

MEMORANDUM OF AGREEMENT
Between THE CITY AND BOROUGH OF JUNEAU
And WESTERN MARINE CONSTRUCTION

This agreement entered into this _____ day of _____, 2024, by and between Western Marine Construction, a licensed company authorized to conduct business within Alaska, with its principal address 2775 Harbor Ave SW # A, Seattle, WA 98126, and the City and Borough of Juneau, through its Docks and Harbors Department (“Port”), 155 Heritage Way, Juneau, Alaska 99801. This agreement is effective upon execution by both parties.

WHEREAS, Western Marine Construction owns a currently idle, breakwater with the approximate dimensions of 180-foot by 24-foot, displacing 1000 tons; and

WHEREAS, it is the Port’s intention to utilized said breakwater as a convenient “work area” area in the form of an expanded net float in order to allow commercial fishers to more easily service their nets and perform other commercial fisheries related work off the Aurora Harbor Breakwater; and

WHEREAS, Western Marine Construction has expressed a desire to allow Docks and Harbors to utilize the breakwater while they attempt to sell the breakwater, until December 31st, 2027and enters into this agreement to express those desires and conditions therein. This MOA may be extended by mutual agreement.

The Port and Western Marine Construction do hereby agree and warrant as follows:

- A. Western Marine Construction agrees to allow the Port use of the breakwater for the intended purpose of providing a commercial fishing lay-down net float at no cost to the Port and in consideration of the agreed upon relocation services described herein.
- B. The Port will allow the breakwater to be positioned off the Aurora Harbor Breakwater until the net float/breakwater is sold or relocated upon mutual agreement. This is for the Port’s use of the net float for the purposes stated herein. The channel side of the float will be available for moorage of WMC barge.
- C. Western Marine Construction agrees to relocate the proposed net float to a mutually accepted area parallel and adjacent to the Aurora Harbor Breakwater on submerged lands managed by the Port. After consulting with a marine engineer at the Port’s expense, a proposed number of Western Marine Construction anchors will be determined and agreed to by mutual consent. Docks & Harbors will compensate Western Marin Construction for the agreed costs to reposition the proposed net float from across the channel to the designated location and for labor costs to set the anchors.
- D. Western Marine Construction agrees to allow the Port to manage and use said net float in a manner consistent with the goals established by the Port. The Port agrees, subject to appropriation, to defend, indemnify, and hold harmless Western Marine Construction with respect to any action, claim, or lawsuit due to the Port’s management or oversight of the public’s use of the, unless due to the sole negligence of Western Marine Construction.

E. If Western Marine Construction elects to move the net float and act pursuant to section K, Western Marine Construction will be liable for any damages which arise from or related to moving the net float.

F. The Port agrees to provide maintenance and repairs deemed necessary based upon semi-annual visual inspection of the net float, including any necessary pressure washing, minor concrete repairs, etc. The Port does not agree to provide structural repair or replacement and should such become necessary, the parties agree to negotiate the allocation of those costs in good faith. Should the Port wish to improve the net float in any way over and above necessary maintenance and repairs, written permission from Western Marine Construction is required.

G. The Port agrees to secure all local, state, and federal permits required to operate said net float in a manner consistent with this agreement.

H. The Port agrees to only maintain premises liability insurance for liability resulting from the Port's uses of the net float as outlined in this agreement.

I. Should the net float fail, Western Marine Construction will be liable and solely responsible to the extent the net float's failure was the result of their negligent use and care of the breakwater. Similarly, consistent with Section D, the Port will be liable and solely responsible to the extent the net float's failure was the result of the Port's negligent use of the net float. The parties' further agree that should the net float fail, to act in good faith in reaching appropriate allocation of costs and liability.

J. Either Party may terminate this agreement upon written notice to the other. The net float will be available for relocation no later than 30 days after either party elects to terminate this agreement, barring any unforeseen conditions such as weather or water conditions not in the control of the parties. Upon termination of this agreement, Western Construction Marine will relocate the net float/breakwater at no expense to the Port.

K. This agreement contains the entire agreement by the parties, and there are no written or oral promises or understandings between the parties that modify its terms. It may be amended only by written agreement of the parties, signed by their respective authorized representatives.

L. None of the provisions of this agreement are intended to create nor shall be deemed or construed to create any relationship between the parties other than that of independent parties entering into an agreement with each other solely for the purpose of effecting the provision of this agreement.

DATED: _____

Carl Uchtyl, CBJ Port Director

DATED: _____

Kriss Hart, President

Form Approved by: _____, Law Department

Risk Management Review: _____, Risk Management