

June 26, 2017

Municipality of Skagway  
700 Spring Street  
P.O. Box 415  
Skagway, AK 99840

Dear Mr. Mayor and Members of the Assembly:

This letter is an outline of three proposed transactions between the Municipality of Skagway and Pacific and Arctic Railway and Navigation Company ("White Pass"). If this proposal is something the Municipality believes is possible to pursue, we will draft documents for your review, subject to any agreed upon edits and agreeing upon the numeric terms of these agreements. We both recognize that the following proposals would require approval of the Municipality's Assembly and corporate approvals for White Pass, and until final documents are reviewed, approved, executed and delivered by all parties, none of the following proposals or draft documents would be binding.

1. **Proposed Amendment to 1968 Lease.** White Pass proposes to amend the existing March 19, 1968 "tidelands" lease and the August 1, 1968 "uplands" lease (collectively, the "1968 Lease") as follows:
  - a. The annual rent under the 1968 Lease would be increased to \$200,000 per year.
  - b. The term of the 1968 Lease would remain intact, so that it terminates on March 18, 2023.
  - c. White Pass and the Municipality would agree to split the cost of construction of a new floating dock in a manner to be agreed upon that results in the equivalent of a 50% contribution or reimbursement by the Municipality and White Pass contributing the other 50%, and the lease amendment would specify the general design parameters for that floating dock. White Pass proposes to use the "3B design" proposal that has been outlined by Moffat & Nichol, for the approximate cost of \$15 million dollars (subject to bidding and mutually agreeable finalization of the design). Upon execution of the lease amendment, White Pass and the Municipality would proceed to finalize the floating dock design. White Pass would build the floating dock. White Pass would diligently pursue the construction of the floating dock with a goal of having it ready for the 2019 tourist season and expected increased ship sizes during that season and beyond.
  - d. The leased premises would be the ore dock area and the Broadway dock area, which amounts to 334,862 sq.ft. The tidelands area to be covered by the amended lease shall be only the land directly beneath the existing and new ore and Broadway docks and any current and future improvements located above the leased tidelands.
  - e. The current operations conducted by White Pass to operate the cruise terminal may be continued by White Pass through the term of the lease.
  - f. There are currently seven subleases or other agreements between White Pass and third parties related to the use of area encompassed by the 1968 Lease. Upon execution of the 1968 Lease amendment, White Pass will assign these subleases and other agreements to the Municipality. For the period of the lease amendment through the end date of those subleases and agreements, and any extensions of those leases

and agreements through March 18, 2023, the Municipality will remit to White Pass the current amount of revenue in each currently existing sublease or agreement and no more and no less. If the Municipality voluntarily chooses to terminate any of the currently existing subleases and agreements prior to 2023, the Municipality will still be subject to the make whole provision for that specific sublease or agreement through March 18, 2023. The Municipality shall not be subject to the make whole provision if, after good faith negotiations, the current holder of the sublease or agreement refuses to enter an extension of the current sublease or agreement to March of 2023. The Municipality may also negotiate new leases with the current sublessees in an amount greater than the current lease payments to White Pass, and in that event, the Municipality shall be entitled to the amount above the current lease payments. The new lease amendment shall specifically state that any current subleases or agreements shall not be extended by White Pass. The existing subleases or agreements are with: AIDEA, AML, CLAA, Harbor, Harbor Flowage, NOAA and TEMSCO.

- g. The lease amendment would incorporate tenant indemnity and environmental indemnity obligations from White Pass as previously agreed to by White Pass and the Municipality.
- h. The lease amendment would provide that the Municipality and White Pass would share ore dock use rights on the following basis: (i) cruise ships would have docking priority rights in all instances, (ii) White Pass would receive all revenues and fees related to cruise ship docking, disembarking, embarking, etc., and (iii) the Municipality would receive ore dock revenues and fees in relation to all non-cruise ship docking, disembarking, embarking, loading, unloading, etc. The lease amendment will include a provision that the Municipality and White Pass shall share responsibility for repairs and maintenance of the ore dock. As between White Pass and the Municipality, White Pass shall bear all responsibility for any damage to the ore dock caused by any cruise ship and the Municipality shall not have any responsibility for damage to the ore dock caused by a cruise ship. As between White Pass and the Municipality, the Municipality shall bear all responsibility for any damage to the ore dock caused by any ship other than a cruise ship and White Pass shall have not responsibility for damage to the ore dock caused by any ship other than a cruise ship.
- i. The amendment will include a provision that the Municipality grant easements to White Pass for all areas to conduct business as currently conducted by White Pass without additional payment for those easements, and White Pass will allow the Municipality access to the leased premises to conduct reasonable inspections and for the purpose of achieving remediation addressed in the separate Environmental Remediation Agreement.

2. **New Lease Agreement.** White Pass proposes to enter into a new lease that would relate to the period after the 1968 Lease term:

- a. The term of the new lease will be for twenty (20) years, beginning on March 19, 2023 and ending on March 19, 2043.
- b. The leased premises would be the ore dock area and the Broadway dock area. The tidelands area to be covered by the new lease shall be only the land directly beneath the existing and ore and Broadway docks and any current and future improvements located above the leased tidelands.
- c. The new schedule of annual lease payments shall be as follows:

- Years 1-5: \$200,000 per year
  - Years 6-10: \$200,000 per year
  - Years 11-15: \$200,000 per year
  - Years 15-20: \$200,000 per year
- d. The current operations conducted by White Pass to operate the cruise terminal may be continued by White Pass through the term of the lease.
- e. The new lease shall provide the Municipality will reimburse White Pass, unless a new lease is negotiated on or before 2042, for capital (other than maintenance or repair) improvements according to the following schedule:
- Before : no reimbursement
  - 2033: 10%
  - 2034: 20%
  - 2035: 30%
  - 2036: 40%
  - 2037: 50%
  - 2038: 60%
  - 2039: 70%
  - 2040: 80%
  - 2041: 90%
  - 2042: 100%

The new lease will contain a provision that defines capital improvement mutually agreed upon by the Municipality and White Pass.

- f. The new lease will include a provision that the Municipality will grant easements to White Pass for all areas to conduct business as currently conducted by White Pass without additional payment for those easements. White Pass will allow the Municipality access to the leased premises to conduct reasonable inspections and for the purpose of achieving remediation addressed in the separate Environmental Remediation Agreement.
- g. The new lease will have provisions similar to the 1968 Lease amendment described above in relation to the existing subleases—all rents from such subleases going to the Municipality during the term of the new lease.
- h. The new lease will have provisions similar to the 1968 Lease amendment described above in relation to ship revenue, ore dock sharing, ore dock damage, and tenant indemnity and environmental indemnity obligations from White Pass.
- i. The new lease will have the indemnification and environmental indemnification provisions previously agreed upon by White Pass and the Municipality.

3. **Environmental Remediation Agreement.** White Pass proposes to enter into a remediation agreement with the Municipality in relation to remediation, including related dredging, of the ore dock basin.

- The remediation would be to Alaska Department of Environmental Conservation (“ADEC”) standards. The remediation would be pursuant to a scope of work prepared by Golder Associates and approved by the ADEC.
- The remediation would be funded with a \$2,500,000 contribution from White Pass and a \$1,500,000 contribution from the Municipality. To the extent that, after initial site excavation, it was determined that the required scope of work will be more than \$4,000,000, White Pass and the Municipality would meet and confer to decide how to proceed.

- This agreement would address remediation and dredging, as opposed to having those matters addressed in the lease amendment and new lease described above.
- The execution of this agreement is a condition precedent to the Municipality entering the new lease.

Time would be of the essence in conjunction with these agreements.

We appreciate your efforts in relation to this and believe that we can come together to truly find a mutually beneficial partnership for the community and White Pass.