

# MEMORANDUM


## State of Alaska

Department of Transportation & Public Facilities  
Office of the Commissioner

**TO:** Lance Mearig  
Director, Southcoast Region

**DATE:** July 28, 2022

**PHONE NO:** 465-3900

**FROM:** Ryan Anderson, P.E.   
Commissioner

**SUBJECT:** No Longer Necessary  
Decision Telephone Hill  
Property Transfer

This memorandum transmits my decision that the purpose for the State of Alaska's acquisition of the Telephone Hill property, located on the corner of Main Street and Egan Drive in downtown Juneau, has been fulfilled. The Department of Natural Resources ("DNR") has been directed to convey the Telephone Hill property to the City and Borough of Juneau ("CBJ") pursuant to 13 SLA 22 (CSHB 349, Amendment 3, signed into law June 29, 2022), which will require as a preliminary matter that the Department of Transportation and Public Facilities ("DOT&PF") transfer to DNR all administrative authority and management rights over the Telephone Hill property for DNR's eventual conveyance to the CBJ. I find that DOT&PF no longer needs to retain the Telephone Hill property in anticipation of construction of public facilities to support the functions of the Alaska Legislature. Therefore, in accordance with AS 35.20.070 and 13 SLA 22, and for all the reasons documented in this memorandum, I direct that you transfer the Telephone Hill property to the DNR.

### Purpose and Need for State of Alaska's Acquisition of Telephone Hill

In 1984 the State of Alaska acquired fifteen parcels in downtown Juneau to assemble a property ("Telephone Hill") for the construction of the Juneau Government Center, a proposed legislative hall and facilities to support the operations of the Alaska Legislature."<sup>1</sup> The Telephone Hill property was acquired under the State's eminent domain authority and DOT&PF's authorities to acquire property for the construction and operation of public facilities.<sup>2</sup> Ultimately, because the Alaska Legislature was able to design and build facilities to meet their needs at a lower cost, the Telephone Hill site became unnecessary for its intended purpose.

The original necessity of the State's acquisition of Telephone Hill was supported by a decision document that examined alternative sites considered for the Legislature's facilities.<sup>3</sup> One of the

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<sup>1</sup> Declaration of Taking, Case Number 1JU-84-1164 CI (July 25, 1984).

<sup>2</sup> AS 09.55.240, AS 35.20.020 and AS 44.42.020(b)(2).

<sup>3</sup> Declaration of Taking, 1JU-84-1164 CI (July 25, 1984), Schedule C (*Analysis and Summary of the Decision for the Location of the Legislative Hall in Juneau, Alaska*, November 15, 1983).

analyzed sites would have developed properties directly adjacent to the State Capitol (“Site D”), including an elementary school, public park and playground.<sup>4</sup> While Site D would have provided lower construction costs, there was significant public opposition to development at that site at that time.<sup>5</sup> The City and Borough of Juneau’s Planning and Zoning Commission also passed a resolution specifically disapproving Site D for State Legislature facilities, which resulted in Site D’s removal from consideration from the State of Alaska’s acquisition and development plans.<sup>6</sup>

Despite historical objections, the State Legislature has incrementally implemented a variant of the Site D development plan over the course of the thirty-five years that the State of Alaska has retained Telephone Hill. In 1999, the Alaska Legislature completed extensive renovations on the former Capital School building, located directly behind the State Capitol, to create the Terry Miller Legislative Office Building. Similarly, renovations on the former Scottish Rite Temple were completed in 2010 to create the Thomas B. Stewart Legislative Office Building. Lastly, in 2012 the Alaska Legislature completed renovations on the former Mission Presbyterian Church to create the Legislative Finance Division’s building. The Alaska Legislature’s incremental development of buildings adjacent to the State Capitol satisfied the former need for additional State Legislature office space and facilities. Therefore, the purpose and need for the State of Alaska’s acquisition of the Telephone Hill property has been met.

#### DOT&PF Interim Management of Telephone Hill

The Telephone Hill property is used for two primary purposes: the street level portion of the property abutting Main Street and Egan Drive is used for public parking and a public transit center; the hilltop portion of the property is used for single-and multi-family residential purposes. Each of those uses is authorized by the State according to lease terms, and each of the leases contains terms that govern the lessee’s rights if the State decides to no longer pursue construction of the Juneau Government Center and dispose of the property.

1) Parking Garage and Transit Facility Lease: In 1984, the State and the CBJ entered into a Cooperative Use Agreement (“CUA”) regarding the State’s acquisition and development of Telephone Hill. Under the terms of that agreement, the CBJ contributed two million dollars towards the State’s property acquisition costs, and the CBJ was allowed to develop the site for off street parking and other public uses.<sup>7</sup> Under the CUA, if the State did not develop the Juneau Government Center the CBJ retained a right to reimbursement of its initial contribution, plus five percent annual interest, or a right to the portion of Telephone Hill occupied by the CBJ’s public improvements.<sup>8</sup> In 2008, the State and the CBJ amended the CUA (“Amended CUA”) to stop the accumulation of interest on the CBJ’s contribution to the Telephone Hill acquisition costs; the Amended CUA also authorized a real property lease that allowed the CBJ’s development of parking and transit infrastructure on the Telephone Hill property at their own expense.<sup>9</sup>

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<sup>4</sup> Declaration of Taking, 1JU-84-1164 CI (July 25, 1984), Schedule C at pages 2-3 and 7-8.

<sup>5</sup> Declaration of Taking, 1JU-84-1164 CI (July 25, 1984), Schedule C at pages 7-8.

<sup>6</sup> Declaration of Taking, 1JU-84-1164 CI (July 25, 1984), Schedule C at page 9.

<sup>7</sup> CUA at ¶ 3.

<sup>8</sup> CUA at ¶ 4.

<sup>9</sup> Amended CUA at ¶¶ 3 and 4.

The 2008 Parking Garage and Transit Facility Lease (“Parking Lease”) provided the CBJ with sufficient property interest to finance, construct and operate a multi-story parking garage and transit center at Telephone Hill.<sup>10</sup> The Parking Lease also capped the State’s potential debt obligation to the CBJ at \$6.4 million.<sup>11</sup> If the CBJ acquires the State’s interest in the leased property, the State’s \$6.4 million debt to the CBJ will be deemed the full and agreed upon consideration for a quitclaim deed.<sup>12</sup> If the State terminates the CBJ’s lease prior to the conclusion of the 30-year term, without transferring the property to the CBJ, the State must repay the \$6.4 million debt less an amortized rate for the CBJ’s use of the property.<sup>13</sup>

2) Residential Property Lease: In 2001, the State entered into a lease with a neighborhood association—the Telephone Hill Neighborhood Non-Profit Management Corporation (“the Lessee”)—that allowed the Lessee to sublease the single- and multi-family residential units located on Telephone Hill to residential tenants.<sup>14</sup> The Lessee rents the hilltop portion of Telephone Hill for a single monthly price and is currently a holdover month-to-month tenant.<sup>15</sup> The Lessee is responsible for all residential property management including non-major repairs (less than \$10,000) and collection of rent from all residential sublessees.<sup>16</sup> If the State decides to sell the leased property to a non-public entity, the Lessee has a right of first refusal to purchase the leased property on the same terms and conditions as the intended sale.<sup>17</sup> However, Paragraph 22 specifically exempts transfers “to the State of Alaska or a political subdivision thereof” from this right of first refusal.<sup>18</sup>

#### Conveyance of Telephone Hill to the CBJ

On May 18, 2022, the Senate adopted Amendment 3 to the Committee Substitute for House Bill (CSHB) 349, which directs DNR to convey to the CBJ all rights, title and interests in the Telephone Hill properties. CSHB 349 passed both houses and was signed into law on June 29, 2022. Amendment 3 of CSHB 349 has an effective date of October 1, 2022.

The Legislature directed DNR to convey the Telephone Hill property to the CBJ, although the State-owned land is currently in the management inventory of DOT&PF. AS 35.20.070 authorizes DOT&PF to transfer to DNR land considered no longer necessary for DNR’s disposal of the excess land. Thus, DOT&PF intends to transfer Telephone Hill to DNR so that DNR may timely comply with the Legislature’s directive.

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<sup>10</sup> Parking Lease ¶ 3.

<sup>11</sup> Parking Lease ¶ 6(A).

<sup>12</sup> Parking Lease ¶ 6(E).

<sup>13</sup> Parking Lease ¶ 6(C).

<sup>14</sup> Residential Lease ¶¶ 2 and 5.

<sup>15</sup> Residential Lease ¶¶ 4 and 20.

<sup>16</sup> Residential Lease ¶¶ 5, 7 and 13.

<sup>17</sup> Residential Lease ¶ 22.


<sup>18</sup> Residential Lease ¶ 22.

Decision

The purpose for the State of Alaska's acquisition of Telephone Hill has been satisfied by the State Legislature's incremental development of office space in downtown Juneau. Additionally, there has never been an appropriation of construction funds for the development of legislative office space at Telephone Hill in the 35-years that the State of Alaska retained Telephone Hill for that purpose. Without a doubt, Telephone Hill is no longer necessary for the public facility purpose for which it was originally acquired.

Therefore, I direct DOT&PF Southcoast Region to administratively transfer Telephone Hill to DNR, pursuant to AS 35.20.070 and 13 SLA 22, for DNR's conveyance to CBJ. No easement or other occupancy interests were acquired to support the Telephone Hill property, so there are no interests to be vacated under AS 35.20.070. Southcoast Region shall wind down the Parking Lease and the Residential Lease to assist DNR with the required conveyance of the property to DNR.

Dated: July 28, 2022

 7/28/2022  
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Ryan Anderson, P.E.  
Commissioner