

**MEMORANDUM OF UNDERSTANDING
BETWEEN PROPERTY OWNERS AND
THE CITY AND BOROUGH OF JUNEAU**

PARTIES

This Memorandum of Understanding (“MOU”) is between _____, Property Owner at _____ Juneau, Alaska 99801 (“Property Owner”) and the City and Borough of Juneau (“CBJ”).

AUTHORITY

The CBJ is currently operating under an emergency resolution which declares a local emergency due to historic flooding in the Mendenhall Valley, under CBJC 03.25 and AS 26.23.140. Alaska Statute 26.23.190(a) provides:

If entry is reasonably necessary to actually alleviate or prevent the disaster, all persons authorized to carry out emergency measures directed under the provisions of AS 26.23.010 - 26.23.220 shall be accorded free access to all public and private land and public buildings within the areas specified, and are authorized to enter them and to perform work and take measures that are appropriate without the consent of the owners of the land or buildings.

PURPOSE

To implement advance flood mitigation measures, CBJ requires access to Property Owner’s land, specifically entry from the main road to the riverbank. This access will allow CBJ to clear land adjacent to the riverbank, make changes to the land to accommodate the HESCO barriers, and install and maintain HESCO barriers. The effectiveness of the barriers requires that all homeowners along the river participate. The CBJ will need access prior to, during, and after installation of the HESCO barriers.

MEMORANDUM OF UNDERSTANDING

CBJ Acknowledgements and Responsibilities:

1. CBJ will control and manage the installation and maintenance of the HESCO barriers; all work will be conducted in a professional and prudent manner by qualified personnel.
2. The CBJ is responsible for liability insurance for its contractors and staff.
3. CBJ shall communicate with the Property Owner and provide updates on the project upon reasonable request. CBJ will provide notice to the Property Owner no less than 48 hours before commencing work.
4. Work will not take place before 7:00 a.m. or after 10:00 p.m., Monday through Friday, or before 9:00 a.m. or after 10:00 p.m., Saturday and Sunday, to the extent possible. Work will take place outside standard hours to respond to an imminent release.
5. The CBJ will manage construction traffic and public access safely. Fencing and other safety measures will be installed as necessary to prevent public access to unsafe areas.

6. The CBJ will inspect and verify that the Property Owner's land is prepared and cleared as required before work begins.
7. CBJ will ensure that equipment stored on the Property Owners property is confined to a designated area, upon consultation with the Property Owners.
8. CBJ will remove the HESCO barriers at a time designated by the Manager's Office. As part of the removal, the CBJ will ensure that the area is clear of hazards and non earthen materials.

Property Owner Acknowledgements and Responsibilities:

1. The CBJ is authorized to undertake flood mitigation measures on private property.
2. The Property Owner will provide the CBJ with access to their property for site review, installation, and maintenance of the HESCO barriers.
3. The Property Owner will clear the area of non-earthen materials to facilitate work, and will notify the CBJ of any potential hazards on the property.
4. The Property Owner will keep the area surrounding the HESCO barriers free and clear of any obstruction that would interfere with intended mitigation use.
5. The Property Owner understands that equipment may be stored on their property during the installation process.
6. The Property Owner understands that the barriers may remain installed for up to 10 years.
7. The Property Owner will not modify or alter the barriers in any way. Should an issue arise, the Property Owner will reach out to CBJ for assistance.
8. The Property Owner will reach out to CBJ if a HESCO barrier malfunction is observed.
9. The Property Owner will reach out to CBJ if ground settling or barrier slippage has compromised the HESCO barrier.
10. The Property Owner will not use the HESCO barrier for any other use or activity other than it's intended mitigation.
11. Property Owner will seek CBJ approval prior to completing any modifications, upgrades, or adjustments to CBJ installed HESCO barriers.
12. The Property Owner understands that the HESCO barriers are only one source of flood mitigation and they will need to employ additional methods to protect their home and property, such as sandbags.

Additionally, the Parties agree as follows:

Riverbank Work: If there is a need to complete riverbank work to allow for the proper installation of the HESCO barriers, the CBJ will engage with the Property Owner to determine the scope of work and notify the Property Owner of the cost of the work.

POLICY ISSUE TO BE DETERMINED BY ASSEMBLY -COST OF WORK

Option A, B, and C presented in City Manager Memo

Appurtenance: If there are permanent or semipermanent items fixed to the land, such as fences, decks, pools, sheds, etc., which need to be removed in order to place the HESCO barriers, the CBJ will engage with the Property Owner to determine the scope of work and notify the Property Owner of the cost of the work.

POLICY ISSUE TO BE DETERMINED BY ASSEMBLY -COST OF WORK
Option A, B, and C presented in City Manager Memo

Property Rights: This MOU does not create any new or additional property rights for CBJ or Property Owner.

Waiver: The Property Owner understands that the installation of HESCO barriers is intended to mitigate possible flood damage to their home and property; however, there is no guarantee that these barriers will be 100% effective. The Property Owner agrees to indemnify and hold harmless the CBJ from any claims, actions, suits, procedures, costs, expenses, damages, and liabilities arising from installation, placement, maintenance, and effectiveness of the HESCO barriers, except for those arising out of the misconduct, negligence, or intentional torts.

Choice of Law: The Superior Court for the State of Alaska, First Judicial District at Juneau, Alaska shall be the exclusive jurisdiction for any action of any kind and any nature arising out of or related to this MOU. Venue for trial in any action shall be in Juneau, Alaska. The laws of the State of Alaska shall govern the rights and obligations of the parties.

Severability: If a court of competent jurisdiction renders any part of this MOU invalid or unenforceable, that part will be severed and the remainder of this MOU will continue in full force and effect.

Agreement. All parties mutually agree to the terms of this MOU.

This Memorandum of Understanding is entered into as of the date signed by both parties.

CBJ

Property Owner:

Date: _____

Date: _____

Name: _____

Name: _____

Signature: _____

Signature: _____