

# Lynn Canal Ferry Service: Exploring a Locally Controlled System

PREPARED FOR:

**Municipality of Skagway**

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**McDowell Group Anchorage Office**

1400 W. Benson Blvd., Suite 510  
Anchorage, Alaska 99503

**McDowell Group Juneau Office**

9360 Glacier Highway, Suite 201  
Juneau, Alaska 99801

**Website: [www.mcdowellgroup.net](http://www.mcdowellgroup.net)**



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The Alaska Marine Highway System has been a critical transportation link for Skagway, Haines, and Juneau since its inception predating statehood. In recent years, budget cuts and service reductions, coupled with increased service disruptions, have given rise to consideration of alternative structures for providing essential marine transportation in North Lynn Canal (NLC). While recognizing the value of a viable statewide marine highway system, Skagway is exploring alternative governance structures in the event that AMHS service in NLC becomes nonviable or responsibility for service falls to municipalities. Skagway has engaged McDowell Group to provide a comprehensive discussion of options available to NLC communities in their efforts to protect and preserve reliable marine transportation in the region. Key findings of this report follow.

## **Governance Structures**

Governance structures considered in this report include municipal port (or ferry) authority, an agency within local government, an agency within Tribal government, a nonprofit corporation, and public-private partnership. Private ferry service could not adequately serve the region due to anticipated ongoing need for state and federal capital and operating support, and to ensure the service is responsive and accountable to the public.

- Of the governance structures considered, a ferry authority model appears to be the most suitable for NLC ferry service. Attributes contributing to suitability include a clear framework in state law, ability to receive state and federal funds, ability to issue bonds, fiscal protections for participating municipalities, transparency and public accountability, successful precedent in Alaska, and provisions for shared governance and responsibilities among participating municipalities.
- Establishment of a ferry authority would take multiple years and require a series of steps. These steps include:
  - Passage of a state law approving establishment of a ferry authority in NLC.
  - Passage of parallel ordinances in participating municipalities, followed by voter approval in each municipality. An authority may be established by one or more municipalities, and can be established by a single municipality and expanded to include others at a later time by passage of a parallel ordinance approved by voters.
  - Establishment of a board of directors in accordance with provisions outlined in the enabling ordinance.
  - Hiring of an executive director by the board, who is accountable to the board.
- In addition to the legal process, discussions would need to occur about conveyance of vessels and infrastructure from the state, labor agreements, and how the new system would interact with AMHS.

## Potential Fund Sources

While an independent ferry service may offer opportunities to reduce costs and increase revenues, all parties should have an expectation of ongoing state and federal operating and capital support for the system. State General Fund support, Federal Transit Authority (FTA) grant funds, federal Ferry Boat Program (FBP) formula funds, other federal sources of capital funds, and other potential sources of operating funds would be required to support a sufficient and sustainable level of NLC ferry service.

## Challenges and Opportunities

Key challenges of establishing a separate NLC ferry service include:

- The **state's budget environment**, which creates uncertainty for any entity reliant on state funding, and particularly a new service with a limited constituency.
- **Timing**, as the process for establishing a new ferry service is complex and multi-year. Meanwhile, AMHS funding has decreased rapidly, requiring immediate and substantial service reductions.
- **Infrastructure**: Assuming Alaska Class Ferries or other dayboats are used for the new system, the system as now designed may be constrained by the U.S Coast Guard's 12-hour limitation on dayboat operation.
- **Impacts on AMHS**: Pulling a portion of the system out may have negative fiscal and political impacts on the statewide ferry system, whose continued viability is critical to NLC communities and others.

Key opportunities of establishing a separate, independent ferry service include:

- The **strategic location** of NLC communities at the nexus of the North American road system and Southeast Alaska's marine transportation network.
- The **strong revenue potential** of the system as a result of high demand and likely unmet revenue potential.
- The **opportunity to "reset"** the system and explore more modern, innovative business practices.
- A **simplified system with standardized vessels**, which offers potential for increased efficiency.
- A locally run authority, while still dependent on state and federal funding, could provide some **buffer from the political cycle** and enable more long-term planning than is feasible under the state-run AMHS.

## Introduction and Purpose

The Alaska Marine Highway System (AMHS) is a socio-economic lifeline for many of the communities it serves, most of which are not connected to Alaska's road system. Alaska law recognizes the critical role of the system with the following legislative findings:

- (1) that the Alaska Marine Highway System is an essential part of the state transportation system, and that it warrants continued and predictable state support;
- (2) many communities' economies are dependent on a steady and stable marine highway system service level;
- (3) the state's tourism industry is greatly enhanced by a dependable marine highway transportation network; and
- (4) efficient and prudent management of the system will benefit the state's economy and foster economic development.<sup>1</sup>

Nonetheless, in recent years, substantial budget and service cuts to the AMHS have generated a sense of urgency to consider alternatives for providing essential marine transportation service.<sup>2</sup> In the event that responsibility for ferry service in North Lynn Canal (NLC) were to shift from the state to local communities, this study addresses the question of **what form of ferry system governance would best serve the communities of NLC and preserve reliable marine transportation in the region**. Public governance is an essential aspect of ferry service in Alaska. Route distances are too long, weather conditions too severe, and markets too small for self-sustaining or profitable ferry operations. Moreover, public governance is essential to ensure service is centered on meeting public needs.

This report focuses on three key areas:

- Governance structures
- Potential funding sources
- Challenges and opportunities

The analysis of governance structures considers the advantages and disadvantages of potential governance models, with particular focus on the port authority model, which has precedent in Alaska and has proven to be a viable model for providing local control, access to key funding sources, and efficient operations.

The Alaska Municipal Port Authority Act (AS 29.35.600-730) established the port (or ferry) authority model. Such authorities are political subdivisions of the municipalities that create them, and can include a single political

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<sup>1</sup> See [Alaska Statutes 19.65.050](#). Alaska Marine Highway System: Legislative findings, purpose, and intent.

<sup>2</sup> See [Alaska Department of Transportation & Public Facilities, Alaska Marine Highway System Overview](#), March 12, 2019, for relevant historical charts and data, and Gov. Michael Dunleavy's FY 2020 budget proposal for AMHS, which was not ultimately adopted.

entity or multiple entities. This report describes the legal, administrative, and political mechanics of establishing a ferry authority, using the Inter-Island Ferry Authority (IFA) as the primary case study. The IFA, with six member-communities, is the only currently active ferry authority in Alaska. Advantages and disadvantages of a single-member authority are considered and compared to a multi-member authority with Skagway, Haines, and Juneau – the three ports located in NLC – as potential members.

Previous research suggests that a dedicated NLC ferry service using Alaska Class Ferry (ACF) dayboats could meet most travel demand at a lower cost than has traditionally been provided by the AMHS fleet. While this report considers potential costs and revenues at a high level, further analysis and planning are required to accurately project total costs and revenues associated with operating an independent NLC ferry service.

## Background

The community of Skagway has long been an active proponent of reliable and affordable ferry service in NLC. The City has funded research to improve understanding of the market and revenue potential of such service, and how to optimize service and reduce costs. This research includes two relatively recent projects conducted by McDowell Group:

- *North Lynn Canal Ferry Service Analysis* (June 2014) addressed ACF capacity relative to historic Lynn Canal traffic. It also addressed ACF operating costs.
- *Lynn Canal Ferry Service Revenue Analysis* (July 2016) focused on the traffic and revenue potential associated with Lynn Canal ferry service provided by ACFs.

The financial performance of a dedicated NLC ferry system using ACFs is yet to be determined. Past studies estimated the revenue potential for NLC ferry service at \$7.9 million annually, including \$5.2 million in summer revenue and \$2.7 million in winter revenue.<sup>3</sup> Travel between Skagway and Haines accounts for about \$900,000 of the NLC total.

Key assumptions underpinning revenue estimates made in the 2016 study include:

- **Vessels:** The state conveys the two ACFs to an NLC service provider for dedicated use on those routes as dayboats.
- **Service:** Juneau becomes the northern terminus for AMHS service, and all traffic north of Juneau is served by the two dedicated ACFs.
- **Schedule:** There are many possible schedules, and this study does not propose or evaluate proposed schedules. Previous revenue research was based on the following hypothetical schedule.

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<sup>3</sup> It is not possible to measure actual historical AMHS revenue from Lynn Canal ferry service because the fare structure for through traffic (northbound or southbound through Juneau) does not attribute fares to the Lynn Canal portion of the itinerary.

- *Summer*: once-daily service between Auke Bay and Haines five days per week, once-daily service between Auke Bay and Skagway two days per week, and twice-daily service between Haines and Skagway five days a week.
- *Winter*: four-days-per-week service between Juneau and Haines, three-days-per-week service between Juneau and Skagway, and no service between Haines and Skagway.
- **Traffic volume**: Previous research-based traffic potential on 2013 passenger and vehicle volumes, the peak traffic year in the past decade. The estimates assumed that a more frequent, reliable, and convenient schedule would draw higher traffic volumes than recent years, which have been beset by schedule reductions and service disruptions.
- **Fares**: Previous McDowell Group NLC revenue estimates were based on the 2016 fare structure.
- **Caveat**: ACF car deck capacity limitations will constrain peak day and peak week traffic. Operating two ACF voyages between Juneau and Haines (or other capacity enhancement measures) may be required to meet peak-period demand. However, more frequent, consistent, and convenient service may help spread demand.

The \$7.9 million potential revenue estimate is consistent with other estimates. The 2014 Juneau Access Supplemental Draft Environmental Impact Statement included annual revenue estimates for ferry-based alternatives in NLC. These included \$7.7 million for the No-Action alternative, \$8.2 million for the Enhanced AMHS Service alternative, and \$9.3 million for Alternative 4C. Alternative 4C includes two ACFs providing daily service between Juneau and Haines and Juneau and Skagway.<sup>4</sup>

Costs are more difficult to estimate than revenues given uncertainty around labor agreements, fuel prices, where vessels are home-ported, and other factors. Past experience and modeling indicate costs will exceed revenues, but costs are expected to be lower than under the status quo. The 2013 *Day Boat ACF Design Study Report*, prepared by Elliott Bay Design Group, estimated total annual ACF operating costs at approximately \$10 million.<sup>5</sup> The current AMHS structure does not break out costs by route, but a prior study estimated that in FY2012, AMHS spent \$17.2 million providing service in NLC, excluding shore-side costs. Per-mile costs of operating dayboat ACFs in NLC are likewise expected to be lower than under the status quo. Based on annual operating cost data provided in the *Design Study Report*, day boat ACF costs are expected to average \$173 per mile for Juneau-Haines service and \$336 per mile for Haines-Skagway service, as measured in 2013 dollars.<sup>6</sup> By comparison, FY2012 NLC service had an average estimated per-mile cost of \$527.<sup>7</sup>

Lynn Canal ferry traffic over the past ten years has included over 120,000 passenger movements annually and 39,000 vehicle movements. These are measures of total volume between Lynn Canal ports, regardless of point

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<sup>4</sup> [http://dot.alaska.gov/sereg/projects/juneau\\_access/assets/SDEIS\\_JAN05/SDEIS\\_2.pdf](http://dot.alaska.gov/sereg/projects/juneau_access/assets/SDEIS_JAN05/SDEIS_2.pdf), p. 2-26

<sup>5</sup> Cost estimate based on service seven days per week for a 20-week summer period and four days per week for a 28-week winter period. The estimates include a four-week overhaul. The summer schedule assumes one boat would make a Juneau-Haines round trip each day, while the other vessel would make two Haines-Skagway trips.

<sup>6</sup> The Juneau-Haines estimate is based on 252 total round trips of 132.5 nautical miles, for a total of 33,390 nautical miles traveled, with total annual cost of \$5.76 million. The Haines-Skagway estimate is based on 504 total round trips of 25.2 nautical miles, for a total of 12,701 nautical miles traveled, with total annual cost of \$4.27 million.

<sup>7</sup> Based on a total of 32,800 service miles.



of origin or final destination. The following table provides link volumes for the years 2009 through 2018. In 2018, bi-directional traffic between Haines and Skagway included 41,034 passengers and 15,345 vehicles. Bi-directional traffic between Juneau and Haines totaled 61,282 passengers and 23,376 vehicles. Bi-directional traffic between Juneau and Skagway is relatively low (8,818 passengers and 2,153 vehicles in 2018) because most northbound and southbound service goes through Haines.

**Table 1. AMHS Lynn Canal Link Volume Traffic, 2009-2018**

	PASSENGERS				VEHICLES			
	Skagway/ Haines	Haines/ Juneau	Skagway/ Juneau	Total	Skagway/ Haines	Haines/ Juneau	Skagway/ Juneau	Total
2009	40,908	76,181	4,623	<b>121,712</b>	12,699	23,575	1,128	<b>37,402</b>
2010	41,775	79,386	3,543	<b>124,704</b>	13,343	23,943	898	<b>38,184</b>
2011	40,838	80,665	1,521	<b>123,024</b>	12,964	24,783	299	<b>38,046</b>
2012	44,318	83,434	511	<b>128,263</b>	14,209	26,022	93	<b>40,324</b>
2013	46,106	83,867	606	<b>130,579</b>	14,373	26,291	81	<b>40,745</b>
2014	41,932	79,889	800	<b>122,621</b>	12,896	24,774	182	<b>37,852</b>
2015	39,624	73,289	1,338	<b>114,251</b>	12,694	23,591	406	<b>36,691</b>
2016	32,569	66,693	10,037	<b>109,299</b>	11,453	23,667	2,677	<b>37,797</b>
2017	43,531	74,522	877	<b>118,930</b>	15,560	27,017	175	<b>42,752</b>
2018	41,034	61,282	8,818	<b>111,134</b>	15,345	23,376	2,153	<b>40,874</b>

Source: AMHS.

The purpose of this brief overview of NLC ferry traffic, revenue, and costs is not to offer evidence that an independent ferry authority may be in the best interest of the region's communities. Rather, it is to illustrate that if state-provided service is expected to be substantially diminished or eliminated, the NLC region may have the geographic and market characteristics necessary to establish an independent ferry system, relying on some amount of ongoing state and federal financial support to cover the gap between operating revenues and costs.

# Ferry Governance Models

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This chapter introduces multiple ferry system governance models and explains why the Port Authority structure is the most suitable model for a standalone ferry system serving NLC. Key criteria for a suitable governance structure include:

- **Ability to access public funds:** Because independent ferry service is not expected to break even, let alone generate reserves for capital projects, access to federal and state aid is critical.<sup>8</sup>
- **Responsiveness to local communities' needs:** The community must retain some control to ensure service meets local needs for reliable, safe, affordable, and adequate marine transportation; and that the service's primary purpose is to provide a public benefit.<sup>9</sup>

While the private sector will continue to provide some passenger-only service in NLC and beyond that can fill important gaps when required,<sup>10</sup> the above criteria rule out a private ferry system as a suitable governance structure for the region's primary marine transportation service. Governance structures that merit consideration include:

- Municipal port (or ferry) authority
- Agency within local government (municipally owned/operated system)
- Agency within Tribal government
- Nonprofit corporation
- Public-private partnership

## Alaska Municipal Port Authority

Alaska's Municipal Port Authority Act (AS 29.35.600-730) enables a governing body of a municipality to create by ordinance a port authority as a political subdivision of the municipality. The governing bodies of two or more municipalities may create an authority by parallel ordinances. The voters of each participating municipality must approve the ordinance.

Key provisions of the Act include:

- If authorized in the enabling ordinance, an authority may borrow money and may issue bonds.
- An authority may exercise the power of eminent domain within its physical boundaries.

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<sup>8</sup> The federal Ferry Boat Fund and Federal Public Transportation Formula Grants, for example, which both provide aid to the AMHS, have restrictions on what types of entities are eligible to receive aid. Private corporations are not eligible for these and other key fund sources.

<sup>9</sup> The experience of the BC Ferry system is illustrative. In 1988, BC Ferries sold its Seattle-Victoria ferry to a private company. That company soon stopped providing service, claiming losses of \$10 million. In the three years that passed before the government reinstated service, businesses in Victoria reported losses of millions of dollars in revenues due to lack of ferry service.

<sup>10</sup> Haines Skagway Fast Ferry provides seasonal passenger-only service between Haines and Skagway. Alaska Fjordlines, Inc. provides seasonal passenger-only tour service between Skagway, Haines and Juneau. Allen Marine Tours has provided occasional passenger-only service independently or under contract with AMHS to northern Southeast communities such as Angoon and Gustavus.

- An authority may not levy an income or other tax.
- An authority is governed by a board of directors, with the enabling ordinance specifying the number, qualifications, manner of appointment or election, and terms of members of the board.
- The board appoints a chief executive officer of the authority who serves at the pleasure of the board.
- An authority is subject to state open meetings and public records laws.
- An authority is tax-exempt.
- The state and municipalities are not liable for the debts of the authority. Bonds issued by the municipality are payable solely from the revenue of the authority and do not constitute an obligation of the state or a municipality.
- The authority is required to submit to its governing body a development plan for the project the authority would operate. Each participating municipality must approve the development plan. The authority may not undertake construction or acquisition of a project unless the project appears in an approved development plan.
- Collective bargaining agreements for employees of the state or its political subdivisions who transfer to an authority remain in effect for the term of the agreement or for a period of one year, whichever is longer, and are binding on the authority unless the parties agree otherwise.
- Legislative approval is required for conveyance or transfer to an authority any asset of the AMHS or other state asset.
- The enabling ordinance must provide for dissolution. If an authority ceases to exist, its assets are distributed to participating municipalities proportionate to their contributions less any outstanding debt or obligation to the authority, after satisfying any obligations to bondholders.

An example of a functioning port authority in Alaska that provides ferry service is the IFA, based on Prince of Wales Island, with six member-communities. The IFA connects with AMHS service in Ketchikan, receives state and federal funding, and serves as an applicable model in multiple respects for a potential NLC ferry authority. See the IFA case study chapter for more detail.

### **Advantages**

- Management and operational autonomy.
- Shared responsibility across municipalities.
- Board structure ensures responsiveness to community needs.
- Municipalities are shielded from liability.
- Authorities are eligible for state and federal funding and are tax-exempt.
- The IFA provides a model and lessons for an NLC authority.

### **Challenges**

- Only municipalities may join a Port Authority. This excludes potential partners such as Tribal entities, which could potentially access federal Tribal transportation funds and offer other benefits and expertise.

- Establishing and maintaining alignment and cooperation between participating municipalities requires time and political effort.
- If employees from AMHS formally transfer to an NLC authority, maintaining existing contracts for a term of one year or longer could limit flexibility, at least initially.

**Recommendation:** A port (ferry) authority appears to be a suitable governance structure for an NLC ferry service.

**Note about mission clarity:** One possible variation of the ferry authority model would be “housing” a ferry service within a traditional port authority that has a broader mission than providing ferry service alone. Those broader responsibilities might include management of cruise ship, freight, and boat harbor facilities. Ferry authorities are created under Alaska’s Municipal Port Authority Act, so ferry authorities and port authorities have the same legal framework and same legal connection to the municipality or municipalities that create them.

A local port authority would presumably be created as a self-supporting entity, with port user fees covering administration and operations costs (akin to CBJ Docks & Harbors, which operates as an enterprise fund without any local property or sales tax subsidy). Housing a regional ferry service within this type of port authority would preclude break-even operations for the authority overall, and it might be more difficult for a broad-purpose port authority to access state and federal funds to support a ferry system than a standalone ferry authority.

A multi-community port authority would likely be politically unworkable, given communities’ differing and potentially competing port operations and development needs. Establishing a port authority on its own would leave Skagway with all the financial risk and responsibility.

On balance, it is difficult to see any advantage of placing an NLC ferry system within a broader port authority.

## Municipally Owned/Operated Ferry

A municipally owned and operated ferry system would be a division of Skagway’s government. City managers could choose to contract out certain elements, but ultimate decision-making and financial responsibilities would rest with the city.

### Advantages

- Management and operational autonomy.
- Eligibility for federal and state funding.

### Challenges

- Full responsibility for management of a complex system.
- Full financial responsibility for system.
- No structured partnership with Haines and Juneau or structured relationship with the state; may have weaker negotiating power with state than an authority would have.
- Little applicable precedent or model in Alaska.

An example of a successful municipally owned ferry system in Alaska is the Ketchikan airport ferry, which operates two vessels running twice-hourly between Revillagigedo Island, where the community is located, and Gravina Island, where the airport is located. Financially and administratively, the ferry is part of the municipality's airport system. Two attributes of Ketchikan's ferry make it more suitable for municipal ownership than the NLC service under consideration.

- **Limited operating range:** The Ketchikan system operates one short-distance route entirely within the bounds of the Ketchikan Gateway Borough; NLC service would serve multiple routes and multiple boroughs.
- **No state funding required:** The Ketchikan system breaks even without state operating support; NLC costs would exceed revenues under any acceptable operating model, therefore the system requires ongoing state and federal support.

Another Alaska municipally owned ferry met a different fate. The Mat-Su Borough took ownership of an \$80-million vessel it hoped to use in Knik Arm between Port Mackenzie and Anchorage. Ferry terminals were never built, and the borough sold the ferry for \$1.75 million after spending more than \$12 million for storage and repairs on a boat it never put into service.<sup>11</sup> While the debacle is a cautionary tale about shouldering such responsibilities, a critical difference is that Mat-Su hoped to establish a new service lacking infrastructure and known demand, while Skagway and potential partner communities would be taking over service on existing high-demand routes using existing infrastructure.

**Recommendation:** Municipal ownership of an NLC ferry system is not ideal for Skagway given the complexity and range of the system, and the expectation of ongoing need for state funding. Skagway's tax base is too small to absorb the costs and risks of such a system.

## Agency Within Tribal Government

A Tribally owned and operated ferry system is theoretically a possibility for NLC service. The Seldovia Village Tribe owns and operates the Seldovia Bay Ferry, a 150-foot catamaran that provides 45-minute service between Seldovia and Homer.<sup>12</sup> Its mission is "to provide a social and economic benefit to Seldovia and the Kachemak Bay region through the operation of passenger and light freight ferry service home ported in Seldovia." It does not transport vehicles.

Tribes are eligible for certain federal funds that municipalities alone cannot access.<sup>13</sup> In addition, Tribes can offer valuable local knowledge, political connections, and interested constituencies. Federally recognized Tribes in the NLC region include Chilkat Indian Village (Klukwan), Chilkoot Indian Association (Haines), Douglas Indian Association, Skagway Traditional Council, and the largest Tribal entity in the region, Central Council of the Tlingit and Haida Indian Tribes of Alaska (CCHITA).

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<sup>11</sup> See Hollander, Zaz, "Mat-Su finally offloads 'free' ferry with \$12 million price tag," *Anchorage Daily News*, July 1, 2016.

<sup>12</sup> See <https://seldoviabayferry.com>.

<sup>13</sup> The Seldovia Bay Ferry was built with \$8.5 million in federal appropriations from the Bureau of Indian Affairs, the Federal Highway Administration, and the Federal Highway Administration Ferry Boat Discretionary Fund.

## Advantages

- Access to federal transportation funds limited to Tribes.
- Limited financial risk or management responsibility for Skagway and other communities in NLC.
- Could have greater operational flexibility.

## Challenges

- Lack of control for Skagway and other communities.
- Tribal transportation funding is limited, both nationally and in Alaska; is fully allocated to other Tribal transportation need; and as now distributed, likely insufficient to provide the necessary subsidy for ferry service in NLC.
- It is unknown whether a Tribe has the interest and capacity to take on the service.

**Recommendation:** Tribal organizations and their membership are stakeholders in regional ferry services. If development of a locally or regionally control ferry service becomes a necessity, it is recommended Tribes in the region be engaged in conversation to better understand their constituents' marine transportation needs; and how Tribes and municipalities might partner to boost the region's collective political, financial, and social power in ensuring adequate transportation for the region.

## Public-Private Partnership

Several public-private partnership arrangements are conceivable for an NLC ferry service. The appeal of private sector participation is a more business-like approach, with a profit motive potentially resulting in better marketing, improved scheduling and reservations systems, greater coordination with tourism businesses and other transportation providers, more creative packaging and add-on services, and other practices that could improve the revenue-to-cost ratio in NLC. While private participation could take several forms (discussed below) all public-private arrangements would require a "public" role akin to those governance models described previously in this report.

**Public ownership and governance with contracted private operations:** An NLC ferry authority could contract out ferry operations to a private firm, though cost-savings to the authority, if any, are unclear. Private involvement adds a profit expectation. That private-sector profit requirement may or may not pay for itself through more efficient, cost-effective, and capable management than the public entity can provide on its own. Contracted operations would also mean less local control over service quality. Whatever entity serves as the "public" part of the partnership (e.g., division of state or local government) must have the same key attributes – access to public funds and responsiveness to local communities' needs – as the ferry authority model.

**Private for-profit ownership with public funding support:** If publicly-supported ferry service were to cease in NLC, it is likely the private sector would respond in some way. Private service would likely offer lower levels of service, with passenger service provided by passenger-only vessels, and vehicle service provided by barges or limited-capacity landing craft. Fares would most likely be higher and service frequency lower and less reliable (more weather-dependent), with potentially little-to-no service in winter due to low demand and weather challenges.

Levels of service that NLC communities are accustomed to and that meet the basic needs of those communities would only be possible if private operators were contracted to provide specific levels of service. If long-term service contracts were available from the State of Alaska, such contracts might support private investment in passenger and vehicle ferries similar to those that have traditionally served the area and are well-suited for providing reasonably reliable NLC service. This model would provide little local control, beyond that which the State might tie to a contract. Further, it is unclear that the State could or would enter into a contract of duration (ten years or more) sufficient to attract private investment in NLC ferries.

**Private nonprofit ownership with public funding support:** A complex governance model that includes incorporated nonprofit participation is conceivable, where a nonprofit entity would own and operate the ferry system. Articles of incorporation for such a nonprofit would need to establish a governing board of directors with equal representation from the communities served by the ferry system.

Several rural transit providers in Alaska operate under an incorporated nonprofit model. One example is Central Area Rural Transit System, Inc. (CARTS), a public transportation provider for the Central Kenai Peninsula area. Funding varies year-to-year and sources include Federal Transit Administration (FTA) grant funds, state and local matching funds, and rider fees. (See the Revenue Sources chapter of this report for further discussion of FTA funding.) There is little evident advantage in this model for NLC, however, as access to necessary state and federal funding would be weakened, and local control diminished relative to the ferry authority model.

### **Advantages**

- Potentially offers a more business-like approach, with a profit-motive incentivizing better marketing and cost control.

### **Challenges**

- Responsiveness and accountability to the public may be weakened compared to public model.
- Profit-motive could lead to cost-cutting resulting in reduced service frequency or quality, particularly in winter.
- Public funding would still likely be needed, and possibly at higher levels due to expectation of profit from private partner.
- Long-term contracts with the State may be required to ensure private participation.

**Recommendation:** While a public-private partnership could take a variety of forms, most appear to diminish local control over an NLC service while still requiring public funding, thus this model appears to be less optimal than an authority model.

# Funding Sources

Ferry service in NLC has potential to generate substantial fare revenues. As noted in the Introduction, a recent McDowell Group estimate placed total potential fare-box revenue at \$7.9 million. The actual amount of operating revenue generated by an independent NLC ferry service would depend on a variety of factors, including pricing, service schedules, marketing and market development strategies, and other factors. It is also evident that some amount of public support would be required to operate the system and to fund capital expenditures. This chapter describes the various sources of public funding that may be available to support NLC ferry service.

## Federal Government

### Federal Construction of Ferry Boats and Ferry Terminal Facilities Formula Program (FBP)

The Ferry Boat Program (FBP) is a key source of federal funding for publicly owned ferry systems in the U.S. The FBP provides federal funding for construction of ferries and ferry terminal facilities and projects that extend the useful life of ferries and ferry facilities. The FBP requires a 20% match.

Funding is distributed using a formula that factors in traffic served and route distance (35% based on the number of ferry passengers, 35% on the number of vehicles carried, and 30% on the total route nautical miles). Total authorized annual funding through FFY2020 is \$80 million. A total of \$73.4 million was distributed in FFY2018, including \$17 million to Alaska. AMHS received 98% of Alaska’s share in FFY2018. IFA has received an annual average of \$167,000 over the past six years.

**Table 2. Federal Ferry Boat Program Formula Funds for Alaska, FFY2013 to 2018**

	2013	2014	2015	2016	2017	2018
<b>AMHS</b>	\$18,010,175	\$17,858,090	\$17,745,183	\$17,277,114	\$16,913,670	\$16,650,353
<b>Ketchikan Gateway Borough (airport ferry)</b>	\$143,613	\$142,401	\$141,500	\$268,271	\$262,209	\$188,455
<b>Inter-Island Ferry Authority</b>	\$185,402	\$183,837	\$182,674	\$147,057	\$143,168	\$160,892
<b>Halibut Cove Ferry Narrows Company, Inc.</b>	\$22,856	\$22,663	\$22,520	-	-	-
<b>Alaska Total</b>	<b>\$18,362,046</b>	<b>\$18,206,991</b>	<b>\$18,091,877</b>	<b>\$17,692,442</b>	<b>\$17,319,047</b>	<b>\$16,999,700</b>

Source: US Dept of Transportation, Federal Highway Administration.

To qualify for FBP funding:

“The ferry boat or ferry terminal facility shall be publicly owned or operated or majority publicly owned if the Secretary determines with respect to a majority publicly owned ferry or ferry terminal facility that such ferry boat or ferry terminal facility provides substantial public benefits.”

FBP funding is not available for privately owned of ferry facilities:



"Any Federal participation shall not involve the construction or purchase, for private ownership, of a ferry boat, ferry terminal facility, or other eligible project under this section."

The program requires fares charged be under the control of a public entity:

"The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State or other public entity, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, repair, debt service, negotiated management fees, and, in the case of a privately-operated toll ferry, for a reasonable rate of return (23 U.S.C. 129(c)(4))."

For purposes of the FBP, a public entity "includes Federal, State, or local governmental agencies, Tribal governments, and organizations established by Federal, State, or local law with control of ferry boat services, including routes and fares. A public entity does not include any other "not-for-profit organization."<sup>14</sup>

It is important to note that federal funds would flow through the state to an NLC operator. Any transportation project, including ferry boat and ferry terminal projects, requiring federal funding must be included in the state's current four-year Statewide Transportation Improvement Program (STIP). Projects nominated for the STIP are first reviewed and scored by regional DOTPF planning offices, with the highest-ranking projects from each region forwarded to the Project Evaluation Board (PEB) for its review and priority ranking. Ranking and selection is based on consistency with Alaska's Statewide Long Range Transportation Plan, as well as administrative and legislative priorities.

An NLC service, if eligible, could expect to receive approximately \$3 million in FBP funds annually.<sup>15</sup> This assumes current national FBP funding level of \$80 million, and no change in the number of eligible programs, over which a fixed amount of funds are distributed. Note that in recent years, the number of systems applying has increased, resulting in slightly decreased allotments to participants.

Passenger traffic in the NLC region accounts for about 25% of total AMHS passenger traffic and 20% of vehicle traffic volume. Whatever share of FBP funds an NLC ferry authority might receive, AMHS can be expected to see a decrease of about the same amount.

## **Federal Transit Administration Grants**

### **FORMULA GRANTS FOR RURAL AREAS (5311)**

The Formula Grants for Rural Areas (5311) program provides capital, planning, and operating assistance to rural public transportation providers. "Rural" is defined as areas with populations of less than 50,000. Funds are distributed to states and federally recognized tribes, then to subrecipients including state and local government authorities, nonprofit organizations and operators of public transportation services. A 20% match is required for capital and planning projects and 50% match for operating assistance;<sup>16</sup> however, Alaska's match is reduced

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<sup>14</sup> For more information, see the U.S. Department of Transportation Federal Highways Administration's Ferry Boat Program Implementation Guidance, [https://www.fhwa.dot.gov/specialfunding/fbp/161212\\_guidance.pdf](https://www.fhwa.dot.gov/specialfunding/fbp/161212_guidance.pdf).

<sup>15</sup> McDowell Group estimate.

<sup>16</sup> See Federal Transit Administration, "Formula Grants for Rural Areas – 5311," <https://www.transit.dot.gov/rural-formula-grants-5311>.

due to a provision in federal code raising the federal share for states with high proportions of designated public lands. Alaska’s federal share is 90.97% for capital grants and 56.86% for operating grants.<sup>17</sup>

Four categories of expenditures are eligible for funding; capital projects, operating activities, project administration and training. IFA has regularly received funding through this program for administration expenditures. Qualifying administration expenditures include salaries of administrative staff, marketing expenses, office supplies, and other expenditures. IFA’s state fiscal year (SFY) award for 2020 is \$780,369.

**Table 3. Federal Rural Transit Funding to IFA, SFY2011 to 2020**

2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
\$272,866	\$263,049	\$291,618	\$383,303	\$364,010	\$727,309	\$727,309	\$727,309	\$727,309	\$780,369

Source: DOTPF, Alaska Community Transit.

Funds are distributed to states based on a formula that includes land area, population, revenue vehicle miles, and low-income individuals in rural areas. A total of \$7.7 million was awarded to Alaska recipients in SFY2020. In addition to IFA, other recipients include City and Borough of Juneau, Ketchikan Gateway Borough, and Valley Transit, each receiving \$1.1 million. Eight other transportation providers in Alaska received lesser amounts.

In SFY2019, the State appropriated \$259,918 in state funds to the state’s 12 recipients, providing 8.06% of each recipient’s required match for operating grants, with a minimum state allotment of \$2,000 per recipient. IFA received \$5,819 toward its required match of \$72,195.<sup>18</sup>

### TRIBAL TRANSIT GRANTS

Though there is no avenue for Tribes to be formal members in a municipal port authority, it is useful to recognize their governmental authorities and responsibilities, and the funding available to Tribes to support transportation services and facilities. There are discretionary and formula grant funds available to Tribal entities.

Alaska Tribes received a total of approximately \$1.8 million in transit program discretionary grant funds in FY2018. Included in that total was \$188,100 to Hydaburg Cooperative association “to purchase a multi-use ferry boat that will provide both emergency transportation and transit services between the island and community of Ketchikan to access jobs, healthcare and other services.” Seldovia Village Tribe received \$299,937 to “replace the Seldovia Bay ferry dock, helping maintain its only public transportation system as well as freight services between Seldovia and Homer.”<sup>19</sup> Discretionary grant funding may be used for “capital projects; operating costs of equipment and facilities for use in public transportation; and the acquisition of public transportation services, including service agreements with private providers of public transportation services.”

In FY2018, Alaska Tribal entities received approximately \$46 million in Tribal Transportation Program (TTP) formula funding (approximately 12% of the national total). Tribal organizations in the NLC area (Skagway,

<sup>17</sup> See Federal Transit Administration, “Formula Grants for Rural Areas: Program Guidance and Application Instructions” (Nov. 24, 2014), [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA\\_Circular\\_9040\\_1Gwith\\_index\\_-\\_Final\\_Revised\\_-\\_vm\\_10-15-14%281%29.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Circular_9040_1Gwith_index_-_Final_Revised_-_vm_10-15-14%281%29.pdf).

<sup>18</sup> See AlaskaTransit, Alaska Dept. of Transportation & Public Facilities, “State Legislative Match - \$500,000 SFY2019,” <http://dot.alaska.gov/stwdplng/transit/pub/ASGF-SFY2019-Match-Recommendations.pdf>.

<sup>19</sup> See Federal Transit Administration, “2018 Tribal Transit Competitive Projects,” <https://www.transit.dot.gov/funding/grants/grant-programs/fiscal-year-2018-tribal-transit-competitive-projects>.

Haines, Klukwan, Juneau, and Douglas) received a total of just under \$2 million in FY2018, ranging from about \$33,000 for Skagway Village to \$960,000 for Chilkoot Indian Association in Haines.<sup>20</sup>

The formula used to determine grant awards is based on eligible road miles, tribal population, and previous years' distributions. Among other transportation-related projects, TTP funds can be used for operation and maintenance of transit programs and facilities that are located on or provide access to Tribal land, or are administered by a tribal government.

NLC Tribal organizations and their membership are stakeholders in regional ferry services. A collaborative outreach to Tribes would be warranted in the planning and development of a regional ferry service, regardless of any funding support that might be possible, should an independent regional ferry authority be developed.

## **Other Federal Funds**

Other federal funds potentially available to support a ferry system in NLC are limited to capital projects (i.e., not in support of operations). Publicly owned ferries and terminal facilities may be eligible for federal Surface Transportation Program (STP) funds and National Highway Performance Program (NHPP) funds. Appropriations from these sources for ferries in Alaska vary from year to year and are project-specific. Ferry projects compete with highway projects for funding from Alaska's share of national STP and NHPP funding.

Access to federal funds for transportation projects is through DOTPF. Any transportation project (including ferry and ferry terminal projects) where federal funding is being sought must be included in the State's four-year Statewide Transportation Improvement Program (STIP). Projects nominated for the STIP are first reviewed and scored by regional DOTPF planning offices, with the highest-ranking projects from each region forwarded to the Project Evaluation Board (PEB) for its review and priority ranking. Ranking and selection is based on consistency with the Alaska's Statewide Long Range Transportation Plan, as well as administrative and legislative priorities.

Over the long-term, an NLC ferry authority would need to compete for and secure capital funds from these federal programs for vessel overhauls, repowers, and terminal improvements.

## **State Government**

State of Alaska General Fund (GF) support for AMHS has declined from \$124 million in FY2013 to \$46 million in FY2020, including a drop of \$40 million between FY2019 and FY2020. The political appetite statewide for funding AMHS is clearly in decline. Nevertheless, an NLC ferry authority would require some measure of GF support, which might be politically palatable only to the extent that it contributes to an equal or greater decline in need for state support for AMHS.

An NLC ferry authority would need to request and advocate for state funds each year with executive officials and lawmakers. The first step would be to provide a written budget request and justification to officials in DOTPF

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<sup>20</sup> See U.S. Dept. of Transportation, Office of Tribal Transportation – Finance, "Tribal Shares for FY18," <https://flh.fhwa.dot.gov/programs/ttp/finance/documents/Tribal-Shares-FY18.pdf>.

and the Office of Management & Budget in the late summer or fall as the Governor's budget request (due to lawmakers December 15) is built. In addition to state funds, the authority would need to ensure any anticipated federal funds are included in the budget request, as those dollars pass through the state and require a valid appropriation.

The IFA provides an example for how this might work. While AMHS operating funds are appropriated in the operating budget, the IFA's state dollars are treated as a grant, and appropriated to the DCCED Division of Community & Regional Affairs in the capital budget. Lawmakers build the capital budget from scratch each year, while they use the prior fiscal year as a base for the operating budget.

Inclusion in the Governor's budget request generally improves the chances of legislative approval and of avoiding a veto. The IFA made a five-year agreement with former Gov. Sean Parnell to include annual funding of \$250,000 in his budget request. Gov. Bill Walker discontinued, then reinstated the agreement, which Gov. Mike Dunleavy discontinued. Note that the final FY2020 budget includes \$250,000 for the IFA.

## **Municipal Government**

Financial support from NLC member municipalities for a ferry authority is an option. Local General Fund revenues derived from sales and/or property taxes could be used, though this would likely require an increase in sales or property tax rates or cuts to other municipal services. A portion of bed tax revenue could be directed to a ferry authority, though this too would require an increase in the tax rate or reduced funding for programs or services otherwise funded by bed tax revenue.

Any significant local cash contribution would likely only be politically palatable if all other funding together (fare box revenues, FTA funds, and State General Funds) were inadequate to support local needs for ferry service. Because a substantial reduction in ferry service would be economically damaging to NLC communities, worst-case-scenario funding planning would be warranted at some point in the planning process. It is possible that future State GF support might be contingent upon a local match. Note that IFA does not and cannot rely on funding from local communities, which have very small economies and limited tax bases.

Municipalities could also offer in-kind or low-cost support. For example, local convention and visitors bureaus might offer marketing support for a ferry authority, reducing the authority's direct expenses for such activities. Municipalities could offer services and support such as office space, facilities maintenance, or professional services support.

Some amount of municipal funding may be required for the long and complex process of creating a ferry authority (federal and state funding might also be available to fund that process).

# Case Study: Inter-Island Ferry Authority

The IFA serves as a useful case study for a potential NLC ferry system. It is Alaska’s only Port Authority organized under Alaska’s Municipal Port Authority Act and offers lessons for future authorities. It is important to consider the many differences between the IFA and Lynn Canal service areas, as well as the different state political and fiscal climate under which the IFA was established. These issues are discussed in more detail below, after a general description of the service and organization.

## Service and Traffic

The IFA provides service between Hollis, located on Prince of Wales Island, and Ketchikan, Alaska. An IFA ferry travels round-trip once-daily between Hollis and Ketchikan, departing Hollis at 8:00 a.m. and Ketchikan at 3:30 p.m. One-way travel time is three hours. It costs adults around \$50 to ride the IFA each way, and a 16-foot vehicle costs about \$200 each way. Annual traffic has been reasonably consistent in recent years, averaging just under 43,000 passengers and 9,700 vehicles over the five-year period from 2014 through 2018.

**Table 4. IFA Passenger and Vehicle Traffic, 2014 to 2018**

	Passengers	Vehicles
2014	40,774	9,383
2015	43,080	9,776
2016	43,838	9,802
2017	44,577	10,087
2018	41,519	9,464
5 Year Ave.	42,758	9,700

Source: Inter-Island Ferry Authority.

## Vessels

IFA owns two vessels, the primary vessel M/V Stikine and the M/V Prince of Wales, used as back-up during maintenance. They are 95 gross tons, 198’ in length with a 51’ beam. Both vessels have bow thrusters and twin 1500 horsepower diesels. Their surface speed is 15 knots. The Stikine has a capacity of 190 passengers and up to 30 vehicles; the Prince of Wales has a capacity of 160 passengers and up to 30 vehicles. The vessels were constructed for the IFA.

## History

IFA was established in 1997 under the Municipal Port Authority Act. The IFA development plan included both the Hollis-Ketchikan (Southern Route) and Coffman Cove-Wrangell-Petersburg (Northern Route) routes. The IFA received support for both routes from DOTPF in 1998. Alaska’s Congressional Delegation secured funding for the two planned IFA vessels. The M/V Prince of Wales began daily scheduled round-trip service between Hollis and Ketchikan in January 2002. The M/V Stikine provided daily summer-only service between Coffman Cove, Wrangell, and Petersburg from 2006 to 2008. Low ridership and resulting budget concerns resulted in suspension of the Northern Route.

## Governance and Staffing

IFA's member municipalities are Craig, Klawock, Hydaburg, Thorne Bay, Coffman Cove, and Wrangell. Petersburg was originally a member but withdrew in 2012. Member communities have no individual authority over the Port Authority. The six member communities each have one seat on the IFA board of directors, along with one at-large position. The at-large member must be a resident of an Alaska municipality anywhere in the state. The at-large member is decided by vote of the other board members. Board members serve staggered four-year terms. The board of directors meets quarterly, plus special meetings as needed.

IFA has 28 to 30 people on payroll. Three managers work under the General Manager: operations manager, port engineer, and terminal manager. Additional staff members include vessel crews, terminal crews, and maintenance workers. Each vessel operates with a crew of five.

## Budget and Funding

IFA's budget is \$3.7 million for FY2020. In terms of revenues, approximately \$2.8 million (75%) is from ticket revenue, and the bulk of the remainder (21%) is from a Federal Transit Authority 5311 (rural) grant. In terms of expenses, vessel operations account for \$2.1 million (56%); administration for 17%; engineering and maintenance for 15%; and terminal activities for 10%. Wages and benefits are part of each of these categories; in total, they account for \$2.2 million (59%) of expenses.

**Table 2. IFA Budget, Fiscal Year 2020**

	Revenues/Expenses
<b>Total Revenue Expected FY2020</b>	<b>\$3,713,850</b>
<b>Operating Revenue</b>	<b>\$2,801,565</b>
Food and beverage concession	9,075
Ferry revenue – South Route	2,769,510
Marketing income	20,000
Misc. income	1,000
Interest Income- Money Market Savings	1,980
<b>Other Revenue</b>	<b>\$912,285</b>
Profit sharing from insurance	8,100
FTA 5311 Grant FY 2018	780,369
Mis. One-time grant	40,000
SOA Designated Grant-Operations	83,816
<b>Total Expenses Expected FY2020</b>	<b>\$3,713,850</b>
Vessel operational expense	2,082,031
Vessel payroll expense	727,899
Vessel payroll tax/benefit expense	447,444
Fuel expense	673,750
Ops vessel insurance	91,005
Vessel support utilities	58,500
Crew meals	21,200
Other	62,233
Terminal activities	364,100
Engineering and maintenance activities	570,598
Administrative activities	648,696
Marketing activities	25,690
Contracted services activities	22,735

Source: IFA.

# Challenges and Opportunities

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This chapter summarizes key challenges and opportunities associated with developing and operating an independent ferry authority in NLC.

## Challenges

### State Budget Environment

Alaska's current fiscal and political environment creates uncertainty for virtually all entities that rely on state aid. In addition, the timing of final budget approval has stretched later in recent years, further exacerbating uncertainty and making it difficult for agencies to plan ahead. This is particularly difficult for systems providing ferry service, which must publish and adhere to a schedule and tariff structure well in advance of service delivery. Unreliable service, late schedule releases, and schedule changes reduce ridership, and contribute to a cycle of diminishing revenue and service.

To the extent an independent NLC service is able to increase revenues through the farebox and other means, and control costs, it may be possible to reduce reliance on state funding. However, as a new service and one with a relatively small constituency, significant education and advocacy would be required to ensure adequate state support.

### Labor Costs

Crewing requirements and related costs are an important financial consideration for any ferry service. Achieving meaningful reductions in NLC ferry service costs relative to traditional AMHS service will require transition to the day boat service that Alaska Class Ferries were designed for. The Day Boat ACF Design Study Report described crewing requirements as such:

"In summary, a vessel crew of nine persons is recommended for safe operations. Since the vessel will not have a crew aboard beyond the 12-hour limit, a dedicated night crew will also be required to provide vessel security, cleaning and routine daily maintenance when not operating. On the Juneau – Haines route, the minimum night crew is estimated to be three people, one for security and two for vessel cleaning and maintenance. On the Haines – Skagway route, given the shorter time underway, maintenance is expected to be handled entirely by the ship's crew, thus one security person is expected to be sufficient as the night crew."<sup>21</sup>

The IFA's two vessels, with capacity for 30 vehicles and 160 to 190 passengers, respectively, each operate with a crew of five. Alaska Class vessels have capacity for 300 passengers and 53 vehicles.

ACF service between Auke Bay and Haines/Skagway would be right at the edge of a 12-hour service day, and likely over including pre- and post-sailing time to load and unload. Depending on the schedule and whether

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<sup>21</sup> Day Boat ACF Design Study Report, July 10, 2013. Page 10. Elliott Bay Design Group.

USCG exemptions might be granted, it may be necessary for vessels to overnight away from their home port, which would add costs and logistics of lodging employees overnight.

Whether employing union workers or not, efforts to reduce labor costs must be balanced against the imperative to recruit and retain a qualified labor force, and the benefits of good employee morale. As noted below, a “reset” on labor relations can potentially be a win-win in this regard.

If current AMHS employees transfer to a port authority, labor agreements would remain in place for one year or the remainder of the contract term, whichever is longer.<sup>22</sup>

## **Transition Time**

Any major change in government structure takes time. It took the IFA five years from formation of a Port Authority until ferry service began. It is possible a transition in NLC could take place faster because the infrastructure, routes, and demand are established, but expectations should be managed. A successful transition will require significant planning and adherence to legal, fiduciary, and political processes that may be slower than expected.

## **Infrastructure**

The AMHS has evolved piecemeal, and as a result there is little standardization of boats or terminals. ACFs, which this analysis assumes would service an NLC system, lack crew quarters and as such are limited to a 12-hour shift in any 24-hour period.<sup>23</sup> While day boat operation is expected to reduce labor costs, it limits routing options. In an effort to reduce turnaround time, the vessels were built with both bow and stern doors to facilitate more efficient vehicle loading and unloading. However, the vessels were built without side loading doors, and the Haines and Skagway terminals currently accommodate side loading only. In Auke Bay, one berth accommodates end loading. The AMHS is addressing the mismatch by installing starboard forward side vehicle loading doors on both ACFs during the winter of 2019-2020. Plans to add end berth mooring structures at the Haines and Skagway terminals have been dropped. In Auke Bay, a project is underway to upgrade the existing marine structure to better accommodate the ACFs during winter high-wind conditions.

Other possible solutions require further capital investment and have other implications. These include constructing a terminal at Cascade Point, which considerably shortens the run to Juneau but requires approximately 30 miles of remote road travel to reach Auke Bay for connections; and adding crew quarters to one or both ACFs,<sup>24</sup> offering flexibility to run beyond 12 hours a day but increasing operating costs. Finally, a U.S. Coast Guard waiver from the 12-hour restriction has been mentioned as a possible option.

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<sup>22</sup> Current union agreements can be found on the Alaska Department of Administration’s Labor Relations website at <http://doa.alaska.gov/dop/LaborRelations/unionContracts/>.

<sup>23</sup> The Juneau-Haines-Skagway-Juneau circuit is considered too long to meet U.S. Coast Guard regulations prohibiting mariners from working more than 12 hours in a 24-hour period, except in emergency.

<sup>24</sup> The outgoing administration of Gov. Bill Walker in late November 2018 authorized the modification of the two ACFs with the addition of crew quarters and forward side doors using funds currently in the Marine Highway Funds and Vessel Replacement Fund. The Dunleavy administration is moving forward with forward side doors but not crew quarters.



## Impacts on Alaska Marine Highway System

An NLC ferry system would have a complementary market relationship with AMHS. AMHS service is critical for passengers and vehicles transiting from Skagway and Haines to points south and west of Juneau, and vice versa. However, AMHS currently faces challenges that include budget cuts, schedule uncertainty, an aging fleet, and reduced political clout. Removing Lynn Canal service could potentially bolster the system by bringing new markets and passengers but could also weaken the AMHS by removing high-revenue-generating routes from the system and fragmenting the system and its constituency. In short, the overall impact on AMHS of removing NLC routes is complex and difficult to predict.

## Opportunities

### Geographic Location

Lynn Canal is a strategic location for a standalone system that complements AMHS service. Skagway's and Haines' connections to the North American road system provide critical links to and from Canada and the Railbelt for Alaskans, tourism, and industry. These strengths are reflected in historically strong ridership and revenue. There may be potential to further capitalize on this strategic location through enhanced coordination with businesses and neighboring communities in Canada.

### Strong Revenues and Revenue Potential

As a result of its strategic location and relatively high demand, Lynn Canal routes have strong revenues relative to other AMHS routes. The *AMHS Reform Project Phase 2* study found Juneau and Haines were the two highest revenue-generating Alaska ports in 2015. Embarkation at Lynn Canal ports accounted for 31% of total AMHS revenue in 2015 (cabin, car deck, and passage combined). Port pairs that include Haines or Skagway accounted for a total of \$14 million in revenue that year.

There are indications ridership and revenue could be higher if pent-up or unmet demand is met. There has been an increase in Alaska border crossings in the last five years, with more travelers on the highway. At the same time, AMHS service cuts and disruptions have limited the utility of the ferry system. Increased use may result if an NLC ferry system is able to provide more reliable and consistent service, and release schedules further ahead of sailing times.

As noted in the *AMHS Reform Project Phase 2 Report*, more than a third (37%) of visitors traveling on AMHS during the summer of 2016 planned their trip more than eight months in advance. Earlier booking opportunities would stimulate traffic among independent travelers, who tend to plan and book well in advance. In addition, most Alaska visitors prefer to purchase travel as part of a package that includes transportation, lodging, and often excursions and tours. It is virtually impossible within the current AMHS structure to include marine highway travel in a package. Tour companies print brochures 18 months in advance and need pricing, routing, and scheduling information prior to printing.<sup>25</sup>

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<sup>25</sup> Elliott Bay Design Group and McDowell Group, [AMHS Strategic Business and Operational Plan, Phase 2 Final Report](#), November 7, 2017.

Alaskans and Alaska businesses also report that they would be better able to use the ferry system with schedules published much further in advance than the AMHS is currently able to offer.

## **Reset Opportunity**

Establishing a new service offers an opportunity to reset systems and relationships. To benefit from this opportunity, an operator needs to approach NLC ferry service with an open mind and take advantage of all resources available. One such resource is AMHS labor and others in the region's maritime industry. In the Phase 1 AMHS Report, labor representatives reported frustration among employees who say they are an underused asset with ideas for improved processes and efficiencies.<sup>26</sup> A new system with a smaller management structure has an opportunity to establish strong two-way communication with labor and to benefit from workers' observations and expertise. Resetting labor agreements offers an opportunity to improve relationships as well as develop new terms that might better meet employees' and the operator's needs.

The reset opportunity applies to scheduling, marketing, fare-setting, enhanced revenue opportunities, partnerships with businesses and Tribes, and all other aspects of running a ferry system. A new system offers a blank slate for innovation, experimentation, and modernization.

## **Standardized Vessels, Simplified System**

As noted above, one of AMHS' weaknesses is its complex set of vessels, routes, and terminals. The *AMHS Reform Project Phase 1 Report* noted:

The complex mission of AMHS operation is further confounded by eleven different vessels, only some with similarities, and 35 ports that have a variety of configurations. Some vessels can only serve certain ports; a standardized class of vessels and terminal infrastructure would provide AMHS with more flexibility.<sup>27</sup>

While the current infrastructure configuration presents challenges, NLC has an opportunity to standardize vessels and docking systems within its smaller route system, potentially providing for increased efficiencies. This standardization within NLC appears to be occurring regardless of whether NLC remains in AMHS.

## **Buffer from Political Cycle**

As a line agency of state government, AMHS is run by an appointee of the state transportation commissioner, who in turn serves at the pleasure of the governor. As a result of this arrangement, management priorities and key personnel at AMHS tend to change frequently. This makes it difficult for the system to engage in long-term planning, and leads to such problems as non-standardized vessels, leadership turnover, and shifting priorities.

Removal from this political cycle could enable authority management to better set and execute long-term plans. A ferry authority's chief executive officer is hired and accountable to a board representing all member municipalities. Assuming authority board member terms and requirements are thoughtfully drafted,

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<sup>26</sup> See Elliott Bay Design Group & McDowell Group, [AMHS Governance Study, Phase 1 Final Report](#), Dec. 31, 2016 (p. 11).

<sup>27</sup> *Ibid* (p. 10).

management stability is expected to be greater under an authority than under the AMHS. The IFA, for example, had the same manager for more than 20 years.

## Next Steps

If circumstances merit further action toward establishing standalone ferry service in NLC, the following steps are advised. Please note that this does not constitute a recommendation to remove the region from AMHS service, but guidance on how to approach establishment of a ferry authority in the event that AMHS service ceases to meet the region's needs.

1. **Prepare and engage the community.** The following activities are recommended to ensure open communication, trust, and alignment among key parties exploring the option of creating a ferry authority.
  - **Familiarize the community with the governance concepts** described in this report through a series of town hall meetings or committee work sessions. Invite a guest speaker who has experience with the IFA. Invite residents from neighboring communities including tribal representatives.
  - Use the meetings as an opportunity to **identify community needs and concerns**. The Governor's AMHS budget for FY2021 and the AMHS "reshaping" consultant report (due to be released in December) may shed more light on the future of the system and the service Skagway can expect in the near future. Identify the levels of service the community is comfortable with for the following aspects of the local marketplace.
    - Personal/household needs such as health care, shopping, and regional travel, particularly in winter
    - Maintaining and supporting the existing summertime traffic demand, and
    - Connecting residents of other communities in Southeast to Yukon and the road system.
  - **Identify the route or routes** that are most in need of local support, if something less than a full NLC system is most needed.
  - **Identify key decision makers** in state government and neighboring communities.
  - **Meet with key state officials** to begin a dialog about establishing a separate NLC ferry service. Key officials include the commissioner of DOTPF and the AMHS director. Questions for consideration include:
    - Under what conditions would the state convey an ACF or other vessel to an independent operator?
    - When could this conveyance take place? What modifications to the vessels, if any, would the state complete before conveyance?

- Will the administration commit to requesting ongoing state and federal operating and capital funds for a NLC ferry authority?
2. **Develop a proposal**, including the following key tasks:
    - a. Identify vessels that would be available and suited to the selected route(s)
    - b. Create a business plan for the identified route or routes to see if an independent ferry would be financially viable. Funding likely will be required for this step.
    - c. Research legal requirements and outline the legal framework for the proposed ferry authority.
    - d. Develop a communications plan. Communications will be critical to building public support, managing expectations, and quashing misinformation. Reach out to key stakeholders such as the Marine Transportation Advisory Board, AMHS Reform Committee, Southeast Conference, local chambers of commerce and visitors bureaus, Native organizations, schools, businesses, and others who rely on the AMHS, including neighboring Canadian communities.

## Potential Subsequent Steps

If financial analysis and business planning suggest ferry operations are viable under an authority, and the community or communities wish to proceed with formation of an authority, the process would be:

1. **Draft enabling ordinance** in accordance with AS 29.35.605. The governing body of the municipality must adopt an ordinance specifying the powers, boundaries, and limitations of the port authority. The ordinance must also specify the number of board members, the manner in which board members are appointed, and their terms of office. Other participating municipalities, if any, must adopt parallel ordinances.
3. **Voters of each participating municipality** must approve the ordinance creating the port authority in order for the authority to be established.
4. **Board of directors is appointed** in accordance with enabling ordinances to govern the authority.
5. **Board adopts bylaws and regulations** consistent with the enabling ordinance to carry out its functions and purposes.
6. **Board hires a chief executive officer** to run the authority.

## IFA By-Laws

### BYLAWS OF THE INTER-ISLAND FERRY AUTHORITY Revised February 25, 2014

#### ARTICLE 1. PRINCIPAL OFFICE

##### SECTION 1.1. LOCATION

The principal office of the Inter-Island Ferry Authority is located at Clark Bay Ferry Terminal, Hollis, Alaska.

##### SECTION 1.2. CHANGE OF ADDRESS

The designation of the Inter-Island Ferry Authority principal office may be changed by amendment of these Bylaws.

##### SECTION 1.3. OTHER OFFICES

The Inter-Island Ferry Authority may also have offices at such other places, within Alaska, where it is qualified to do business, as its business and activities may require, and as the Board of Directors may, from time to time, designate.

#### ARTICLE 2. BOARD OF DIRECTORS

##### SECTION 2.1. POWERS

Subject to the provisions of the laws of Alaska and any limitations in the ordinance(s) establishing the Inter-Island Ferry Authority and these Bylaws, the activities and affairs of the Inter-Island Ferry Authority shall be conducted and all Inter-Island Ferry Authority powers shall be exercised by or under the direction of the Board of Directors.

##### SECTION 2.2 TERMS OF OFFICE

Directors shall serve a term of 4 years in accordance with the IFA enabling ordinance.

##### SECTION 2.3. DUTIES

It shall be the duty of the Board of Directors to:

- a) Perform any and all duties imposed on them collectively or individually by law or by these Bylaws;
- b) Understand, review and monitor, and if necessary perform, the implementation of fundamental financial, management and operational decisions of the Authority;
- c) Employ, discharge, proscribe the duties and fix the compensation for the Authority's General Manager;
- d) Oversee and evaluate the Authority's General Manager in the effective and ethical management of the Authority;
- e) Meet at such times and places as required by these Bylaws, and
- f) Register their addresses and email addresses with the Chair of the Inter-Island Ferry Authority, and notices of meetings mailed or transmitted by facsimile or email to them at such addresses shall be valid notices thereof.

##### SECTION 2.4 CONFLICT OF INTEREST

An actual or possible conflict of interest may arise where an Interested Person, as defined below, has a financial interest in a matter or transaction or agreement being considered by the Board. An interested person

must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

#### Definitions:

Interested person: A member of the governing body, director or officer or members of committees with governing board delegated powers.

Financial Interest Definition: A member of the governing body, director or officer has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- An ownership or investment interest in any entity with which the IFA has a transaction or arrangement or with which the IFA is considering a transaction or arrangement
- A compensation arrangement with the IFA or with any entity or individual with which the IFA has a transaction or arrangement or with which the IFA is considering a transaction or arrangement, or
- A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which IFA is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. A financial interest is not necessarily a conflict of interest. The governing board or committee determines in its discretion whether the financial interest constitutes a conflict of interest.

#### Procedures:

##### 1. Duty to Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the IFA board of directors.

##### 2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, a board member or committee member may make a motion that the interested person be declared to have a conflict of interest and that motion shall be then voted upon by the full board or committee, except for the interested person, who shall not vote.

If the governing board or committee determines by vote that the interested person has a conflict of interest, the interested person shall not participate in any discussion related to the matter, transaction or arrangement, and shall not vote on any motions related to the matter, transaction or arrangement. If the governing board or committee holds an executive session on the matter, transaction or arrangement, the interested person shall not be permitted to participate in the executive session and shall not be provided with any documents or materials reviewed or discussed in executive session.

##### 3. Procedures for Addressing a Conflict of Interest in addition to those procedures in Part 2 above.

- An interested person may declare a possible conflict of interest and make a presentation at the governing board meeting.
- The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- After exercising due diligence, the governing board or committee shall determine whether the IFA can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

- If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in IFA 's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination it shall make its decision as to whether to enter into the transaction or arrangement.
- The official meeting minutes shall include the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the declared conflict of interest.

#### 4. Violations of the Conflicts of Interest Policy

- If the governing board has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board determines the member has failed to disclose an actual or possible conflict of interest, it shall take corrective action as deemed necessary by the board or committee to protect the interests of the IFA.

#### SECTION 2.5. COMPENSATION

##### 2.5.1. Compensation

Directors shall serve without compensation.

##### 2.5.2. Allowances

Directors may receive an allowance for per diem and for travel and other necessary and reasonable expense incurred in the conduct of the business of the Inter-Island Ferry Authority. The Board of Directors shall set, and may amend from time to time, by resolution the schedule of such allowances.

#### SECTION 2.6. VACANCIES

##### 2.6.1 Determination of Vacancies

The Board of Directors may declare a seat vacant when a Director:

- Is absent from three (3) consecutive regular meetings of the IFA Board of Directors without first providing notice of such absence to the Chair or the IFA Administrator;
- Resigns and that resignation is accepted;
- Is removed from office by the appointing Participating Municipality or,
- Is physically or mentally unable to perform the duties of Directors as stated in Section 2.3 of these bylaws.

##### 2.6.2 Filling Vacancies

- The Board shall make a determination that a seat is vacant under 2.6.1 above, or for any other reason, by roll call vote.
- After determining, by roll call vote, that a seat is vacant, the Board shall request in writing that the Mayor of the affected Participating Municipality, or Municipalities, declare the seat vacant. The Board shall also request the Mayors of the Participating Municipality, or in the case of the At-large Director, the Mayors of the Participating Municipalities, to proceed to fill the vacated seat in accordance with the procedures set forth in the enabling ordinances.

## SECTION 2.7. OFFICERS

### 2.7.1. Officers

The officers of the Inter-island Ferry Authority shall be Chair, Vice-chair, Secretary and Treasurer.

### 2.7.2. Terms of Office

- Officers of the Inter-island Ferry Authority Board of Directors shall serve two-year terms, which terms shall begin on July 1 of the year of appointment.
- Each Officer of the Inter-Island Ferry Authority Board of Directors shall hold office for the term of appointment and until a successor has been duly appointed and qualified as provided in this Section.

### 2.7.3. Appointment

- At a regular or special meeting of the Inter-Island Ferry Authority Board of Directors prior to the expiration of terms of office, Directors may nominate from among the Board's membership to serve as an Officer of the Board of Directors.
- At that, or a subsequent regular or special meeting, the Inter-Island Ferry Authority Board of Directors shall appoint its Officers by majority vote of the members present.

### 2.7.4. Vacancies

- Any vacancy in an Officer position shall be filled by appointment in the manner provided in this section.
- A Director appointed to fill a vacancy in an Officer position shall serve for the balance remaining in the term of that Officer position.

## ARTICLE 3. MEETINGS

### SECTION 3.1. TIME AND PLACE OF MEETINGS

All meetings of the Board of Directors shall be held at the time and place set forth in the public notice of meeting.

### SECTION 3.2. REGULAR MEETINGS

Regular meetings of the Directors shall be held quarterly, at a time and place designated by the Directors.

### SECTION 3.3. SPECIAL MEETINGS

The Chair of the Board of Directors or any two Directors may call special meetings of the Board of Directors.

### SECTION 3.4. NOTICE OF MEETINGS

#### 3.4.1 Notice to Board of Directors

Unless otherwise provided by these Bylaws, or provisions of law, the following provisions shall govern the giving of notice for meetings of the Board of Directors:

- Regular Meetings: At least two weeks prior notice shall be given to each Director of each regular meeting of the Board. Such notice shall be written, may be given personally, by first class mail, by email, by telephone, or by facsimile machine, and shall state the place, date and time of the meeting and the matters proposed to be acted upon at the meeting.
- Special Meetings: Except for meetings required by emergency, at least forty-eight (48) hours prior notice shall be given to each Director of each special meeting of the Board. Such notice may be oral or written, may be given personally, by first class mail, by email, by telephone, or by facsimile machine, and shall



state the place, date and time of the meeting and the matters proposed to be acted upon at the meeting.

### 3.4.2. Notice to General Public

- Notices of each regular and special meeting of the Board of Directors shall be posted in at least one designated public place in each participating municipality. Such notices shall be posted on the same day as notice is given to the Board of Directors.
- In addition, notice of each regular and special meeting of the Board of Directors shall be published in print or other media as may be necessary or appropriate to reasonably and adequately notify the general public of the meetings of the Board.

## SECTION 3.5. QUORUM FOR MEETINGS

### 3.5.1. Determination of Quorum

A quorum of the Board of Directors shall be determined in accordance with the following table:

<b>Number of Participating Municipalities</b>	<b>Appointed Board Members per Municipality</b>	<b>At-Large Board Members</b>	<b>Total Board</b>	<b>Quorum</b>
1	1	2	3	2
2	1	1	3	2
3	1	1	4	3
4	1	1	5	3
5	1	1	6	4
6	1	1	7	4
7	1	1	8	5
8	1	1	9	5

### 3.5.2. Quorum Required for Action

Except as otherwise provided under these Bylaws, or provisions of law, no business shall be considered by the Board of Directors at any meeting at which the required quorum is not present, and the only motion which the Chair shall entertain at such meeting is a motion to adjourn.

## SECTION 3.6. MAJORITY ACTION OF THE BOARD

Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the Board of Directors, unless these Bylaws, or provisions of law require a greater percentage or different voting rules for approval of a matter by the Board of Directors.

## SECTION 3.7. CONDUCT OF MEETINGS

### 3.7.1. Presiding Officer

Meetings of the Board of Directors shall be presided over by the Chair of the Board of Directors, or, in the Chair's absence, the Vice-Chair, or, in the absence of each of these persons, by a Chair chosen by the majority of the directors present at the meeting.

### 3.7.2. Rules of Procedure

Meetings shall be governed by Roberts Rules of Order, insofar as such rules are not inconsistent with or in conflict with these Bylaws or with provisions of law.

### 3.7.3. Subject to Open Meeting Law

The Inter-Island Ferry Authority is subject to Alaska's Open Meetings Act (AS 44.62.310 –44.62.312).

## **ARTICLE 4. COMMITTEES**

### SECTION 4.1. COMMITTEES

The Inter-Island Ferry Authority may have such committees as may from time to time be designated by resolution of the Board of Directors. These committees may consist of persons who are not also members of the Board of Directors and shall act in an advisory capacity to the Board.

### SECTION 4.2. MEETINGS AND ACTION OF COMMITTEES

Meetings and action of committees shall be governed by, noticed, held and taken in accordance with the provisions of these Bylaws concerning meetings of the Board of Directors, with such changes in the context of such Bylaw provisions as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular and special meetings of committees may be fixed by resolution of the board or by the committee. The Board of Directors may also adopt rules and regulations pertaining to the conduct of meetings of committees to the extent that such rules and regulations are consistent with the provisions of these Bylaws.

## **ARTICLE 5. EXECUTION OF INSTRUMENTS, DEPOSITS AND FUNDS**

### SECTION 5.1. EXECUTION OF INSTRUMENTS

The Board of Directors, except as otherwise provided in these Bylaws, may by resolution authorize any officer or agent of the Inter-Island Ferry Authority to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Inter-Island Ferry Authority, and such authority may be general or confined to specific instances. Unless so authorized, no officer, agent, or employee shall have any power or authority to bind the Inter-Island Ferry Authority by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

At its regular Board meeting on November 3, 2005, the Board of Directors passed Resolution No. 2005-04 amending the Bylaws of the Inter-Island Ferry Authority; thereby granting the General Manager of the IFA the authority to enter into any contract for professional services in the name of and on behalf of the IFA such as he/she deems necessary to carry out the goals and business needs of the IFA established by the Board of Directors. The General Manager shall notify the Board of Directors at least one week prior to signing any contract for professional services, and provide the Board with a copy of the proposed contract. Any Board Member can require that the contract be presented at a Board meeting for approval by the Board. If no such requirement is made, the General Manager may enter the contract on behalf of IFA, up to a total contract value of \$70,000.00. Contracts with a total value over \$70,000.00 require Board approval.

### SECTION 5.2. CHECKS AND NOTES

Except as otherwise specifically determined by resolution of the Board of Directors, or as otherwise required by law, checks, drafts, promissory notes, orders for payment of any and kind and other evidence of indebtedness of the IFA shall be signed by a Director or the General Manager, and countersigned by a second Director or the General manager. Exceptions to this dual signature requirement include regular employee payroll checks, expenses approved by the Board of Directors in the IFA Fiscal Year Operating Budget, and expenses approved by the Board of Directors relating to grants.

### SECTION 5.3. DEPOSITS

All funds of the Inter-Island Ferry Authority shall be deposited from time to time to the credit of the Inter-

Island Ferry Authority in such banks, trust companies, or other depositories as the Board of Directors may select.

#### SECTION 5.4. GIFTS

The Board of Directors may accept on behalf of the Inter-Island Ferry Authority any contribution, gift, bequest, or devise for the purposes of the Inter-Island Ferry Authority.

### **ARTICLE 6. AUTHORITY RECORDS AND REPORTS**

#### SECTION 6.1. MAINTENANCE OF INTER-ISLAND FERRY AUTHORITY RECORDS

The Inter-Island Ferry Authority shall keep at its principal office:

- Minutes of all meetings of Directors and committees of the Board. Such minutes shall indicate the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof.
- Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses.
- A copy of the ordinance of each Municipality, which authorizes its participation in the establishment of the Inter-Island Ferry Authority.
- A copy of the ordinance or resolution of each municipality, which certifies the results of the referendum election authorizing its participation in the establishment of the Inter-Island Ferry Authority.
- A copy of the Bylaws of the Inter-Island Ferry Authority, as amended to date.
- Original signed copies of all resolutions approved by the Board of Directors.

#### SECTION 6.2. PERIODIC REPORTS

The Board of Directors shall cause any annual or periodic report required under law to be prepared and delivered to each Participating Municipality to be so prepared and delivered within the time limits set by law.

#### SECTION 6.3. SUBJECT TO PUBLIC RECORDS LAW

The Inter-Island Ferry Authority is subject to Alaska's public records laws (AS 09.25.110 – AS 09.25.220).

### **ARTICLE 7. ADOPTION AND AMENDMENT OF REGULATIONS**

Except as may otherwise be specified under provisions of law, the Board of Directors, by resolution, shall adopt and amend any regulations necessary for the operation of the Authority.

### **ARTICLE 8. AMENDMENT OF BYLAWS**

Except as may otherwise be specified under provisions of law, these Bylaws, or any of them, may be altered, amended, or repealed and new Bylaws adopted by resolution of the Board of Directors.

### **ARTICLE 9. CONSTRUCTION AND TERMS**

Should any of the provisions or portions of these Bylaws be held unenforceable or invalid for any reason, the remaining provisions and portions of these Bylaws shall be unaffected by such holding.

**IFA Bylaw Revisions:**  
**January 26, 2011 Resolution No. 2011-03 Version 2**  
**February 25, 2014 Resolution No. 2014-04**

# Alaska Municipal Port Authority Act

## Article 9. Port Authorities.

### Sec. 29.35.600. Purpose of authorities.

The purpose of a port authority is to provide for the development of a port or ports for transportation related commerce within the territory of the authority.

### Sec. 29.35.605. Establishment of port authorities.

(a) A port authority may be created by one of the following means:

(1) the governing body of a municipality may create by ordinance a port authority as a public corporation of the municipality;

(2) the governing bodies of two or more municipalities may create by parallel ordinances adopted by each of the governing bodies a port authority as a public corporation of the municipalities.

(b) One or more municipalities may join an authority established under (a)(1) or (2) of this section upon the adoption of parallel ordinances by the governing bodies of each affected municipality.

(c) A port authority created under this section is a body corporate and politic and an instrumentality of the municipality or municipalities creating it but having a separate and independent legal existence.

(d) Creation of a port authority under [AS 29.35.600](#) — 29.35.730 is an exercise of a municipality's transportation system powers.

(e) The enabling ordinance by which a port authority is established must specify the powers, boundaries, and limitations of the port authority.

(f) An ordinance creating a port authority shall require approval by the voters of the municipality or municipalities participating in the authority in order for the authority to be established.

(g) Nothing in [AS 29.35.600](#) — 29.35.725 prevents a municipality or municipalities from creating or participating in a public corporation, including a port authority, in any form or manner not prohibited by law. However, the provisions of [AS 29.35.600](#) — 29.35.725 only apply to and may only be utilized by a port authority created under this section.

### Sec. 29.35.610. Dissolution of a port authority.

(a) The enabling ordinance by which a port authority is created must provide for the manner by which a port authority may be dissolved.

(b) If an authority ceases to exist, its assets shall be distributed to the municipalities that participated in the authority in proportion to the difference between their contributions to the authority and any outstanding debt or obligation of that municipality to the authority, provided that any obligation to bondholders then outstanding shall first be satisfied in full.

### Sec. 29.35.615. Municipal property.

(a) A municipality may transfer and otherwise convey or lease real property, and any improvements to it, to an authority for use by the authority for the purposes set out in the ordinance adopted under [AS 29.35.605](#).

(b) A municipality may transfer and otherwise assign or lease personal property to an authority for use by the authority for the purposes set out in the ordinance adopted under [AS 29.35.605](#).

**Sec. 29.35.620. Powers.**

If provided in the enabling ordinance, an authority may

- (1) sue and be sued;
- (2) have a seal and alter it at pleasure;
- (3) acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift, or lease;
- (4) lease to others a project acquired by it and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for purchase or renewal;
- (5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it, or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of the authority's purposes;
- (6) accept gifts, grants, or loans, under the terms and conditions imposed under the gift, grant, or loan, and enter into contracts, conveyances or other transactions with a federal agency or an agency or instrumentality of the state, a municipality, private organization, or other person;
- (7) deposit or invest its funds, subject to agreements with bondholders;
- (8) purchase or insure loans to finance the costs of projects;
- (9) provide for security within the boundaries of the authority;
- (10) enter into loan agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;
- (11) acquire, manage, and operate projects as the authority considers necessary or appropriate to serve the authority's purposes;
- (12) assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;
- (13) charge fees or other forms of remuneration for the use or possession of projects in accordance with the agreements described in this section, other agreements relating to the projects, covenants, or representations made in bond documents relating to the projects, or regulations of the authority relating to the projects;
- (14) exercise the powers of eminent domain and declaration of taking within its physical boundaries under [AS 29.35.030](#) to acquire land or materials for authority purposes;

(15) regulate land use within the boundaries of the authority;

(16) defend and indemnify a current or former member of the board, employee, or agent of the authority against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with civil or criminal action in which the person is involved as a result of the person's affiliation with the authority if the person acted in good faith on behalf of the authority and within the scope of the person's official duties and powers;

(17) purchase insurance to protect and hold harmless its employees, agents, and board members from an action, claim, or proceeding arising out of the performance, purported performance, or failure to perform in good faith, of duties for, or employment with the authority and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance is subject to the discretion of the board; insurance purchased under this paragraph may not be considered compensation to the insured person; and

(18) protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retentions; an authority may also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the authority or a municipality for bodily injury, death or disability, and property damage that may arise from or be related to authority operations and activities.

**Sec. 29.35.625. Bonds of a port authority; superior court jurisdiction.**

(a) If authorized by the enabling ordinance, an authority may borrow money and may issue bonds on which the principal and interest are payable

(1) exclusively from the income and receipts of, or other money derived from, the project financed with the proceeds of the bonds;

(2) exclusively from the income and receipts of, or other money derived from, designated projects or other sources whether or not they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or

(3) from its income and receipts generally or a designated part or parts of them.

(b) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times that the authority may determine.

(c) Before issuing bonds, an authority shall provide for consideration at least sufficient, in the judgment of the authority, to pay the principal and interest on the bonds as they become due and to create and maintain the reserves for the payment that the authority considers necessary or desirable and meet all obligations in connection with the lease or agreement and all costs necessary to service the bonds, unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(d) Bonds shall be authorized by resolution of the authority, be dated, and shall mature as the resolution may provide, except that a bond may not mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption that the resolution or a subsequent resolution may provide.

(e) All bonds issued under this section, regardless of form or character, are negotiable instruments for all of the purposes of [AS 45.01](#) — [AS 45.08](#), [AS 45.12](#), [AS 45.14](#), and [AS 45.29](#) (Uniform Commercial Code).

(f) The superior court has jurisdiction to hear and determine suits, actions, or proceedings relating to an authority, including suits, actions, or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment, or security interest brought by or for the benefit or security of a holder of the authority's bonds or by a trustee for or other representative of the holders.

**Sec. 29.35.630. Bonds eligible for investment.**

Bonds issued under [AS 29.35.625](#) are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banks, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. The bonds may be deposited with a state or municipal officer of an agency or political subdivision of the state for any purpose that the deposit of bonds of the state is authorized by law.

**Sec. 29.35.635. Validity of pledge.**

The pledge of revenue of an authority to the payment of the principal or interest on bonds or notes of the authority is valid and binding from the time the pledge is made, and the revenue is immediately subject to the lien of the pledge without physical delivery or further act. The lien of a pledge is valid and binding against all parties having claims of any kind against the authority irrespective of whether those parties have notice of the lien of the pledge.

**Sec. 29.35.640. Credit of state or a municipality not pledged.**

(a) The state and municipalities participating in an authority are not liable for the debts of that authority. Bonds issued under [AS 29.35.625](#) are payable solely from the revenue of the authority and do not constitute a

(1) debt, liability, or obligation of the state or a municipality; or

(2) pledge of the faith and credit of the state or a municipality.

(b) An authority may not pledge the credit or the taxing power of the state or its municipalities. A bond issued under [AS 29.35.625](#) must contain on its face a statement that

(1) the authority is not obligated to pay it or the interest on it except from the revenue pledged for it; and

(2) the faith and credit of the taxing power of the state or of a political subdivision of the state is not pledged to the payment of it.

**Sec. 29.35.645. Pledges of the state and municipalities.**

The state and municipalities participating in the authority pledge to and agree with the holders of bonds issued under [AS 29.35.625](#) and with the federal agency, if any, that loans or contributes funds in respect to a project of the authority, that the state and the municipalities participating in the authority will not limit or alter the rights and powers vested in the authority by its enabling ordinance or other law so that it is unable to fulfill the terms of a contract made by the authority with those holders or that federal agency, or in any way impair the rights and remedies of those holders or that federal agency until the bonds, together with the interest on them and interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of those holders or that federal agency, are fully met and discharged. An authority is authorized to include this pledge and agreement of the state and the municipalities participating in the authority, insofar as it refers to holders of bonds of the authority, in a contract with those



holders, and insofar as it relates to a federal agency, in a contract with that federal agency.

**Sec. 29.35.650. Limitation of liability.**

A liability incurred by an authority shall be satisfied exclusively from the assets or revenue of the authority. A creditor or other person does not have a right of action against the state or a municipality participating in an authority because of a debt, obligation, or liability of an authority.

**Sec. 29.35.655. Limitation on personal liability.**

A board member or employee of an authority is not subject to personal liability or accountability because of the execution or issuance of bonds.

**Sec. 29.35.660. Fidelity bond.**

An authority shall obtain a fidelity bond in an amount determined by the board for board members and each executive officer responsible for accounts and finances of that authority. A fidelity bond must be in effect during the entire tenure in office of the bonded person.

**Sec. 29.35.665. No taxing authority.**

An authority may not levy an income or other tax.

**Sec. 29.35.670. Exemption from taxation.**

(a) An authority exercising the powers granted by the enabling ordinance under [AS 29.35.600](#) — 29.35.730 is in all respects for the benefit of the people of the municipalities participating in the authority and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition. The real and personal property of an authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state or a political subdivision of the state.

(b) Bonds issued by the authority under [AS 29.35.625](#) are issued for an essential public and governmental purpose; therefore, the bonds, interest and income from them, and all fees, charges, funds, revenue, income, and other money pledged or available to pay or secure the payment of the bonds or interest on them are exempt from taxation except for inheritance, transfer, and estate taxes.

(c) Notwithstanding the provisions of (a) of this section, an authority and the municipalities participating in the authority may enter into agreements under which the authority agrees to pay the participating municipalities' payments in lieu of taxes and special assessments on real and personal property of the authority that is within the taxing jurisdiction of the municipality.

(d) Nothing in this section creates a tax exemption with respect to the interests of a business enterprise or other person, other than the authority, in property, assets, income, or receipts, whether or not financed under [AS 29.35.600](#) — 29.35.730.

**Sec. 29.35.675. Development plan.**

In the enabling ordinance establishing the authority under [AS 29.35.605](#) the authority shall be

(1) required to submit a development plan to the governing body of the municipality or municipalities participating in the authority; and

(2) prohibited from undertaking the construction or acquisition of a project unless the project appears in a development plan submitted to and approved by the governing body of the municipality or municipalities participating in the authority.

**Sec. 29.35.680. Administration of port authorities; board.**

(a) An authority shall be governed by a board of directors, which shall exercise the powers of the authority. The enabling ordinance establishing the authority under [AS 29.35.605](#) must specify the number, qualifications, manner of appointment or election, and terms of members of the board.

(b) The board shall appoint a chief executive officer of the authority who serves at the pleasure of the board. The board shall fix the compensation of the chief executive officer.

**Sec. 29.35.685. Continuation of collective bargaining agreements; application of [AS 23.40.070](#) — 23.40.260.**

(a) A collective bargaining agreement for employees of the state or its political subdivisions who are transferred to an authority under [AS 29.35.600](#) — 29.35.730 shall remain in effect for the term of the agreement or for a period of one year, whichever is longer, and shall be binding on the authority unless the parties agree to the contrary before the expiration of the agreement. A labor-management negotiation impasse declared after a transfer of employees under this subsection but before the negotiation of a new collective bargaining agreement shall be resolved as provided in the collective bargaining agreement, except that if the collective bargaining agreement does not provide for a resolution, then as provided in [AS 23.40.070](#) — 23.40.260.

(b) Employees of the state or a political subdivision of the state transferred to an authority shall retain, for a period of one year following the date of transfer or for the duration of a collective bargaining agreement transferred under (a) of this section, whichever is greater, all rights of participation in fringe benefit programs available to the employees on the day before the transfer, or in programs substantially equivalent.

(c) [AS 23.40.070](#) — 23.40.260 apply to employees of an authority established under [AS 29.35.600](#) — 29.35.730 unless all municipalities participating in the authority are exempt under [AS 23.40.255\(a\)](#).

**Sec. 29.35.690. Bylaws and regulations.**

(a) A board shall adopt bylaws and appropriate regulations consistent with the enabling ordinance to carry out its functions and purposes.

(b) A board shall adopt bylaws as soon after the establishment of the authority as possible and may from time to time amend those bylaws. The bylaws may contain any provision not in conflict with law for the management of the business of the authority and for the conduct of the affairs of the authority, including

(1) the time, place, and manner of calling, conducting, and giving notice of meetings of the board and committees of the board, if any;

(2) the compensation of directors, if any;

(3) the appointment and authority of committees of the board, if any;

(4) the appointment, duties, compensation, and tenure of officers, directors, chief executive officer, and other employees, if any;

(5) procedures for adopting regulations;

(6) procedures for adopting bylaws;

(7) procedures for making annual reports and financial statements; and

(8) other matters for the conduct of business by the board.

**Sec. 29.35.695. Authority subject to public records and open meetings laws.**

An authority established under [AS 29.35.605](#) is subject to [AS 40.25.110](#) — 40.25.220 and to [AS 44.62.310](#) — 44.62.319 (Open Meetings Act).

**Sec. 29.35.700. Annual report.**

Within 90 days following the end of the fiscal year of an authority, the board shall distribute to the mayor and governing body of each municipality participating in the authority a report describing the operations and financial condition of the authority during the preceding fiscal year. The report may include suggestions for legislation relating to the structure, powers, or duties of the authority or operation of facilities of the authority. The report must itemize the cost of providing each category of service offered by the authority and the income generated by each category.

**Sec. 29.35.705. Audits.**

(a) The board shall have the financial records of an authority audited annually by an independent certified public accountant.

(b) An authority shall make all of its financial records available to an auditor appointed by a municipality participating in the authority for examination.

**Sec. 29.35.710. Remedies.**

A holder of bonds or notes or coupons attached to the bonds issued by an authority under [AS 29.35.625](#), and a trustee under a trust agreement or resolution authorizing the issuance of the bonds, except as restricted by a trust agreement or resolution, either at law or in equity, may

(1) enforce all rights granted under [AS 29.35.600](#) — 29.35.730, the trust agreement or resolution, or another contract executed by the authority; and

(2) compel the performance of all duties of the authority required by [AS 29.35.600](#) — 29.35.730 or the trust agreement or resolution.

**Sec. 29.35.715. Claims.**

For the purpose of judicial and regulatory proceedings by and against an authority, an authority and its board members and employees enjoy the same rights, privileges, and immunities as a municipality and municipal officers.

**Sec. 29.35.720. Conflicting laws inapplicable.**

If provisions of [AS 29.35.600](#) — 29.35.730 conflict with other provisions of this title, the provisions of [AS 29.35.600](#) — 29.35.730 prevail.

**Sec. 29.35.722. Ownership or operation of certain state facilities prohibited.**

The state may not, without the approval of the legislature,

(1) convey or transfer the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state asset, except undeveloped state land as provided in [AS 38.05.810](#) or surplus property, to an authority; or

(2) enter into an agreement with an authority under which the authority would operate the Alaska marine highway system, the Anchorage or Fairbanks international airports, or any other state facility, system, or function that employs one or more employees.

**Sec. 29.35.725. Definitions.**

In [AS 29.35.600](#) — 29.35.730, unless the context otherwise requires,

- (1) "authority" means a port authority established under [AS 29.35.605](#);
- (2) "board" means the board of directors of an authority;
- (3) "bonds" includes bonds, bond anticipation notes, notes, refunding bonds, or other forms of indebtedness of the authority;
- (4) "bylaws" or "bylaws of the authority" means the guidelines adopted by and amended by the board from time to time in accordance with [AS 29.35.600](#) — 29.35.730;
- (5) "port" means a facility of transportation related commerce located within the state;
- (6) "project" means a port, dock, and administrative facilities, including property necessary in connection with the operation of a port;
- (7) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by an authority to be necessary to finance the construction or acquisition of a project, including without limitation to the cost of acquiring real property, the cost of constructing buildings and improvements, the cost of financing the project, including, without limitation, interest charges before, during, or after construction or acquisition of the project, costs related to the determination of the feasibility, planning, design, or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation or rehabilitation of a port, and all other costs, charges, fees, and expenses that may be determined by the authority to be necessary to finance the construction or acquisition;
- (8) "real property" or "land" means any interest in real property, including tidal and submerged land, and any right appurtenant to the interest, and without limitation, interests less than full title such as easements, uses, leases, and licenses;
- (9) "regulation" means a standard of general application or the amendment, supplement, revision, or repeal of a standard adopted by an authority to implement, interpret, or make specific the law enforced or administered by it or to govern its procedure.

**Sec. 29.35.730. Short title.**

[AS 29.35.600](#) — 29.35.730 may be referred to as the Municipal Port Authority Act.

# **City of Craig Ordinance Authorizing Creation of the Inter-Island Ferry Authority**

CITY OF CRAIG

ORDINANCE NO. 97-431

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CRAIG, ALASKA, AUTHORIZING THE CREATION OF A PORT AUTHORITY UNDER AS 29.35.600 – 29.35.730 WHICH AUTHORITY SHALL BE KNOWN AS THE INTER-ISLAND FERRY AUTHORITY AND SHALL HAVE THE PURPOSE, POWERS, AND OTHER ATTRIBUTES AS SET FORTH IN THIS ORDINANCE, CALLING A REFERENDUM ON THE PROPOSITION OF CREATING SAID PORT AUTHORITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the development of an efficient and effective transportation network serving Prince of Wales Island communities, Ketchikan, Wrangell and Petersburg is vital to the present and future economic well-being of all the residents of those communities; and

WHEREAS, the development and operation of a locally-owned and managed ferry system and related transportation facilities and services to facilitate the movement of persons, goods and services to and from those communities has been identified as a high priority, and

WHEREAS, the overall need for and feasibility of such a ferry system is well documented in the following three studies:

- *Reconnaissance Design of Passenger / Vehicle Ferry Vessels and Terminals – Prince of Wales Island Ferry Project*, prepared by Kent Miller, Elliott Bay Design Group, Ltd., and Peratrovich, Nottingham & Drage, Inc., January, 1996.
- *Project Plan: Kasaan Bay and Whale Pass Ferries*, prepared by C. L. Cheshire, DePue & Associates, Kent Miller and James A. Van Altvorst, August, 1994.
- *An Alternative Ferry for Prince of Wales*, prepared by C. L. Cheshire, Kent Miller and James A. Van Altvorst, March, 1994; and

WHEREAS, a ferry operating authority represents an efficient and effective means to develop such a transportation system, and to thereby facilitate local and regional economic growth and development; and

WHEREAS, Article X, Section 13, of the Constitution of the State of Alaska authorizes municipalities to enter into agreements for cooperative or joint administration of functions or powers; and, under that authority, two or more municipalities may by agreement establish such a ferry operating authority; and

WHEREAS, the Alaska Municipal Port Authority Act (AS 29.35.600 – 29.35.730) more specifically allows one or more municipalities to establish such a ferry operating authority with express powers, including the power to issue revenue bonds, and to acquire, construct, and operate transportation facilities and services such as the proposed ferry system; and

WHEREAS, the City of Craig, in concert with any of the Other Municipalities which approve a parallel ordinance as provided for in Section 2 of this ordinance, desires

to establish and develop a more efficient ferry transportation system and to thereby generally promote the health, security, economy and general welfare of all of the people of the City and the other municipalities identified in this ordinance; and

WHEREAS, in furtherance of that purpose, the City of Craig, in concert with any of the Other Municipalities which approve a parallel ordinance as provided for in Section 2 of this ordinance, desires to establish a port authority, to be known as the "Inter-island Ferry Authority," with express powers, including the power to issue revenue bonds, to acquire, construct, and operate ferries and ferry system-related facilities and services as a means to facilitate local and regional transportation related commerce.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRAIG, ALASKA, AS FOLLOWS:

**Section 1. Creation.** The City Council of the City of Craig hereby authorizes the creation of a port authority to be known as the Inter-island Ferry Authority pursuant to the Alaska Municipal Port Authority Act (AS 29.35.600 – 29.35.730), said authority to be a public corporation of the City of Craig and the other Participating Municipalities identified in this ordinance.

**Section 2. Participating Municipalities.** (a) Subject to the approval of the Development Plan approved by the Inter-island Ferry Authority in accordance with Section 10(b) below, and subject to approval of parallel ordinances by the local governing authority and approval by a majority of the qualified voters of each municipality, one or more of the following municipalities may join with the City of Craig as "Other Municipalities" participating in the authorization and creation of the Inter-island Ferry Authority:

- (1) City of Coffman Cove
- (2) City of Hydaburg
- (3) City of Kasaan
- (4) City of Klawock
- (5) City of Petersburg
- (6) City of Thorne Bay
- (7) City of Wrangell

(b) The City of Craig and the Other Municipalities shall, for the purposes of this Ordinance, be known individually as a "Participating Municipality" and shall be known collectively as the "Participating Municipalities."

**Section 3. Purpose.** The Inter-island Ferry Authority is authorized and created to develop an efficient and effective network of ferries and ferry-related facilities and services and to otherwise provide the ferry system infrastructure essential or otherwise appropriate to

1. serve the various ferry transportation needs of residents of Prince of Wales Island, Ketchikan, Wrangell and Petersburg;
2. develop commerce and industry throughout Prince of Wales Island, Ketchikan, Wrangell and Petersburg areas by meeting their various ferry transportation services needs; and

3. promote the general health, security, and welfare of the residents of Prince of Wales Island, Ketchikan, Wrangell and Petersburg by meeting their various ferry transportation services needs.

Such infrastructure shall include, but is not limited to, those facilities and equipment necessary to provide scheduled and charter ferry service to, from, and between Prince of Wales Island, Ketchikan, Wrangell and Petersburg for transportation of persons, baggage, vehicles and the contents of such vehicles, equipment and freight.

**Section 4. Boundaries of the Inter-island Ferry Authority.** The boundaries of the Inter-island Ferry Authority shall be the boundaries of the real property, including terminals and all related ferry-system support facilities owned, leased or otherwise operated and controlled by the Inter-island Ferry Authority in the conduct of its business consistent with its purpose as set forth in Section 3 hereof.

**Section 5. Powers and Limitations.** The Inter-island Ferry Authority may

- (1) sue and be sued;
- (2) have a seal and alter it at pleasure;
- (3) acquire an interest in transportation facilities, equipment or services as necessary or appropriate to provide financing for the one or more transportation facilities, equipment or services, whether by purchase, gift, or lease;
- (4) lease to others one or more transportation facilities, equipment or services acquired by it and upon the terms and conditions the Inter-island Ferry Authority may consider advisable, including, without limitation, provisions for purchase or renewal;
- (5) sell, by installment sale or otherwise, exchange, donate, convey, or encumber in any manner by mortgage or by creation of another security interest, real or personal property owned by it, or in which it has an interest, including one or more transportation facilities, equipment or services, when, in the judgment of the Inter-island Ferry Authority, the action is in furtherance of the Inter-island Ferry Authority's purposes;
- (6) accept gifts, grants, or loans, under the terms and conditions imposed under the gift, grant, or loan, and enter into contracts, conveyances or other transactions with a federal agency or an agency or instrumentality of the state, a municipality, private organization, or other person;
- (7) deposit or invest its funds, subject to agreements with bondholders;
- (8) purchase or insure loans to finance the costs of transportation facilities, equipment or services;
- (9) provide security within the boundaries of the Inter-island Ferry Authority;
- (10) enter into loan agreements with respect to one or more transportation facilities, equipment or services upon the terms and conditions the Inter-island Ferry Authority considers desirable;
- (11) acquire, manage, and operate one or more transportation facilities, equipment or services as the Inter-island Ferry Authority considers necessary or appropriate to serve the Inter-island Ferry Authority's purposes;



- (12) assist private lenders to make loans to finance the costs of one or more transportation facilities, equipment or services through loan commitments, short-term financing, or otherwise;
- (13) charge fees or other forms of remuneration for the use or possession of one or more transportation facilities, equipment or services in accordance with the agreements described in this section, other agreements relating to the transportation facilities, equipment or services, covenants, or representations made in bond documents relating to the transportation facilities, equipment or services, or regulations of the Inter-island Ferry Authority relating to the transportation facilities, equipment or services;
- (14) defend and indemnify a current or former Director, employee, or agent of the Inter-island Ferry Authority against all costs, expenses, judgments, and liabilities, including attorney fees, incurred by or imposed upon that person in connection with civil or criminal action in which the person is involved as a result of the person's affiliation with the Inter-island Ferry Authority if the person acted in good faith on behalf of the Inter-island Ferry Authority and within the scope of the person's official duties and powers;
- (15) purchase insurance to protect and hold harmless its employees, agents, and Directors from an action, claim, or proceeding arising out of the performance, purported performance, or failure to perform in good faith, of duties for, or employment with the Inter-island Ferry Authority and to hold them harmless from expenses connected with the defense, settlement, or monetary judgments from that action, claim, or proceeding; the purchase of insurance is subject to the discretion of the Board; insurance purchased under this paragraph may not be considered compensation to the insured person; and
- (16) protect its assets, services, and employees by purchasing insurance or providing for certain self-insurance retention; an authority may also maintain casualty, property, business interruption, marine, boiler and machinery, pollution liability, and other insurance in amounts reasonably calculated to cover potential claims against the Inter-island Ferry Authority or the Participating Municipalities for bodily injury, death or disability, and property damage that may arise from or be related to authority operations and activities.

**Section 6. Debt.** Subject to the provisions of AS 29.35.625 – 29.35.655, as amended, the Inter-island Ferry Authority may borrow money and may issue bonds on which the principal and interest are payable

- (1) exclusively from the income and receipts of, or other money derived from, one or more transportation facilities, equipment or services financed with the proceeds of the bonds;
- (2) exclusively from the income and receipts of, or other money derived from, designated transportation facilities, equipment or services or other sources whether or not they are financed, insured, or guaranteed in whole or in part with the proceeds of the bonds; or
- (3) from its income and receipts generally or a designated part or parts of them.

**Section 7. Administration of the Inter-island Ferry Authority.** (a) The Inter-island Ferry Authority shall be governed by a Board of Directors ("Board"), which shall exercise the powers of the Inter-island Ferry Authority.

(b) The Board shall appoint a chief executive officer of the Inter-island Ferry Authority who serves at the pleasure of the Board.

**Section 8. Board of Directors.** (a) Directors shall be apportioned and appointed as set forth in this Section.

(b) The Board shall be apportioned as follows:

- (1) In the event that the Inter-island Ferry Authority is comprised of a single Participating Municipality, the Board shall be comprised of one (1) Director appointed to represent that Participating Municipality, and two (2) At-large Directors. One of the two (2) At-large Directors shall be designated to serve the duration of his or her term, or until such time as one or more additional municipalities join the Inter-island Ferry Authority as Participating Municipalities and the total number of At-large Directors is reduced from two (2) to one (1), whichever term is lesser.
- (2) In the event that the Inter-island Ferry Authority is comprised of two or more Participating Municipalities, the Board shall be comprised of one (1) Director appointed to represent each Participating Municipality, and one (1) At-large Director.
- (3) The Board shall be apportioned in accordance with the following table:

Number of Participating Municipalities	Appointed Board Members per Municipality	At-large Board Members	Total Board
1	1	2	3
2	1	1	3
3	1	1	4
4	1	1	5
5	1	1	6
6	1	1	7
7	1	1	8
8	1	1	9

(c) An individual appointed as a Director shall,

- (1) in the case of a Participating Municipality, be a qualified voter residing within the Participating Municipality, and
- (2) in the case of the at-large member, be a qualified voter residing within any Participating Municipality.

(d) The mayor of each Participating Municipality shall, with the concurrence of its City Council, appoint the Director(s) representing the Participating Municipality.

(e) The Board shall appoint the At-large Director(s) from names submitted by the mayors of all Participating Municipalities. In the event that the Board cannot reach a decision with regard to the proposed appointment(s) to the At-large Director position(s), the Board shall submit the names of not more than two candidates for each At-large position to the mayors of all Participating Municipalities, a majority of

whom shall then, with the concurrence of their respective City Councils, appoint the At-Large Director(s).

(f) Directors shall serve four-year terms; provided, however, that the Directors first appointed after the creation of the Inter-island Ferry Authority shall be randomly assigned to one of three groups, each group to be as nearly equal in number as possible. The Directors assigned to one such group shall serve two-year terms; the Directors assigned to the second such group shall serve three-year terms; and the Directors assigned to the third such group shall serve four-year terms.

(g) Each Director shall hold office for the term of appointment and until a successor has been appointed and qualified.

(h) If otherwise qualified, a Director is eligible to be appointed to the Board for more than one term.

(i) A vacancy on the Board shall be promptly filled by appointment as provided in this Section.

**Section 9. Bylaws and Regulations.** (a) The Board shall adopt bylaws to carry out the purposes and functions of the Inter-island Ferry Authority as soon after the establishment of the Inter-island Ferry Authority as possible and may, from time to time, amend those bylaws. The bylaws may contain any provision not in conflict with law for the management of the business of the Inter-island Ferry Authority and for the conduct of the affairs of the Inter-island Ferry Authority, including

- (1) the time, place, and manner of calling, conducting, and giving notice of meetings of the board and committees of the Board, if any;
- (2) the allowance for per diem and for travel and other necessary and reasonable expenses incurred by Directors in the conduct of the business of the Inter-island Ferry Authority, if any;
- (3) the appointment and authority of committees of the Board, if any;
- (4) the appointment, duties, compensation, and tenure of officers, Directors, chief executive officer, and other employees, if any;
- (5) procedures for adopting regulations;
- (6) procedures for adopting bylaws;
- (7) procedures for making annual reports and financial statements; and
- (8) other matters for the conduct of business by the Board.

(b) The Board shall adopt regulations necessary or appropriate to carry out the purposes of the Inter-island Ferry Authority and to facilitate the day-to-day administration, operation and other functions of the Inter-island Ferry Authority. The Board may amend those regulations from time to time.

**Section 10. Development Plan.** (a) The Inter-island Ferry Authority shall prepare, and shall maintain and keep current by amendment from time to time as necessary or appropriate, a Inter-island Ferry Authority Development Plan ("Development Plan"). The Development Plan shall contain, for each proposed project,

- (1) a general project description which shall identify the need for the project, development phases, if any, a description of any existing improvements in the project area to be affected by the project, a description of real and personal property, including municipal real and personal property, proposed to be conveyed or leased to or from the Inter-island Ferry Authority, and any

other information necessary to adequately describe the project's purpose and scope;

- (2) a development schedule including phases, if any;
- (3) the estimated development cost, including the estimated development cost of project phases, if any;
- (4) the estimated cost of operation;
- (5) the proposed method of financing the improvements;
- (6) identification of anticipated revenues from use fees, leases or other contractual arrangements with respect to each project; and
- (7) any other information which the Board deems necessary or appropriate to adequately describe the intent, purpose, schedule, and cost.

(b) The Inter-island Ferry Authority shall submit the Development Plan and all amendments to that Development Plan to the governing body of each of the Participating Municipalities for review and approval by resolution.

(c) The Inter-island Ferry Authority shall not undertake any project which is not consistent with the Development Plan, as amended, which has been approved by all the municipalities participating in the Inter-island Ferry Authority.

**Section 11. Annual Report.** Within ninety (90) days following the end of the fiscal year of the Inter-island Ferry Authority, the Board shall distribute to the governing body of each Participating Municipality a report describing the operations and financial condition of the Inter-island Ferry Authority during the preceding fiscal year. The financial report must itemize the cost of providing each category of service offered by the Inter-island Ferry Authority and the income generated by each category. The financial report may include suggestions for legislation relating to the structure, powers, or duties of the Inter-island Ferry Authority or operation of facilities of the Inter-island Ferry Authority.

**Section 12. Audits.** (a) The Board shall have the financial records of the Inter-island Ferry Authority audited at least once annually by an independent certified public accountant.

(b) To make the audits the Board shall designate a public accountant who has no personal interest, direct or indirect, in the fiscal affairs of the Inter-island Ferry Authority.

(c) Copies of the annual and any additional audits shall be available to the public upon request.

(d) The Inter-island Ferry Authority shall make all of its financial records available to auditors appointed by Participating Municipalities for examination.

**Section 13. Fidelity Bond.** The Inter-island Ferry Authority shall obtain a fidelity bond in an amount determined by the Board for the members of the Board, and each executive officer responsible for accounts and finances of the Inter-island Ferry Authority. Each such fidelity bond shall be in effect during the entire tenure in office of the bonded person.

**Section 14. Taxation.** (a) Because the Inter-island Ferry Authority, exercising the powers granted by this enabling ordinance under AS 29.35.600 – 29.35.730 as amended, is in all respects for the benefit of the people of the Participating Municipalities and the people of the state in general, for their well-being and prosperity, and for the improvement of their social and economic condition, the real

and personal property of the Inter-island Ferry Authority and its assets, income, and receipts are exempt from all taxes and special assessments of the state, or a political subdivision of the state, including but not limited to the Participating Municipalities.

(b) Notwithstanding the provisions of (a) of this Section, the Inter-island Ferry Authority may in its sole discretion enter into agreements under which the Inter-island Ferry Authority shall agree to pay to one or more Participating Municipalities payments in lieu of taxes and special assessments on real and personal property of the Inter-island Ferry Authority within the taxing jurisdiction of that municipality.

(c) Nothing in this Section creates a tax exemption with respect to the interests of a business enterprise or other person, other than the Inter-island Ferry Authority, in property, assets, income, or receipts of that business enterprise or other person, whether or not financed under the provisions of AS 29.35.600 – 29.35.730 as amended.

**Section 15. Withdrawal of Participating Municipality.** (a) A Participating Municipality may withdraw from and no longer participate in the Inter-island Ferry Authority by an affirmative vote of at least two-thirds of the members of its governing body on a withdrawal ordinance and approval of that ordinance by a majority of the qualified voters within that municipality voting on the question.

(b) A municipality's withdrawal from the Inter-island Ferry Authority shall not cause the dissolution of the Inter-island Ferry Authority unless the remaining Participating Municipalities act to dissolve the Inter-island Ferry Authority.

**Section 16. Dissolution of Inter-island Ferry Authority.** (a) Participating Municipalities may dissolve the Inter-island Ferry Authority. Dissolution of the Inter-island Ferry Authority requires an affirmative vote of at least two-thirds of the members of the governing body of each of the Participating Municipalities on a dissolution ordinance and approval by a majority of the qualified voters of each of the Participating Municipalities of that dissolution ordinance; provided, however, that

- (1) all holders of any revenue bonds issued by the Inter-island Ferry Authority and then outstanding are fully repaid including interest, or payment has been fully provided for; and
- (2) all creditors of the Inter-island Ferry Authority, including but not limited to lenders and trade creditors are fully paid including interest, if any, or other provision has been made for that payment; and
- (3) all other obligations, agreements and commitments of the Inter-island Ferry Authority, including but not limited to agreements with customers of the Inter-island Ferry Authority, have been satisfied, or other provisions have been made for that satisfaction.

(b) The dissolution ordinance shall include, but is not limited to,

- (1) schedules and procedures for terminating Inter-island Ferry Authority functions and services;
- (2) schedules and procedures for disposing of all Inter-island Ferry Authority assets, including distributing those assets of the Inter-island Ferry Authority which must be re-conveyed in accordance with the provisions of AS 29.35.610(b) to the Participating Municipalities; and

- (3) schedules and procedures for meeting or otherwise satisfying all other obligations, agreements and commitments of the Inter-island Ferry Authority as set forth in (a) of this Section; and
- (4) provisions for those other matters deemed necessary and prudent by the Board for the proper and business-like dissolution of the Inter-island Ferry Authority.

**Section 17. Further Acts.** The Mayor or the Mayor's designee is authorized to execute those documents and take those actions necessary to establish the Inter-island Ferry Authority as set out in this ordinance, and to otherwise enter into agreements with the Inter-island Ferry Authority, the Other Municipalities and others within the scope and the purpose of the Inter-island Ferry Authority.

**Section 18. Referendum and Effective Date.** This ordinance shall not go into effect until and unless the creation of the Inter-island Ferry Authority is first approved by a majority of the qualified voters voting on the question at a special election to be held on April 1, 1997. The ballot proposition shall be substantially in the following form:

PROPOSITION NO. 97-01

CREATION OF THE INTER-ISLAND FERRY AUTHORITY

"Shall the City of Craig participate with any or all of the "Other Municipalities" identified in Section 2 of Ordinance No. 97-431 of the City of Craig pursuant to AS 29.35.600 – 29.35.730 to create a port authority to be known as the Inter-island Ferry Authority having the purposes, powers, and other attributes as set forth in Ordinance No. 97-431 of the City of Craig?"

YES .....

NO .....

PASSED IN FIRST READING

JANUARY 9, 1997

FINAL PASSAGE

JANUARY 23, 1997



*Dennis Watson*

Dennis Watson, Mayor

ATTEST:

*Helen Gray*

Helen Gray, City Clerk