SALES RANKING GRID				
Comp	Date	Location	Price/SF	Rating
2	10/16	2nd Ave; West of Broadway	\$47.00/SF	Superior
Subject	03/18	Subject	Solve	Similar
5	11/13	Stowaway Cafe (older lease)	\$20.00/SF	Inferior
3	01/18	M&M Brokerage	\$19.00/SF	Inferior
1	08/16	Lots 11 and 12, Blk 38	\$18.87/SF	Inferior
4	01/18	Portion ATS 4, Tax Lot 5A, Petro Lease	\$16.00/SF	Inferior

Four of the five comparables are ranked at least slightly inferior for various reasons described. Strong consideration is given to Comp 2 which is a sale of a similar sized lot. It is ranked superior for reasons noted, however it helps to substantiate the subject value at a slightly higher SF value than the inferior comparables indicate. Comparable 5 is most similar, but is an older lease that needs updated and is, therefore, considered inferior. The estimated value of \$22/SF is slightly below the average of all the transactions. The value can be summarized as follows:

$$5,400 \text{ SF @ } \$22/\text{SF} = \$118,800$$

ATTACHMENT A

ADDENDA

ATTACHMENT A

SUBJECT PHOTOGRAPHS



PHOTO 1 - Looking approximately southeast across property from seawalk (031418_1743)



Photo 2 - Looking approximately northwest across subject property from Congress Way (031418_1740)

ATTACHMENT A

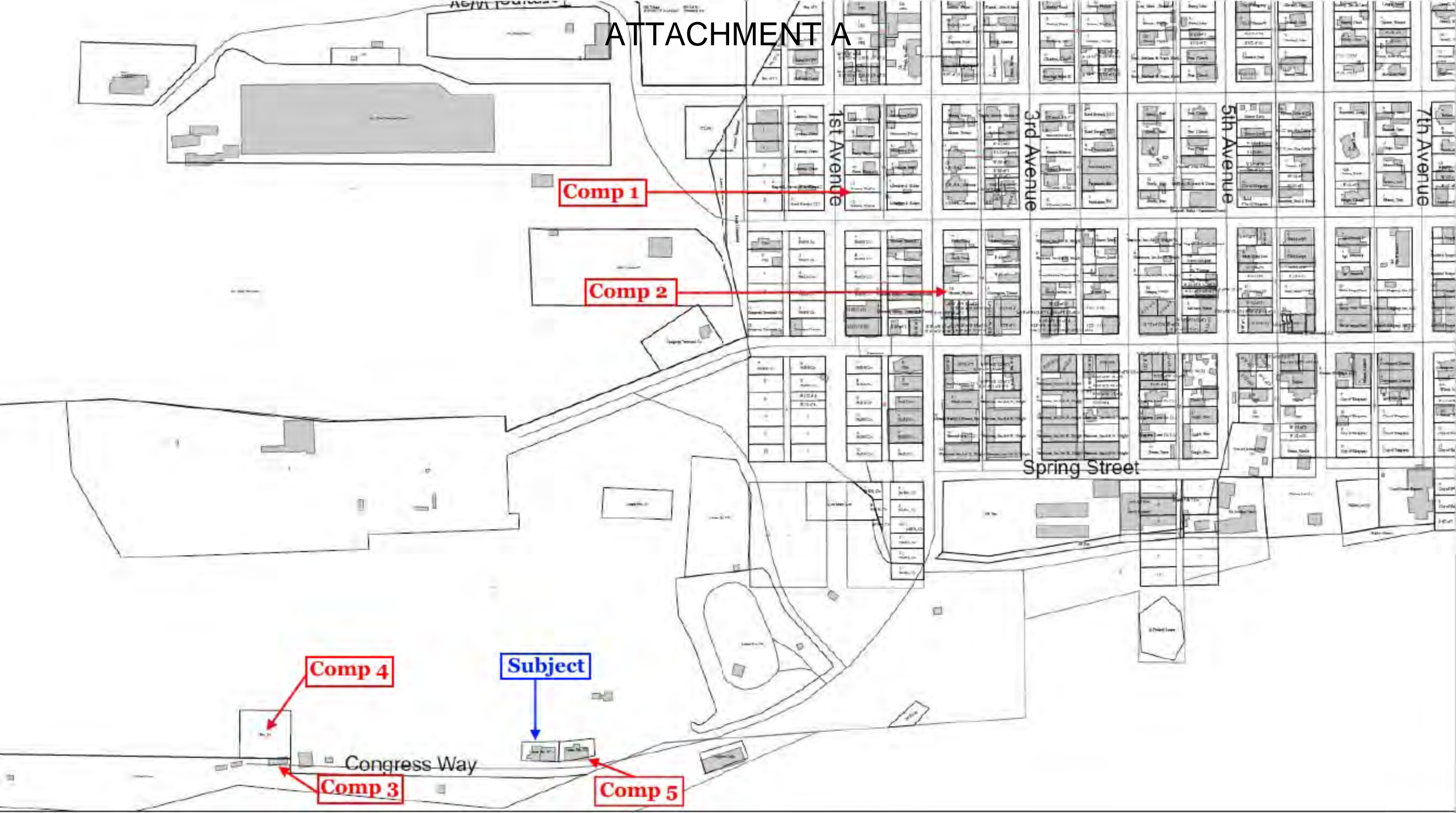


Photo 3 - Seaway looking in an approximately northerly direction. Subject photo right. (031418_1741)



Photo 4 - Looking in an approximate northerly direction along Congress Way. Subject photo left. (031418_1739)

ATTACHMENT A



Comp 1

Comp 2

Comp 4

Subject

Comp 3

Comp 5

1st Avenue

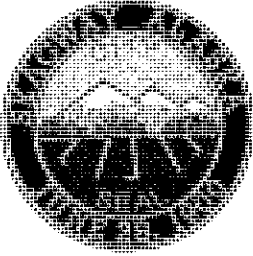
3rd Avenue

5th Avenue

7th Avenue

Spring Street

Congress Way



ATTACHMENT A
CITY OF SKAGWAY
 GATEWAY TO THE GOLD RUSH OF "98"
 P.O. BOX 415
 SKAGWAY, AK 99840
 (907)983-2297 (PHONE)
 (907)983-2151 (FAX)

This Lease Amendment, dated June 23, 2005, for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the City of Skagway (hereinafter City) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of City owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

Whereas the City owns the property described above, and under the lease terms of the existing lease, Section #4 Terms and Conditions (B), signed and dated June 5, 1999 by Lessee, it states, "The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies."

Whereas the Lessee has not had the lease value and rent adjusted since the lease modification signed June 5, 1999, the lease amount shall be adjusted according the Appraisal Report provided by Horan & Company, LLC dated June 22, 2005.

Amended Lease Amount:

The amended lease amount effective June 5, 2004, is based on the Appraisal Report of June 22, 2005 performed by Horan & Company (Attachment B) is as follows:

The lease amount shall be determined by multiplying:

- The appraised annual value of the land on a per square foot basis*, by
- 5,400 square feet, by
- Eight percent (8%)

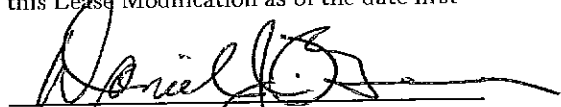
***The annual value of the land on a per square foot basis is \$9.50.**

The lease amount shall be \$4,104.00 per year payable in advance annually, on or before the first day of September of each year the lease is in effect.

This lease amount shall be in effect until 2009, at which time the lease amount shall be reevaluated. All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

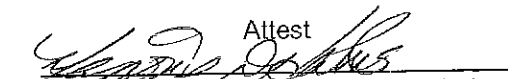
IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.


 Tim Bourcy, Mayor
 For the City of Skagway


 Dan & Eileen Henry
 Lessee

Date 7-1-05

Date 7/1/05

Attest

 Marjorie D. Harris, CMC, City Clerk

ATTACHMENT A

LEASE AGREEMENT SKAGWAY FISH COMPANY

Pursuant to Chapter 16.02 of the Skagway Municipal Code, this lease is entered into first day of December 16, 1996, by and between the City of Skagway (hereinafter, City or Lessor), a municipal government, and the Lessee, a private business, for the purpose of leasing a parcel of land, 5,400 square feet located on Congress Way adjacent to the Skagway Small Boat Harbor.

WITNESSETH:

Whereas the City owns the property described above; and

WHEREAS, the City wishes to lease this parcel of land and has provided proper notice of its intent and has received a lease proposal responsive to Skagway Municipal Code provisions and by Ordinance 93-4 has awarded a lease, and whereas by Ordinance 95-5 has transferred the lease to Dan and Eileen Henry, and whereas by Ordinance 99-15, has extended the lease land extension.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, it is agreed as follows:

1. Duration:

This lease shall be in effect from December 16, 1996 through August 31, 2012.

2. Land Description:

A parcel of land 100' x 54' containing 5,400 square feet, more or less, located on Congress Way adjacent to the Skagway Small Boat Harbor and further identified in attachment "A" to this lease.

3. Lease Amount:

The lease amount shall be determined by multiplying:

- ❖ The appraised annual value of the land on a per square foot basis (\$5.50 per S.F.), by
- ❖ 5,400 square feet, by
- ❖ Eight percent (8%)

The lease amount shall be Two Thousand-Three-Hundred-Seventy-Six and 00/100 (\$2,376.00) annually. The lease amount shall be payable in advance annually, on or before the first day of September, each year the lease is in effect.

4. Terms and Conditions:

A. Lease Utilization. Leased lands shall be utilized only for purposes within the scope of the applicable land use classification and the terms of the lease, and in conformity with the ordinances of the city, including any zoning ordinance. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation by the city at any time. The terms of this subsection are made a part of all leases and any violation thereof shall be grounds for cancellation of any lease.

B. Adjustment of Rental. The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies.

ATTACHMENT A

Skagway Fish Company Lease Modified 5/99

- C. Subleasing. The lessee may sublease lands or any part thereof leased to him hereunder, provided that the lessee first obtains the approval of the council to such sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions as the council may deem appropriate. A copy of the sublease shall be filed with the city manager.
- D. Assignments. The lessee may assign the lease issued to him, provided that the proposed assignment shall be first approved by the council under such further terms and conditions as the council may deem appropriate. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations thereunder.
- E. Modification. No lease may be modified orally or in any manner other than by an agreement in writing signed by all parties in interest or their successor in interest.
- F. Cancellation and Forfeiture.
 - 1. Leases in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety (90) days' notice in writing to the city before the end of an annual rental period.
 - 2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. If such default continues for thirty (30) calendar days after service upon lessee of written notice of default by the city without remedy by lessee of the default, the council shall take such action as is necessary to protect the rights and best interests of the city, including the exercise of any or all rights after default permitted by the lease. No improvements may be removed by lessee or any other person during any time the lessee is in default.
 - 3. The city may cancel the lease if it is used for any unlawful purpose.
 - 4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the council constitute grounds for cancellation. This time period may be extended by the council by resolution.
- G. Notice or Demand. Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided.
- H. Rights of Mortgage or Lienholder. In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided, such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.
- I. Entry and Reentry. In the event the lease is terminated, or in the event that the demised lands, or any part thereof, are abandoned by the lessee during the term, the city or its agents, servants, or representative, may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No reentry by the city shall be deemed an acceptance of a surrender of the lease.

ATTACHMENT A

Skagway Fish Company Lease Modified 5/99

- J. Re-Lease. In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this chapter.
- K. Forfeiture of Rental. In the event that the lease is terminated because of any breach by the lessee, as herein provided, the annual rental payment last made by the lessee shall be forfeited and retained by the city.
- L. Written Waiver. The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised; or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the city manager.
- M. Expiration of Lease. Unless the lease is renewed or sooner terminated, as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the lessor all of the leased land on the last day of the term of the lease.
- N. Renewal of Lease.
 - 1. Upon the expiration of the term of any lease, or the cancellation of a lease by mutual consent of all parties thereto, the council may grant a new lease to the lessee or his assignee who owns valuable improvements thereon, without competitive bidding, provided:
 - a. The lessee or his assignee makes written application therefor at least ninety (90) days prior to such termination;
 - b. The lessee is not in default under the lease;
 - c. The use to which the land is to be put is compatible with the current use classification and zoning provisions of the city code on that subject;
 - d. Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.
 - 2. Such lease shall be for an annual rental equal to the percentage of the appraised value of the land which is then being charged for new leases, and shall be subject to adjustment on every fifth anniversary.
 - 3. Any renewal preference granted the lessee is a privilege, and is neither a right nor bargained for consideration.
- O. Removal or Reversion of Improvements upon Termination of Lease. Improvements owned by a lessee may within sixty (60) calendar days after the termination of the lease be removed by him, provided, such removal will not cause injury or damage to the lands or improvements demised; and further provided that the city council may extend the time for removing such improvements in cases where hardship is proven. All periods of time granted the lessee to remove improvements are subject to the lessee paying to the city pro rata lease rentals for such periods. If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest, in the city.

ATTACHMENT A

Skagway Fish Company Lease
Modified 5/99

- P. Compliance with Regulations and Code.
1. The lessee shall comply with all regulations, rules, and the code of the city, and with all state and federal regulations, rules and laws as the code or any such rules, regulations or laws may affect the activity upon or associated with the leased land.
 2. The lessee shall comply with all provisions of the city code which are promulgated for the promotion of sanitation, life safety and public health. The leased premises shall be kept in a neat, clean and sanitary condition, and every effort shall be made to prevent pollution.
 3. Fire protection. The lessee shall take all reasonable precaution to comply with provisions of the city code concerning fire protection applicable to the area wherein the leased premises are located.
- Q. Inspection. The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon.
- R. Use of Material. All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.
- S. Rights-of-Way. The lessor expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of use.
- T. Warranty. The city does not warrant by its classification or leasing of land that the land is ideally suited for the use authorized under the classification or lease and no guaranty is given or implied that it will be profitable to employ land to said use.
- U. Operation and Maintenance:
1. Lessee shall utilize the leased premises for purposes associated with its fish and fish product business.
 2. Lessee shall keep and maintain the leased premises in good and substantial repair and condition.
 3. Lessee shall pay all taxes, fees, or assessments as may be required.
 4. Any disputes arising under this lease shall be handled by mutual agreement between representatives of the parties to this lease.
 5. The lessee representatives are Dan & Eileen Henry and the City representative is the City Manager.
- V. Other Conditions:
1. Utility easements. A city water main traverses this property. There is a City fire hydrant and electric utility pole adjacent to this property. The City may also extend a sewer line to or through this property. The City retains the right to enter onto this property, with adequate notice to the lessee, for the purpose of maintaining or extending utility services.
 2. Public Use Enhancements. In accordance with SMC 19.06.080(c). Special polices, lessee shall spend five percent (5%) of the total project cost on public amenities as described in that section.
- W. Modification: This lease may be modified only by a written agreement signed by both parties.

ATTACHMENT A

Skagway Fish Company Lease
Modified 5/99

X. Notice: All notices and requests in connection with this lease shall be in writing and shall be addressed as follows:

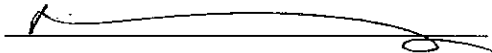
City: City Manager
City of Skagway
P. O. Box 415
Skagway, Alaska 99840

Lessee: Dan & Eileen Henry
Skagway Fish Company
P. O. Box 279
Skagway, Alaska 99840

Y. Condition Precedent: As required by Skagway Municipal Code, City Council approval of this lease by non-code ordinance is required. This lease agreement is attached to Ordinance 95-5-as Exhibit A, and land extension Ordinance 99-15, as Exhibit B..

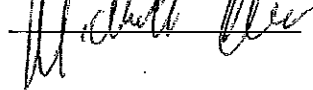
IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date first written above.

CITY OF SKAGWAY

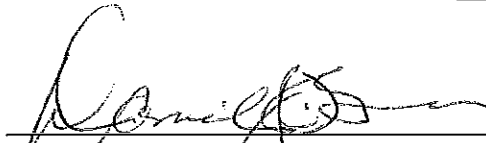
By: 

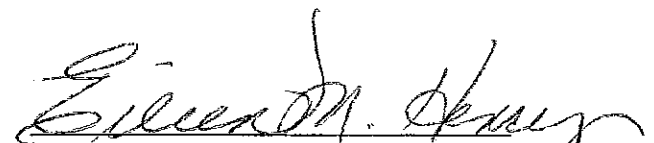
Title: CITY MANAGER

Date: 6/4/99

Attest: 

LESSEE

By: 

By: 

Date: 6-5-99

Date: 6-5-99

ATTACHMENT A

CONGRESS WAY

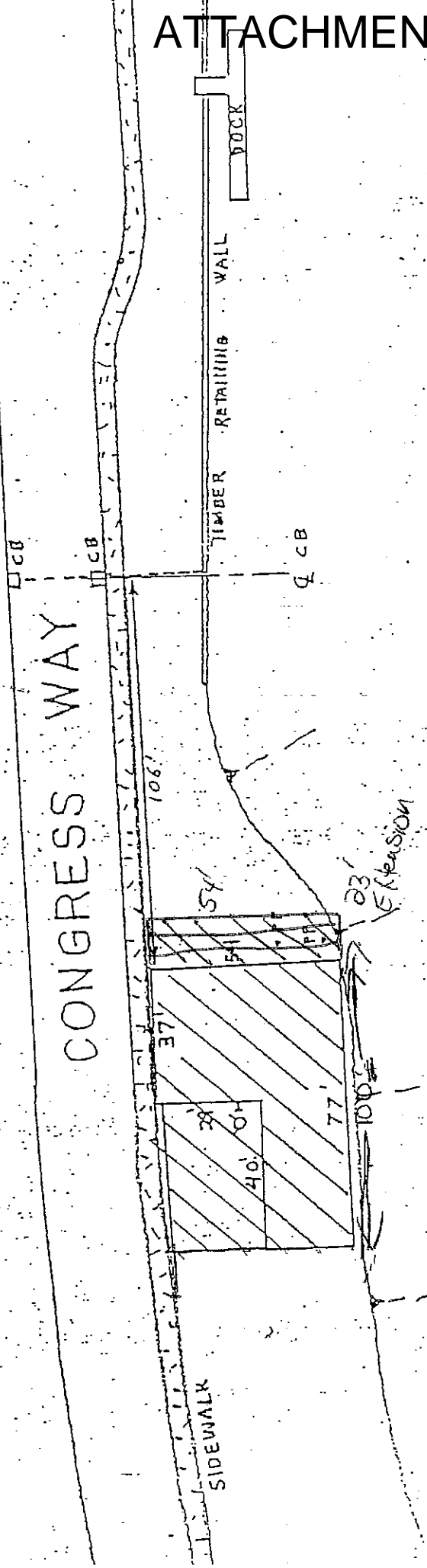


Exhibit A

Skaqway Fish Company
Permitted Area
2,998 sq. ft.

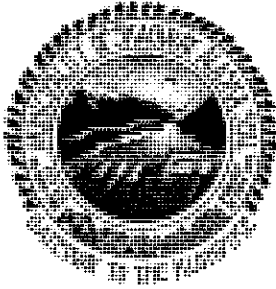
City of Skaqway, AK

SCALE 1" = 40'

Small Boat Harbor



ATTACHMENT A



MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
(PHONE) (907) 983-2297
(FAX) (907) 983-2151
www.skagway.org

This Lease Amendment, dated March 4, 2010, for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the Municipality of Skagway (hereinafter Municipality) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of Municipal owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

Whereas the Municipality owns the property described above, and under the lease terms of the existing lease, Section #4 Terms and Conditions (B), signed and dated June 5, 1999 by Lessee, it states, "The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies."

Whereas the Lessee has not had the lease value and rent adjusted since the lease modification signed June of 2005, the lease amount shall be adjusted according the Appraisal Report provided by Horan & Company, LLC dated June 22, 2010.

Amended Lease Amount:

The amended lease amount effective January 1, 2011, is based on the Appraisal Report of June 22, 2010 performed by Horan & Company (Attachment B) is as follows:

The lease amount shall be determined by multiplying:

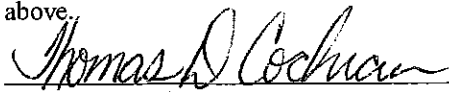
- The appraised annual value of the land on a per square foot basis*, by
- 5,400 square feet, by
- Eight percent (8%)

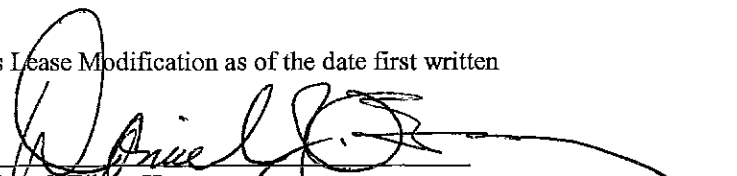
***The annual value of the land on a per square foot basis is \$20.00.**

The lease amount shall be \$8,640.00 per year payable in advance annually, on or before the first day of September of each year the lease is in effect.

This lease amount shall be in effect until December 31, 2018, at which time your lease expires, and the lease amount would be reevaluated. The Next Appraisal for this lease shall be conducted on or about July 28, 2013. All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

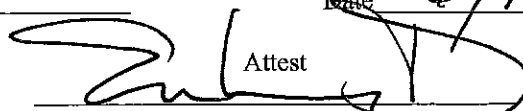
IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.


Thomas D Cochran, Mayor
For the Municipality of Skagway


Dan & Eileen Henry
Lessee

Date 15 JUN 11

Date 6/15/11


Attest
Emily Deach, Municipal Clerk

ATTACHMENT A

March 3, 2011 Assembly Minutes

A. Reconsideration of Skagway Fish Co. Lease Extension Request

Motion/Second: Hunz/Reichert

To approve a Skagway Fish Company lease extension to December 31, 2018, based on the June 22, 2010, appraisal report by Horan and Company, LLC, and with reappraisal dates concurrent with the Stowaway Café lease.

Mayor Cochran indicated this would direct the manager to draft a new lease to 2018 with appraisals at the same time as the Stowaway.

Assemblyman Hunz indicated Dan and Eileen Henry had not received official notification about the appraisal until December 2010 and the Municipality is at fault. Assemblyman Hunz indicated that the June 23, 2010, appraisal was not accepted until the last meeting, and the lease would match reappraisal dates with the Stowaway to allow for consistency.

Motion passed by roll call vote with Assemblywoman Hisman dissenting and Assemblyman Henry abstaining, 4 yes, 1 no, 1 abstention.

ATTACHMENT A

QUALIFICATIONS OF WILLIAM G. FERGUSON

Education:

Graduated from Pennsylvania State University, B.S./B.L.A. in Landscape Architecture, 1977

Employment:

Appraiser, Horan & Company, LLC, 08/04-Present

Appraiser, Horan, Corak & Company, formerly Pomtier, Duvernay & Horan, 03/87-07/04

Appraiser, Pomtier, Duvernay & Horan, 1986-1987

Associate Planner, City and Borough of Sitka, Alaska 1985-1986

Landscape Architect, U.S. Forest Service, Sitka, Alaska, 1983-1985

Landscape Architect, GWSM Inc., Pittsburgh, PA, 1977-1983

Certification:

State of Alaska, General Real Estate Appraiser, APRG618

Appraisal Education:

AIREA Residential Valuation, May 1989, Portland, Oregon

AIREA Residential Case Studies and Report Writing, May 1989, Portland, Oregon

AIREA Standards of Professional Practice, October 1987, Anchorage, Alaska

FNMA Appraisal Guidelines Seminar, July, 1987

FNMA Appraisal Guidelines Seminar, July, 1988

Veterans Administration Guidelines Seminar, February, 1988

AIREA Real Estate Appraisal Principals, October 1988 Traverse City, Michigan

Residential Demo - Appraisal Report Writing, Northern California Chapter, August 1992

Feasibility Analysis - Highest and Best Use, Alaska Chapter, November 92

Appraising the Tough Ones, Alaska Chapter, November 1992

Standards of Professional Practice - Part A, Alaska Chapter, January 1993

Standards of Professional Practice - Part B, Alaska Chapter, January 1993

New URAR Seminar, Anchorage, Alaska, December 1993

Valuation of Leasehold Interests, Anchorage, Alaska, December 1993

Understanding Limited Appraisals, Anchorage, Alaska, July 1994

Appraisal Institute, Appraisal Procedures, Pittsburgh, Pennsylvania, February, 1995

The Internet and the Appraiser, May 1996, Seattle, Washington

HighTech Appraisal Office, May 1996, Seattle, Washington

Dynamics of Office Bldg. Valuation, October 1996, Anchorage, Alaska

Appraisal of Retail Properties, October 1996, Anchorage, Alaska

Standards of Professional Practice - Part B, April 1997, Seattle, Washington

Basic Income Capitalization, March 1998, Chapel Hill, North Carolina

Standards of Professional Practice - Part C, 1998, Edmonds, Washington

FHA Training Seminar, October 1999, Seattle, Washington

FHA Seminar, August 2000, Anchorage, Alaska

FHA Appraisal Inspection From the Ground Up, June 2000, Anchorage, Alaska

Undivided Partial Interest Valuation/Divided Partial Interest Valuation, May 2001, Anchorage

Technical Inspection of Real Estate, April 2003, Anchorage, Alaska

ATTACHMENT A

Code of Professional Ethics/Scope of Work, April 2003, Anchorage, Alaska
Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), Jan 2004, Philadelphia, PA
Rates and Ratios: Making Sense of GIMs, OARs and DCF, Feb 2005, Anchorage, AK
USPAP Update; Uniform Standards of Professional Appraisal Practice, Feb 2005, Anchorage, AK
USPAP 15 Hr; Uniform Standards of Professional Appraisal Practice, April 2006, Sacramento, CA
Basic Income Capitalization 310, July 2006, San Diego, CA
General Applications 320, July 2006, San Diego, CA
Subdivision Valuation, February 2008, Anchorage, AK
Appraisal of Local Retail Properties, February 2008, Anchorage, AK
USPAP 7 hr Update; Uniform Standards of Professional Appraisal Practice, June 2009, Juneau, AK
Home Valuation Code of Conduct & 1004 Market Conditions Form Seminar, June 2009, Juneau, AK
Business Practices and Ethics, November 2009, Online
Real Estate Appraisal Operations, February 2010, Online
USPAP 7 hr Update; Uniform Standards of Professional Appraisal Practice, February 2010, Kent, WA
Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), Dec 2010, Sacramento, CA
Fundamentals of Separating Real Property, Personal Property and Intangible Business Assets, April 2012, Portland, OR
Appraising the Appraisal - Appraisal Review - General, September 2012, Reno, NV
USPAP 7 hr Update; Uniform Standards of Professional Appraisal Practice, February 2013, Pittsburgh, PA
USPAP 7 hr Update; Uniform Standards of Professional Appraisal Practice, April 2014, Juneau, AK
Real Estate Finance Statistics and Valuation Modeling; February 2015, Las Vegas, NV
Supervisory Appraiser/Trainee Appraiser Course; April, 2015 Anchorage, AK
USPAP 7 hr Update; Uniform Standards of Professional Appraisal Practice, January 2017, Online
Analyzing Operating Expenses, February 2017, Online
Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA), May 2017, Seattle, WA
Using Spreadsheet Programs in Real Estate Appraisals – The Basics, December, 2017 Online

Types of Property Appraised:

Residential - Single family residences, duplexes, tri-plexes, four-plexes, mobile homes, and vacant land
Commercial - Warehouses, vacant tracts, islands, office buildings, remote sites, hangars, tidelands, retail buildings, apartments, industrial complexes, market data and research

Types of Property Assessed for Taxation:

Appraiser, City of Petersburg real property assessment roll; Assistant Assessor, Cities of Pelican and Skagway; Appraiser, City of Craig real property assessment roll; Expert Witness, Board of Equalization, Petersburg, Pelican, Craig and Skagway; Single family, multi-family, vacant lands, mobile homes, commercial properties, remote homesites, islands and subdivisions

Planning Experience:

Site planning, construction documentation, construction supervisor
Local government planning duties including public presentations, narratives, zoning rewrites, mapping
University and recreation master planning



MUNICIPALITY OF SKAGWAY

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P.O. BOX 415, SKAGWAY, ALASKA 99840
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(FAX) (907) 983-2151
www.skagway.org


This Lease Amendment, dated September 19, 2013 for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the Municipality of Skagway (hereinafter Municipality) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of Municipal owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

1. DURATION:

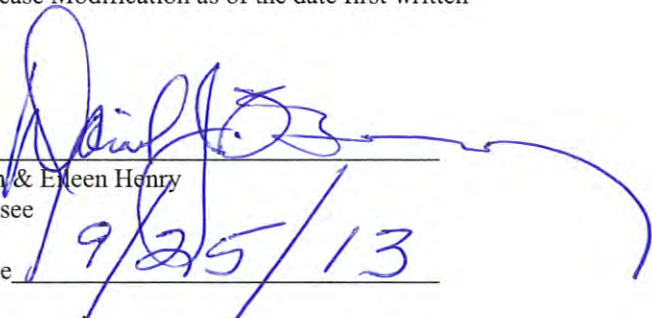
This lease shall be in effect until December 31, 2023.

All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

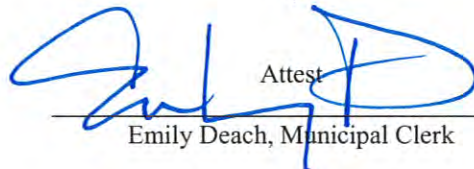
IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.



Stan Selmer, Mayor
For the Municipality of Skagway
Date Sept. 19, 2013



Dan & Eileen Henry
Lessee
Date 9/25/13



Attest
Emily Deach, Municipal Clerk





MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
(PHONE) (907) 983-2297
(FAX) (907) 983-2151
www.skagway.org


This Lease Amendment, dated June 20, 2013, for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the Municipality of Skagway (hereinafter Municipality) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of Municipal owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

Whereas the Municipality owns the property described above, and under the lease terms of the existing lease, Section #3 Lease Amount, signed and dated June 15, 2011 by Lessee, it states, "the lease amount shall be \$8,640.00 per year in advance annually, on or before the first day of September of each year the lease is in effect."

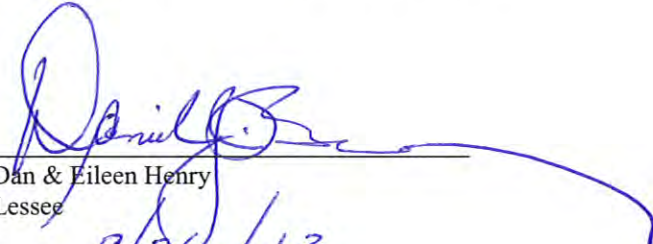
Whereas the Lessee has had a fire that caused significant damage and will not be open for business in the summer of 2013. The annual rent for 2013 of \$8,640.00 will not be due until on or before the first day of September, 2014 in addition to the 2014 payment.

All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

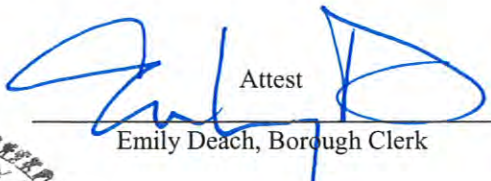
IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.



Stan Selmer, Mayor
For the Municipality of Skagway
Date Sept. 27, 2013



Dan & Eileen Henry
Lessee
Date 9/26/13



Attest
Emily Deach, Borough Clerk





MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
(PHONE) (907) 983-2297
(FAX) (907) 983-2151
www.skagway.org

July 17, 2013

Dan & Eileen Henry
P.O. Box 1083
Skagway, AK 99840

Dear Dan and Eileen,

On July 11, 2013, the Skagway Assembly approved the appraisal dated June 5, 2013 and the lease amendment for Tax Lot 5C, ATS 4.

Attached are two lease amendments for signature. This amendment will postpone your annual rent for 2013 until 2014. Please sign both copies, keep one copy for your files and return the other to the Municipality. Also attached is an invoice for the appraisal fee.

If you have any questions, please don't hesitate to give me a call.

Sincerely,

Michelle Gihl
Administrative Assistant/Deputy



MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
(PHONE) (907) 983-2297
(FAX) (907) 983-2151
www.skagway.org

This Lease Amendment, dated March 4, 2010, for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the Municipality of Skagway (hereinafter Municipality) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of Municipal owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

Whereas the Municipality owns the property described above, and under the lease terms of the existing lease, Section #4 Terms and Conditions (B), signed and dated June 5, 1999 by Lessee, it states, "The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies."

Whereas the Lessee has not had the lease value and rent adjusted since the lease modification signed June of 2005, the lease amount shall be adjusted according the Appraisal Report provided by Horan & Company, LLC dated June 22, 2010.

Amended Lease Amount:

The amended lease amount effective January 1, 2011, is based on the Appraisal Report of June 22, 2010 performed by Horan & Company (Attachment B) is as follows:

The lease amount shall be determined by multiplying:

- The appraised annual value of the land on a per square foot basis*, by
- 5,400 square feet, by
- Eight percent (8%)

***The annual value of the land on a per square foot basis is \$20.00.**

The lease amount shall be \$8,640.00 per year payable in advance annually, on or before the first day of September of each year the lease is in effect.

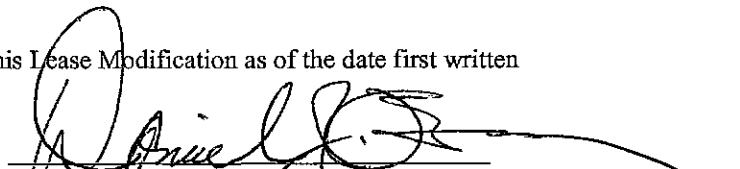
This lease amount shall be in effect until December 31, 2018, at which time your lease expires, and the lease amount would be reevaluated. The Next Appraisal for this lease shall be conducted on or about July 28, 2013. All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.



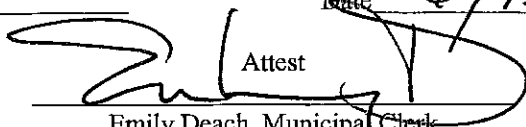
Thomas D Cochran, Mayor
For the Municipality of Skagway

Date 15 JUN 11

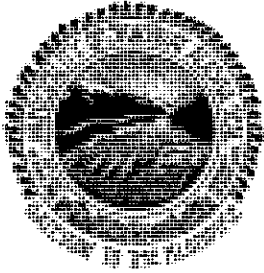


Dan & Eileen Henry
Lessee

Date 6/15/11



Attest
Emily Deach, Municipal Clerk



Municipality of Skagway

GATEWAY TO THE KLONDIKE

P.O. BOX 415 SKAGWAY, ALASKA 99840

(PHONE) 907-983-2297 – Fax 907-983-2151

WWW.SKAGWAY.ORG

March 4, 2011

Dan and Eileen Henry
Skagway Fish Company
P.O. Box 279
Skagway, AK 99840

Dear Dan and Eileen,

At its regular meeting on Thursday, March 3, 2011, the Assembly voted to approve the lease extension for the Skagway Fish Company as follows:

Motion/Second: Hunz/Reichert

To approve a Skagway Fish Company lease extension to December 31, 2018, based on the June 22, 2010, appraisal report by Horan and Company, LLC, and with reappraisal dates concurrent with the Stowaway Café lease.

Motion passed by roll call vote, 4 yes, 1 no, 1 abstention

Please contact me with any questions.

Thank you,

Emily A. Deach
Borough Clerk

March 3, 2011 Assembly Minutes

A. Reconsideration of Skagway Fish Co. Lease Extension Request

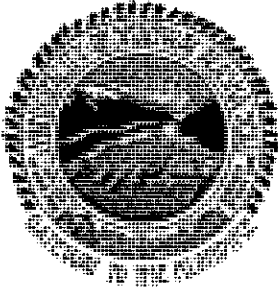
Motion/Second: Hunz/Reichert

To approve a Skagway Fish Company lease extension to December 31, 2018, based on the June 22, 2010, appraisal report by Horan and Company, LLC, and with reappraisal dates concurrent with the Stowaway Café lease.

Mayor Cochran indicated this would direct the manager to draft a new lease to 2018 with appraisals at the same time as the Stowaway.

Assemblyman Hunz indicated Dan and Eileen Henry had not received official notification about the appraisal until December 2010 and the Municipality is at fault. Assemblyman Hunz indicated that the June 23, 2010, appraisal was not accepted until the last meeting, and the lease would match reappraisal dates with the Stowaway to allow for consistency.

Motion passed by roll call vote with Assemblywoman Hisman dissenting and Assemblyman Henry abstaining, 4 yes, 1 no, 1 abstention.



MUNICIPALITY OF SKAGWAY

GATEWAY TO THE KLONDIKE
P.O. BOX 415, SKAGWAY, ALASKA 99840
(PHONE) (907) 983-2297
(FAX) (907) 983-2151
www.skagway.org

This Lease Amendment, dated December 13, 2010, for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the Municipality of Skagway (hereinafter Municipality) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of Municipal owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

Whereas the Municipality owns the property described above, and under the lease terms of the existing lease, Section #4 Terms and Conditions (B), signed and dated June 5, 1999 by Lessee, it states, "The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies."

Whereas the Lessee has not had the lease value and rent adjusted since the lease modification signed June of 2005, the lease amount shall be adjusted according the Appraisal Report provided by Horan & Company, LLC dated June 22, 2010.

Amended Lease Amount:

The amended lease amount effective January 1, 2011, is based on the Appraisal Report of June 22, 2010 performed by Horan & Company (Attachment B) is as follows:

The lease amount shall be determined by multiplying:

- The appraised annual value of the land on a per square foot basis*, by
- 5,400 square feet, by
- Eight percent (8%)

***The annual value of the land on a per square foot basis is \$20.00.**

The lease amount shall be \$8,640.00 per year payable in advance annually, on or before the first day of September of each year the lease is in effect.

This lease amount shall be in effect until August of 2012, at which time your lease expires, and the lease amount would be reevaluated. All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.

Thomas D Cochran
Thomas D Cochran, Mayor
For the Municipality of Skagway

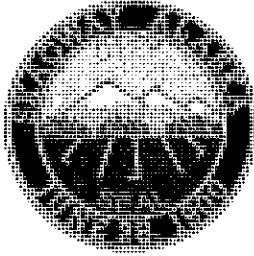
Dan & Eileen Henry
Lessee

Date 13 DEC 10

Date _____

Attest

Emily Deach, Municipal Clerk



CITY OF SKAGWAY
 GATEWAY TO THE GOLD RUSH OF "98"
 P.O. BOX 415
 SKAGWAY, AK 99840
 (907)983-2297 (PHONE)
 (907)983-2151 (FAX)

This Lease Amendment, dated June 23, 2005, for the purpose of modifying the existing lease dated and entered into on the 16th day of December, 1996, and subsequently modified the 5th day of June, 1999, by and between the City of Skagway (hereinafter City) a municipal government and Dan & Eileen Henry/Skagway Fish Company (hereinafter Lessee), a private business, for the purpose of leasing a parcel of land containing 5,400 square feet of City owned property located on Congress Way adjacent to the Skagway Small Boat Harbor.

Whereas the City owns the property described above, and under the lease terms of the existing lease, Section #4 Terms and Conditions (B), signed and dated June 5, 1999 by Lessee, it states, "The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies."

Whereas the Lessee has not had the lease value and rent adjusted since the lease modification signed June 5, 1999, the lease amount shall be adjusted according the Appraisal Report provided by Horan & Company, LLC dated June 22, 2005.

Amended Lease Amount:

The amended lease amount effective June 5, 2004, is based on the Appraisal Report of June 22, 2005 performed by Horan & Company (Attachment B) is as follows:

The lease amount shall be determined by multiplying:

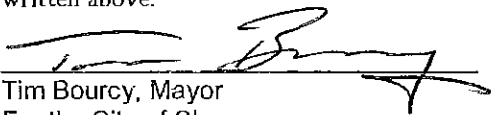
- The appraised annual value of the land on a per square foot basis*, by
- 5,400 square feet, by
- Eight percent (8%)

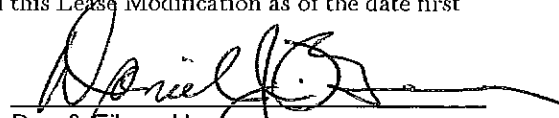
*The annual value of the land on a per square foot basis is \$9.50.

The lease amount shall be \$4,104.00 per year payable in advance annually, on or before the first day of September of each year the lease is in effect.

This lease amount shall be in effect until 2009, at which time the lease amount shall be reevaluated. All other terms of the existing Lease Agreement shall remain unchanged. Any further modifications shall be agreed upon by both parties in writing.


IN WITNESS WHEREOF, the parties hereto have executed this Lease Modification as of the date first written above.


 Tim Bourcy, Mayor
 For the City of Skagway


 Dan & Eileen Henry
 Lessee

Date 7-1-05

Date 7/1/05

Attest

 Marjorie D. Harris, CMC, City Clerk

**LEASE AGREEMENT
SKAGWAY FISH COMPANY**

Pursuant to Chapter 16.02 of the Skagway Municipal Code, this lease is entered into first day of December 16, 1996, by and between the City of Skagway (hereinafter, City or Lessor), a municipal government, and the Lessee, a private business, for the purpose of leasing a parcel of land, 5,400 square feet located on Congress Way adjacent to the Skagway Small Boat Harbor.

WITNESSETH:

Whereas the City owns the property described above; and

WHEREAS, the City wishes to lease this parcel of land and has provided proper notice of its intent and has received a lease proposal responsive to Skagway Municipal Code provisions and by Ordinance 93-4 has awarded a lease, and whereas by Ordinance 95-5 has transferred the lease to Dan and Eileen Henry, and whereas by Ordinance 99-15, has extended the lease land extension.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, it is agreed as follows:

1. Duration:

This lease shall be in effect from December 16, 1996 through August 31, 2012.

2. Land Description:

A parcel of land 100' x 54' containing 5,400 square feet, more or less, located on Congress Way adjacent to the Skagway Small Boat Harbor and further identified in attachment "A" to this lease.

3. Lease Amount:

The lease amount shall be determined by multiplying:

- ❖ The appraised annual value of the land on a per square foot basis (\$5.50 per S.F.), by
- ❖ 5,400 square feet, by
- ❖ Eight percent (8%)

The lease amount shall be Two Thousand-Three-Hundred-Seventy-Six and 00/100 (\$2,376.00) annually. The lease amount shall be payable in advance annually, on or before the first day of September, each year the lease is in effect.

4. Terms and Conditions:

- A. Lease Utilization. Leased lands shall be utilized only for purposes within the scope of the applicable land use classification and the terms of the lease, and in conformity with the ordinances of the city, including any zoning ordinance. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation by the city at any time. The terms of this subsection are made a part of all leases and any violation thereof shall be grounds for cancellation of any lease.
- B. Adjustment of Rental. The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five-year interval to which it applies.

Skagway Fish Company Lease
Modified 5/99

- C. **Subleasing.** The lessee may sublease lands or any part thereof leased to him hereunder, provided that the lessee first obtains the approval of the council to such sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions as the council may deem appropriate. A copy of the sublease shall be filed with the city manager.
- D. **Assignments.** The lessee may assign the lease issued to him, provided that the proposed assignment shall be first approved by the council under such further terms and conditions as the council may deem appropriate. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations thereunder.
- E. **Modification.** No lease may be modified orally or in any manner other than by an agreement in writing signed by all parties in interest or their successor in interest.
- F. **Cancellation and Forfeiture.**
1. Leases in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety (90) days' notice in writing to the city before the end of an annual rental period.
 2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. If such default continues for thirty (30) calendar days after service upon lessee of written notice of default by the city without remedy by lessee of the default, the council shall take such action as is necessary to protect the rights and best interests of the city, including the exercise of any or all rights after default permitted by the lease. No improvements may be removed by lessee or any other person during any time the lessee is in default.
 3. The city may cancel the lease if it is used for any unlawful purpose.
 4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the council constitute grounds for cancellation. This time period may be extended by the council by resolution.
- G. **Notice or Demand.** Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided.
- H. **Rights of Mortgagee or Lienholder.** In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided, such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.
- I. **Entry and Reentry.** In the event the lease is terminated, or in the event that the demised lands, or any part thereof, are abandoned by the lessee during the term, the city or its agents, servants, or representative, may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No reentry by the city shall be deemed an acceptance of a surrender of the lease.

Skagway Fish Company Lease
Modified 5/99

- J. Re-Lease. In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this chapter.
- K. Forfeiture of Rental. In the event that the lease is terminated because of any breach by the lessee, as herein provided, the annual rental payment last made by the lessee shall be forfeited and retained by the city.
- L. Written Waiver. The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised; or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt of any such sum of money or other consideration, unless so agreed to in writing and signed by the city manager.
- M. Expiration of Lease. Unless the lease is renewed or sooner terminated, as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the lessor all of the leased land on the last day of the term of the lease.
- N. Renewal of Lease.
 - 1. Upon the expiration of the term of any lease, or the cancellation of a lease by mutual consent of all parties thereto, the council may grant a new lease to the lessee or his assignee who owns valuable improvements thereon, without competitive bidding, provided:
 - a. The lessee or his assignee makes written application therefor at least ninety (90) days prior to such termination;
 - b. The lessee is not in default under the lease;
 - c. The use to which the land is to be put is compatible with the current use classification and zoning provisions of the city code on that subject;
 - d. Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.
 - 2. Such lease shall be for an annual rental equal to the percentage of the appraised value of the land which is then being charged for new leases, and shall be subject to adjustment on every fifth anniversary.
 - 3. Any renewal preference granted the lessee is a privilege, and is neither a right nor bargained for consideration.
- O. Removal or Reversion of Improvements upon Termination of Lease. Improvements owned by a lessee may within sixty (60) calendar days after the termination of the lease be removed by him, provided, such removal will not cause injury or damage to the lands or improvements demised; and further provided that the city council may extend the time for removing such improvements in cases where hardship is proven. All periods of time granted the lessee to remove improvements are subject to the lessee paying to the city pro rata lease rentals for such periods. If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest, in the city.

Skagway Fish Company Lease
Modified 5/99

- P. Compliance with Regulations and Code.
1. The lessee shall comply with all regulations, rules, and the code of the city, and with all state and federal regulations, rules and laws as the code or any such rules, regulations or laws may affect the activity upon or associated with the leased land.
 2. The lessee shall comply with all provisions of the city code which are promulgated for the promotion of sanitation, life safety and public health. The leased premises shall be kept in a neat, clean and sanitary condition, and every effort shall be made to prevent pollution.
 3. Fire protection. The lessee shall take all reasonable precaution to comply with provisions of the city code concerning fire protection applicable to the area wherein the leased premises are located.
- Q. Inspection. The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon.
- R. Use of Material. All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.
- S. Rights-of-Way. The lessor expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of use.
- T. Warranty. The city does not warrant by its classification or leasing of land that the land is ideally suited for the use authorized under the classification or lease and no guaranty is given or implied that it will be profitable to employ land to said use.
- U. Operation and Maintenance:
1. Lessee shall utilize the leased premises for purposes associated with its fish and fish product business.
 2. Lessee shall keep and maintain the leased premises in good and substantial repair and condition.
 3. Lessee shall pay all taxes, fees, or assessments as may be required.
 4. Any disputes arising under this lease shall be handled by mutual agreement between representatives of the parties to this lease.
 5. The lessee representatives are Dan & Eileen Henry and the City representative is the City Manager.
- V. Other Conditions:
1. Utility easements. A city water main traverses this property. There is a City fire hydrant and electric utility pole adjacent to this property. The City may also extend a sewer line to or through this property. The City retains the right to enter onto this property, with adequate notice to the lessee, for the purpose of maintaining or extending utility services.
 2. Public Use Enhancements. In accordance with SMC 19.06.080(c). Special polices, lessee shall spend five percent (5%) of the total project cost on public amenities as described in that section.
- W. Modification: This lease may be modified only by a written agreement signed by both parties.

Skagway Fish Company Lease
Modified 5/99

X. Notice: All notices and requests in connection with this lease shall be in writing and shall be addressed as follows:

City: City Manager
City of Skagway
P. O. Box 415
Skagway, Alaska 99840

Lessee: Dan & Eileen Henry
Skagway Fish Company
P. O. Box 279
Skagway, Alaska 99840

Y. Condition Precedent: As required by Skagway Municipal Code, City Council approval of this lease by non-code ordinance is required. This lease agreement is attached to Ordinance 95-5-as Exhibit A, and land extension Ordinance 99-15, as Exhibit B..

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date first written above.

CITY OF SKAGWAY

By: [Signature]
Date: 6/4/99

Title: CITY MANAGER
Attest: [Signature]

LESSEE

By: [Signature]
Date: 6-5-99

By: Eileen M. Henry
Date: 6-5-99

CONGRESS WAY

SIDEWALK

106'

37'

28'

40'

77'

100'

23' Extension

TIMBER RETAINING WALL

DOCK

CB

CB

CB

Small Boat Harbor

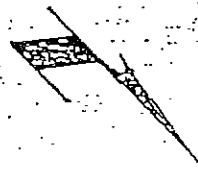


Exhibit A

Skagway Fish Company
Permitted Area
2998 sq. ft.

City of Skagway, AK

SCALE 1" = 40'

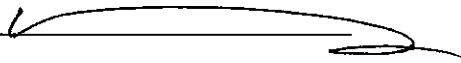
LESSOR'S CONSENT TO ASSIGNMENT OF LEASE

The Lessor, in that certain lease dated December 16, 1996, by and between City of Skagway (herein called "Lessor") and, Dan and Eileen Henry, dba Skagway Fish Company, hereby consents to the Assignment by said Lessee of all its right, title and interest in and to said Lease to National Bank of Alaska as partial security for a loan made to said Lessee, and to any subject Lease or under the Note or other instruments of hypothecation evidencing said loan by said Lessee, provided, however, that so long as National Bank of Alaska has not entered into possession of the premises covered by said Lease for the purpose of operating a business, it shall not be liable for rent or any other obligations, and in the event of any default under subject lease, said lessor hereby agrees not to terminate the Lease or take any action to enforce any claim with respect thereto without giving National Bank of Alaska at least thirty (30) days prior written notice thereof via certified mail and taking effect upon receipt of such notice, and the right to cure such default within said period provided:

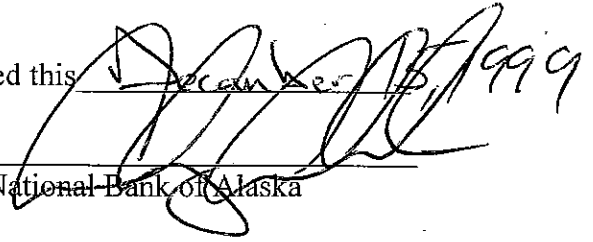
1. National Bank of Alaska shall not reassign nor enter any sublease without the written consent of the Skagway City Council;
2. In the event of any reassignment of the lease or sublease by National Bank of Alaska, the Assignee or Sublessee shall comply with all provisions of the lease;
3. An assignment of the lease or sublease by National Bank of Alaska shall not preclude the City from enforcing or pursuing any rights under the lease as to the current Lessee or any subsequent lessee;
4. In the case of any reassignment or sublease, the Assignee or Sublessee must comply with all State, Federal and local laws including zoning laws.

Lessor hereby waives it's right of distraint against goods and property pledged as security on Bank Loan.

Dated this DECEMBER 15, 1999

Lessor: 

Dated this December 15, 1999

by: 
National Bank of Alaska

MUNICIPALITY OF SKAGWAY
Items Purchased from Vendors
For the Period From Jan 1, 2008 to Mar 28, 2011

Filter Criteria includes: 1) Vendor Names from Horan & Company, LLC to Horan & Company, LLC. Report order is by Vendor ID, Item ID. Report is printed in Detail Format.

Vendor ID Name	Item ID Item Description	Qty	Amount
HCC403 Horan & Company, LLC	INV#08-1001 2008 ASSESSMENT RO		17,500.00
	INV#08-019, 08-045 APPRAISAL R		5,861.85
	INV#08-1001B 5/30/08		3,500.00
	MARCH 2008 RETROSPECTIVE RENT	1.00	5,340.90
	RETROSPECTIVE APPRAISAL REPORT	1.00	1,200.00
	RETROSPECTIVE APPRAISAL REPORT	1.00	1,298.71
	RETROSPECTIVE APPRAISAL REPORT	6-17-10 1.00	1,700.00
	RETROSPECTIVE APPRAISAL REPORT	1.00	1,560.55
	RETROSPECTIVE APPRAISAL REPORT	6-25-10 1.00	1,700.00
	THROUGH 7/29/08 PER ATTACHMENT	1.00	11,000.00
	PER ATTACHMENT "A" 2008-2011;	1.00	29,000.00
	9/16/08 - 10/30/08; PER ATTACH	1.00	29,000.00
	FINAL BILLING REVALUATION BASE	1.00	40,000.00
	BOARD OF EQUALIZATION FOR 2009	11-5-2009 1.00	6,000.00
	3/31/10 APPRAISAL OF LOT 1, PL	4-5-2010 1.00	6,200.00
	2010 SKAGWAY BOARD OF EQUALIZA	5-31-2010 1.00	4,000.00
3/25/10 2010 SKAGWAY ASSESSMEN	3-26-2010 1.00	14,000.00	
	14.00	178,862.01	
Report Totals	14.00	178,862.01	

747-6666

LEASE AGREEMENT

Pursuant to Chapter 16.02 of the Skagway Municipal Code, this lease is entered into first day of December 16, 1996, by and between the City of Skagway (hereinafter, City or Lessor), a municipal government, and the Lessee, a private business, for the purpose of leasing a parcel of land, 4,158 square feet located on Congress Way adjacent to the Skagway Small Boat Harbor.

WITNESSETH:

Whereas the City owns the property described above; and

WHEREAS, the City wishes to lease this parcel of land and has provided proper notice of its intent and has received a lease proposal responsive to Skagway Municipal Code provisions and by Ordinance 93-4 has awarded a lease, and whereas by Ordinance 95-5 has transferred the lease to Dan and Eileen Henry.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, it is agreed as follows:

1. Duration:

This lease shall be in effect from December 16, 1996 through August 31, 2012.

2. Land Description:

A parcel of land 77' x 54' containing 4,158 square feet, more or less, located on Congress Way adjacent to the Skagway Small Boat Harbor and further identified in attachment "A" to this lease.

3. Lease Amount:

The lease amount shall be Eight Hundred Thirty-One and 60/100 dollars per year. The lease amount shall be payable in advance annually, on or before the first day of September, each year the lease is in effect.

4. Terms and Conditions:

A. Lease Utilization. Leased lands shall be utilized only for purposes within the scope of the applicable land use classification and the terms of the lease, and in conformity with the ordinances of the city, including any zoning ordinance. Utilization or development for other than the allowed uses shall constitute a violation of the lease and subject the lease to cancellation by the city at any time. The terms of this subsection are made a part of all leases and any violation thereof shall be grounds for cancellation of any lease.

B. Adjustment of Rental. The annual rental payable pursuant to any lease shall be subject to adjustment by the council on the fifth anniversary of the date of the original lease (August 31, 1997), and at each five year interval thereafter. The adjusted annual rent shall be computed at that percentage of the fair market value of the land as set by the lease, inclusive of any improvements thereon made by the city, but exclusive of any portion of value created by expenditures by lessee, except that the value of any improvements credited against rentals shall be included in the value. Such fair market value shall be determined by an appraisal made by the city assessor and reviewed and approved by the council, whose decision is final. The new rental amount shall be effective at the beginning of the five year interval to which it applies.

C. Subleasing. The lessee may sublease lands or any part thereof leased to him hereunder, provided that the lessee first obtains the approval of the council to such sublease. Leases not having improvements thereon shall not be sublet. Subleases shall be in writing, and subject to the terms and conditions of the original lease and such further terms and conditions as the council may deem appropriate. A copy of the sublease shall be filed with the city manager.

D. Assignments. The lessee may assign the lease issued to him, provided that the proposed assignment shall be first approved by the council under such further terms and conditions as the council may deem appropriate. The assignee shall be subject to all of the provisions of the original lease, and the assignor shall not be relieved of his obligations thereunder.

E. Modification. No lease may be modified orally or in any manner other than by an agreement in writing signed by all parties in interest or their successor in interest.

F. Cancellation and Forfeiture.

1. Leases in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by lessee and the council. Any lease may, at the council's option, include a term providing that the lease may be terminated by the lessee upon ninety (90) days' notice in writing to the city before the end of an annual rental period.

2. If the lessee defaults in the performance or observance of any of the lease terms, covenants or stipulations, or any applicable term of this chapter, or any portion of the city code as applied to the property in question, the lessee is automatically in default on the lease by operation of law. If such default continues for thirty (30) calendar days after service upon lessee of written notice of default by the city without remedy by lessee of the default, the council shall take such action as is necessary to protect the rights and best interests of the city, including the exercise of any or all rights after default permitted by the lease. No improvements may be removed by lessee or any other person during any time the lessee is in default.

3. The city may cancel the lease if it is used for any unlawful purpose.

4. Failure to make substantial use of the land, consistent with the proposed use, within one year shall with the approval of the council constitute grounds for cancellation. This time period may be extended by the council by resolution.

G. Notice or Demand. Any notice or demand, which under the terms of a lease or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address of record. However, either party may designate in writing such new or other address to which such notice or demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed delivered when deposited in the U.S. mails enclosed in a registered or certified mail prepaid envelope addressed as herein provided.

H. Rights of Mortgagee or Lienholder. In the event of cancellation or forfeiture of a lease for cause, the holder of a properly recorded mortgage of the improvements on the land shall be given a duplicate copy of any notice of default in the same manner as notice is given the lessee, provided, such mortgagee has given the city clerk notice of such mortgage and the mortgagee's address.

I. Entry and Reentry. In the event the lease is terminated, or in the event that the demised lands, or any part thereof, are abandoned by the lessee during the term, the city or its agents, servants, or representative, may, immediately or any time thereafter, reenter and resume possession of such lands or such part thereof, and remove all persons and property therefrom either by summary proceedings or by a suitable action or proceeding at law without being liable for any damages therefor. No reentry by the city shall be deemed an acceptance of a surrender of the lease.

J. Re-Lease. In the event that a lease is terminated, the city council may offer the lands for lease or other appropriate disposal pursuant to the provisions of this chapter.

K. Forfeiture of Rental. In the event that the lease is terminated because of any breach by the lessee, as herein provided, the annual rental payment last made by the lessee shall be forfeited and retained by the city.

L. Written Waiver. The receipt of rent by the city with knowledge of any breach of the lease by the lessee, or of any default on the part of the lessee in observance or performance of any of the conditions or covenants of the lease, shall not be deemed to be a waiver of any provision of the lease. No failure on the part of the city to enforce any covenant or provision therein contained, nor any waiver of any right thereunder by the city unless in writing, shall discharge or invalidate such covenants or provisions or affect the right of the city to enforce the same in the event of any subsequent breach or default. The receipt by the city of any other sum of money after the termination in any manner, of the term demised; or after the giving by the city of any notice thereunder to effect such termination, shall not reinstate, continue or extend the resultant term therein demised, or destroy, or in any manner impair the efficiency of any such notice or termination as may have been given thereunder by the city to the lessee prior to the receipt

of any such sum of money or other consideration, unless so agreed to in writing and signed by the city manager.

M. Expiration of Lease. Unless the lease is renewed or sooner terminated, as provided herein, the lessee shall peaceably and quietly leave, surrender and yield up unto the lessor all of the leased land on the last day of the term of the lease.

N. Renewal of Lease.

1. Upon the expiration of the term of any lease, or the cancellation of a lease by mutual consent of all parties thereto, the council may grant a new lease to the lessee or his assignee who owns valuable improvements thereon, without competitive bidding, provided:

a. The lessee or his assignee makes written application therefor at least ninety (90) days prior to such termination;

b. The lessee is not in default under the lease;

c. The use to which the land is to be put is compatible with the current use classification and zoning provisions of the city code on that subject;

d. Mutually agreeable terms, consistent with the provisions of this chapter governing lease terms, are negotiated by the city and the prospective lessee.

2. Such lease shall be for an annual rental equal to the percentage of the appraised value of the land which is then being charged for new leases, and shall be subject to adjustment on every fifth anniversary.

3. Any renewal preference granted the lessee is a privilege, and is neither a right nor bargained for consideration.

O. Removal or Reversion of Improvements upon Termination of Lease. Improvements owned by a lessee may within sixty (60) calendar days after the termination of the lease be removed by him, provided, such removal will not cause injury or damage to the lands or improvements demised; and further provided that the city council may extend the time for removing such improvements in cases where hardship is proven. All periods of time granted the lessee to remove improvements are subject to the lessee paying to the city pro rata lease rentals for such periods. If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels shall revert to, and absolute title shall vest, in the city.

P. Compliance with Regulations and Code.

1. The lessee shall comply with all regulations, rules, and the code of the city, and with all state and federal regulations, rules and laws as the code or any such rules, regulations or laws may affect the activity upon or associated with the leased land.

2. The lessee shall comply with all provisions of the city code which are promulgated for the promotion of sanitation, life safety and public health. The leased premises shall be kept in a neat, clean and sanitary condition, and every effort shall be made to prevent pollution.

3. Fire protection. The lessee shall take all reasonable precaution to comply with provisions of the city code concerning fire protection applicable to the area wherein the leased premises are located.

Q. Inspection. The lessee shall allow an authorized representative of the city to enter the leased land at any reasonable time for the purposes of inspecting the land and improvements thereon.

R. Use of Material. All coal, oil, gas and other minerals, and all deposits of stone, earth or gravel valuable for extraction or utilization, are reserved by the city and shall not be removed from the land except with written permission of the council. The lessee shall not sell or remove for use elsewhere any timber, stone, gravel, peat moss, topsoil, or any other material valuable for building or commercial purposes; provided, however, that material required for the development of the leasehold may be used, if its use is first approved by the council in writing.

S. Rights-of-Way. The lessor expressly reserves the right to grant easements or rights-of-way across leased land if it is determined in the best interest of the city to do so. If the lessor grants an easement or

right-of-way across any of the leased land, the lessee shall be entitled to damages for all lessee-owned improvements destroyed or damaged. Damages shall be limited to improvements only and loss shall be determined by fair market value. Annual rentals may be adjusted to compensate the lessee for the loss of use.

T. Warranty. The city does not warrant by its classification or leasing of land that the land is ideally suited for the use authorized under the classification or lease and no guaranty is given or implied that it will be profitable to employ land to said use.

U. Operation and Maintenance:

1. Lessee shall utilize the leased premises for purposes associated with its fish and fish product business.
2. Lessee shall keep and maintain the leased premises in good and substantial repair and condition.
3. Lessee shall pay all taxes, fees, or assessments as may be required.
4. Any disputes arising under this lease shall be handled by mutual agreement between representatives of the parties to this lease.
5. The lessee representatives are Dan & Eileen Henry and the City representative is the City Manager.

V. Other Conditions:

1. Utility easements. A city water main traverses this property. There is a City fire hydrant and electric utility pole adjacent to this property. The City may also extend a sewer line to or through this property. The City retains the right to enter onto this property, with adequate notice to the lessee, for the purpose of maintaining or extending utility services.

2. Public Use Enhancements. In accordance with SMC 19.06.080(c). Special polices, lessee shall spend five percent (5%) of the total project cost on public amenities as described in that section.

5. Modification:

This lease may be modified only by a written agreement signed by both parties.

6. Notice:

All notices and requests in connection with this lease shall be in writing and shall be addressed as follows:

City: City Manager
City of Skagway
P. O. Box 415
Skagway, Alaska 99840

Lessee: Dau & Eileen Henry
Skagway Fish Company
P. O. Box 279
Skagway, Alaska 99840

7. Condition Precedent:

As required by Skagway Municipal Code, City Council approval of this lease by non-code ordinance is required. This lease agreement is attached to Ordinance 95-5-as Exhibit A.

IN WITNESS WHEREOF, the parties hereto have executed this lease as of the date first written above.

CITY OF SKAGWAY

By: *Sion Plummer*

Date: 2-12-97

Title: *Mayor*

Attest: *Abraham Stuard*
city clerk

LESSEE

By: *Donal J. [Signature]*

Date: 12-17-97
