

July 17, 2019

Mr. Stan Selmer
Borough Manager
Municipality of Skagway
700 Spring Street
Skagway, Alaska 99840

Re: REVISED STRATEGIC PLANNING AND EXECUTION OF CRUISE RELATED FACILITIES

Dear Mr. Selmer,

As a follow up to the direction provided by the Assembly at the recent meeting of July 10, we are pleased to submit thie attached REVISED proposal to the Borough for approval.

I hope this provides the Borough with the information required to move forward.

Regards,



Luis Ajamil

Cc Mark Ittel

LA: vg



PROFESSIONAL SERVICES AGREEMENT

This AGREEMENT is made and entered on _____, 2019 by and between BERMELLO, AJAMIL & PARTNERS, INC. a Florida Corporation, USA ("B&A") and the Borough of Skagway, Alaska ("Client"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. DESCRIPTION OF PROJECT SITE:

Port facilities, Borough of Skagway

2. DESCRIPTION OF PROFESSIONAL SERVICES AND SCHEDULE TO BE PROVIDED BY B&A:

See Proposal Dated July 16, 2019 and Attached herein

3. THE COMPENSATION TO BE PAID B&A for providing the requested services shall be:

See Proposal Dated July 16, 2019 and Attached herein

IN WITNESS WHEREOF, this Agreement is accepted on the date written above, subject to the terms and conditions stated.

CLIENT: _____

BERMELLO, AJAMIL & PARTNERS, INC.

SIGNED: _____

SIGNED: _____

TYPED NAME: _____

TYPED NAME Luis Ajamil

TITLE: _____

TITLE: President

DATE: _____

DATE: _____

Client to return one fully executed original to B&A

4. **COMPENSATION, INVOICES AND PAYMENT:** B&A shall submit invoices to the Client for work accomplished during each calendar month. Invoices shall be due and payable by the client upon receipt. If the Client defaults of such payment, the Client agrees to pay all costs of collection, including reasonable attorney's fees, regardless of whether legal action is initiated. The Client hereby acknowledges that unpaid invoices shall accrue interest at 12% per annum after they have been unpaid 45 days after client receives the invoice. Work on the project shall be suspended until all unpaid invoices are paid in full.
 - 4.1 **For services provided on a Lump Sum basis,** the amount of each monthly invoice shall be determined on the "percentage of completion method" whereby B&A will estimate the percentage of the total work accomplished during the invoicing period.
 - 4.2 **For work accomplished on a time and materials basis,** hourly charges shall be billed using cost of salaries for the time of personnel engaged directly in the work times a 3.1 multiplier unless specific rates are agreed to and established in the Attachments to this Agreement. B&A invoices shall include, separately listed, charges for labor spent on the contract and reimbursable costs. Reimbursable expenses include professional associates and out-of-pocket expenses, the cost of which shall be charged at actual costs plus a 10% administrative charge.
 - 4.3 **Additional Services** – Work performed which is beyond that provided in the Scope as defined in Paragraph 3, will be treated as additional services and will be billed separately and in addition to any negotiated fee.
5. **COST ESTIMATES:** Client hereby acknowledges that B&A cannot warrant that estimates of probable construction or operating costs provided by B&A will not vary from actual costs incurred by the Client.
6. **LIMIT OF LIABILITY:** The Client agrees that the total aggregate of liability of B&A, its employees and professionals assigned to this project due to the errors, omissions, or negligent acts shall not exceed the total fee for services rendered by B&A for this project. Should the Client find the above terms unacceptable, then, prior to undertaking the work, an equitable surcharge to absorb B&A's increase in insurance premiums will be negotiated. If the Services provided entails B&A subcontracting or acting as coordinator with third parties brought in by the client B&A will not be liable in respect of any shortcomings of these third parties unless B&A has expressly accepted liability in this regard.
7. **CONSTRUCTION SERVICES:** B&A shall not be responsible for or have control over means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the construction of the project; nor shall B&A be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents or for Contractor's failure to comply with applicable laws, ordinances, rules or regulations.
8. **INSURANCE:** B&A shall at all times carry, on all operations hereunder, worker's compensation insurance, public liability and property damage insurance, and automotive public liability and property damage insurance.
9. **ASSIGNMENT:** Neither party will assign or transfer its interest in this Agreement without the written consent of the other.
10. **SUSPENSION, TERMINATION, CANCELLATION OR ABANDONMENT:** Both parties may suspend, cancel, terminate or abandon this Agreement. The parties shall be given seven (7) days' prior written notice of such action. B&A shall be compensated for the professional services provided up to the date of such action in accordance with the provisions of this Agreement for all work performed up to the date of suspension, termination, cancellation or abandonment, including reimbursable expenses.
11. **ENTIRETY OF AGREEMENT:** This Agreement embodies the entire understanding between the parties. There are no other agreements and understandings, oral or written, with reference to the subject matter hereto that are not merged herein and superseded hereby. No change or modification of the terms of this Agreement shall be valid unless made in writing and signed by both parties hereto.
12. **DOCUMENTS:** Any reuse by the client or others of documents and plans that result from B&A's services under this Agreement shall be at CLIENT'S or others' sole risk without liability to B&A.
13. **ELECTRONIC TRANSMISSION:** Should information be transmitted electronically, B&A cannot guarantee that changes or alterations will not be made by other persons after the documents leave the possession of B&A, as such, B&A makes no warranties, express or implied, concerning the accuracy of the information contained in any documents transmitted or reviewed by computer or other electronic means. Only original signed and sealed drawings approved by B&A can be used in their intended purpose.
14. **CONFIDENTIALITY/PROMOTIONS:** Unless covered under a separate Non-disclosure Agreement, B&A shall have the right to include representations of the design of the Project, including photographs among its promotional and professional materials. B&A's materials shall not include the Client's confidential or proprietary information if the Client has previously advised B&A in writing of the specific information considered by the Client to be confidential or proprietary.
15. **STAFFING:** The Client agrees not to solicit or hire employees from B&A during the term of the Agreement and for a period of no less than one (1) year after the termination of the services provided herein.
16. **STANDARD OF PERFORMANCE:** Services performed by B&A and its employees under this Agreement will be the care and skill ordinarily used by members of the profession practicing under the same or similar circumstances at the same time in the same locality. B&A makes no warranties, expressed or implied, under this Agreement or otherwise, in connection with B&A's services.
17. **ARBITRATION:** Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to and decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect unless the parties mutually agree otherwise. If a party fails to pay the arbitration costs and associated expenses, they automatically default and judgment goes to the complying party.
18. **CONTROLLING LAW:** This Agreement is to be governed by the Laws of the jurisdiction where the work is performed.

REVISED

**PROPOSAL
BOROUGH OF SKAGWAY, ALASKA**

STRATEGIC PLANNING AND EXECUTION OF CRUISE RELATED FACILITIES

JULY 16, 2019

CONTEXT AND BRIEF HISTORY

Skagway has enjoyed remarkable success with its cruise business as a key port in the Alaska cruise market. Recently, the sale of the railroad and the underlying leases of the berths raise a number of issues as to how the Borough needs to best handle the future decisions and investment options.

This proposal is prepared as a result of the request by the Borough to evaluate its options and provide guidance as to approaches going forward and additional input from the July 10, 2019 Assembly meeting.

The general tasks provided in this Scope of Work provides a road map of steps needed:

1. Identifying the potential future cruise market
2. Evaluate existing marine facilities
3. Develop Alternatives
4. Cost to implement
5. Feasibility and business structure
6. Implementation

SCOPE OF SERVICES

The Scope of Services described below provides a detailed work plan:

Task 1 - Identifying the potential future market

1.1 Passenger demand – prepare an analysis of the future demand for cruise in Skagway which are primarily:

- Overall growth of the cruise industry
- Overall growth of the Alaska cruise market
- Evaluation of upstream limitations
- Demand for newer products (shorter cruises, south bound itineraries, others to be determined)
- Develop a general demand forecast for passengers and cruise calls
- Identify and verify the characteristics of the anticipated vessels and the docking requirements:
 - Vessel characteristics - Tonnage, length, passenger capacity
 - Vessel berthing requirements – piers, bollards, fenders

1.2 Berth demand in Skagway – The cruise passenger/call demand will be distilled to different berth demand scenarios which can then be adjusted to reflect any specific policy decisions made as to:

- Berth limitations – either the number or size of the berths
- Apply any policy driven passenger limits

Task 2 – Existing conditions and past plans

2.1 Review of current plans – Using the previously completed Master Plan documents and a site inspection, B&A will prepare a general inventory of the existing, planned physical infrastructure and improvements and the alternatives that have been proposed including any impacts on uplands, utilities, etc. that will be affected by these improvements as well as to understand the ferry, freight and fuel logistics of Skagway related to the infrastructure – berths and access to the Yukon as a transport corridor.

- B&A will rely on the drawings already prepared by the Borough previously by its consultant with basic information such as bathymetry, site conditions, etc. so to not have to burden the Borough with additional costs.

2.2 Impact on forecasts – B&A will evaluate the impact of the cruise growth forecasts and the different alternative options previously prepared on the potential capacities in Skagway. B&A will provide comments as to other considerations to be included such as the use of the berths for ferry, freight and fuel operations.

Task 3 – Alternatives

- 3.1 **Upland options** – B&A will work with the Borough to identify upland improvements that will be necessary to execute any of the alternatives considered. These will include all marine options and landside development not only in the immediate dock areas but will also include plans for public access to the waterfront (shore walks, viewing areas, etc.) as well as access routes for pedestrians, bicycles, vehicles, trucks, buses, trains and commercial and industrial traffic. We will work with city stakeholders to define these upland elements to improve flows and provide for additional community requirements.
- 3.2 **Alternatives** – Prepare upland development options to accompany any marine options identified.
- As required, phasing options will be included in the alternatives based upon existing lease limit issues in order to reposition infrastructure accordingly.
- 3.3 **Meetings** – B&A will attend up to 3 meetings in Skagway to obtain input, make presentations, and provide input during this phase of the work.

Task 4 - Budgets

- 4.1 **Order of magnitude budgets** - B&A will work with the Borough to establish a series of budgets commensurate with the level of improvements illustrated in the alternatives. The budget will be divided into manageable and executable phases to be driven by the demand and other items such as lease limit terms, etc. These will be preliminary to assist with initial decision-making.
- 4.2 **Detailed estimates** - It is anticipated, that later, once a direction is established, that B&A will contract with an internationally recognized cost estimator, to develop an independent cost estimate.

Task 5 – Feasibility and business model

- 5.1 **Tariffs** - B&A will perform a cursory review of cruise tariffs and establish thresholds for potential tariffs that can be applied to new cruise facilities.
- 5.2 **Preliminary financial model** - B&A will build a business model for the operations of the proposed facilities. The business model will include the following elements:
- Income
 - Cruise
 - Off-season Uses
 - Rentals
 - Transportation fees
 - Concessions
 - CPV funding received from the State of Alaska
 - Others to be identified
 - Cost
 - Operations

- Maintenance
- Security
- Administration
- Utilities
- Insurance
- Establish the capital needs and financing options
- Develop three scenarios for sources of capital
 - Public funding
 - Private
 - Combination
- Determine the EBITAD for the facility operation

The model will:

- Determine the financial results of the operation based on tariffs
- Determine the net revenues from operations
- Determine net revenues after debt service
- Determine profit and loss scenarios for an operating model
- Review cost-recovery alternatives
- Determine debt service coverage

5.3 Presentation - B&A will prepare a presentation to discuss the findings.

5.4 Business development models - B&A will prepare a list of the different business and development models to create the funding and investment strategies of the cruise facilities to meet the Borough's objectives. B&A will work the Borough's legal and bond counsel to identify which models the Borough can pursue.

5.5 Market sensing - B&A will establish an outreach to potential partners to determine interest and conditions to participate in the investment, operation or development. For this task, we suggest the following steps:

- Using the results of the previous RFI issued by the Borough as a starting point, identify all known potential cruise lines and allied parties and determine their interest.
- Prepare a survey that to understand each company's perception and/or plans for growing or establishing a new operation in Skagway. This will include questions about ways to meet the companies' growth objectives in Skagway, their perception of the existing market conditions, future market conditions, future cruise deployments, and any need for additional facilities.
- Following the survey, brief discussions with all potential companies that showed interest to gain a better understanding of the things the industry is willing and unwilling to do in Skagway.
- Hold an internal workshop to present findings of the surveys and conversations after which we can narrow down the level of interest in Skagway.

5.6 Execution Plan - B&A will present the plan for proceeding forward which would include the range of companies that have an interest (and ways they would participate), companies that have no interest, and companies that are willing to

bring capital, traffic to Skagway or are willing to assist the Borough in a comprehensive way.

5.7 Leases - The Borough is also involved with issues surrounding the expiration in March 2023 of a 55-year lease of waterfront property to White Pass. The relatively short time remaining in the lease means the Borough must make important port governance and operational decisions soon to be sure a smooth transition is made when the lease expires – B&A will review the options considering the work above to provide information to the Assembly in this matter.

5.8 Presentation - B&A will prepare a presentation illustrating the results of work to date.

Task 6 – Implementation (Future Proposal)

The final execution of the plan will be dictated by the direction that the Borough Assembly takes and as such, it will be subject to a future proposal.

SCHEDULE

All the above work could be completed within 6 to 8 weeks. However, considering the location of some folks that need to be reached for discussions and the summer schedule, this may take longer. However, we will target completion within 8 weeks from Notice to Proceed.

COMPENSATION

B&A proposes the following compensation for the above services:

Phase	Labor fee	Direct fee	Total phase
Task 1 - Potential demand	\$15,360	\$0	\$15,360
Task 2 - Existing conditions and past plans	\$8,640	\$3,080	\$11,720
Task 3 - Alternatives	\$72,960	\$9,240	\$82,200
Task 4 - Budgets	\$17,280	\$0	\$17,280
Task 5 - Feasibility and business model	\$33,120	\$6,160	\$39,280
Totals	\$147,360	\$18,480	\$165,840

Notes:

1. The above fees will be billed as lump sum monthly using the “percent of completion” estimate for the work completed on any given month.
2. Cost estimates will be done by a separate company and their fees are not included in the above fees. B&A will work with the Borough of Skagway to determine the best choice for Cost Estimates.
3. The above fees include 12-person trips to Skagway during this period including an initial site visit in Task 2; Alternatives meetings in Task 3; and, Task 5 Outreach/Presentation meetings.
4. The fees do not include negotiations with any potential bidders.
5. B&A is relying on the Borough Counsel to provide information relative to any processes that must be followed.
6. This proposal does not include any legal matters of legislative authorities associated with the ability of the Borough to enter into long-term concession agreements.
7. B&A has been informed of the work that the McDowell Group is undertaking to study and assess governance models that may be appropriate if the State decides to reduce or eliminate all or portions of the Alaska Marine Highway System (AMHS).
 - a. This is a separate issue and not a part of the work of the B & A engagement, but the Borough Assembly wants to be sure that the two planning consultants not duplicate their efforts in areas that we may find to overlap. If that occurs, the Borough will coordinate with the parties to assure there is no duplication.

KEY PROFESSIONAL STAFF

Luis Ajamil (Principal) will provide guidance throughout the project and will actively participate in the evaluation and development of options. Luis is excellent at leading the process and is also an expert on the financial analysis and financing options for these types of facilities.

Mark Ittel (Project Manager) will be the day to day contact with the Borough throughout the project. He will also be actively involved in the evaluation process, market assessment, and market sensing and final presentation and report development. Mark is very familiar with the Skagway facilities and the current happenings in the Alaska market.

Felipe Alespeiti (Senior Planner) will work with the team to assemble the layout alternatives for the waterfront. Felipe will also be the lead in producing the cruise site configuration layout alternatives. Felipe has worked on numerous cruise and waterfront projects throughout Alaska.