

From: george9aa9@icloud.com
To: [Alekka Fullerton](#)
Cc: [Annette Kreitzer](#); [Gabe Thomas](#)
Subject: Lutak Dock
Date: Thursday, December 21, 2023 12:18:01 PM

CAUTION: This email originated from outside of the Haines Borough. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Please forward to the Assembly and Mayor.

Dear Assembly and Mayor,

Allow me to thank each of you for being willing to take your turn in the public process of Haines Borough governing. It is a big job to undertake requiring hours upon hours of research on many subjects.

The current turmoil over the Lutak Dock project has me concerned for the long term financial health of our Borough. While I was on the Assembly we had a cell failure causing one of the AML bull forklifts to drop through the surface asphalt and into the deep hole created by the failure; it became apparent that the existing dock was at an elevated risk to the health and safety of people and equipment working on and around it.

Our Borough has multiple engineering reports expecting imminent failure to the existing dock making it unusable.

Currently the Lutak Dock repair/replacement project has received approval for the 95% design, it is fully funded through state and federal grants, and the Haines Borough has a signed contract with a Turnigain Marine Contracting, TMC, to complete the repair/replacement of the dock by the end of year 2024.

Simple Questions: Are you willing to risk making a payout of \$14,000,000 for contract cancelation? How would the Haines Borough pay a \$14,000,000 for contract cancellation.

Let me explain why I ask:

Any Vote to interfere with the project through changes in design, delays or funding, puts our community at risk of losing our financial solvency by making the Borough liable for as much as \$14,000,000 of contractual obligation.

You may believe I am ‘fear mongering’, however, I have been involved in construction contracting for over twenty years. The State of Alaska courts have many cases on record of contractors receiving big payouts when owners breach or cancel contracts. But the truth is, only the attorneys get a win in these situations.

While TMC may not have equipment onsite digging holes or driving piles, they are no less financially engaged in this project. If the Assembly or staff take actions that cause the Borough to become in breach of the contract, the Borough becomes liable for contractors expenses to date, and for profits the contractor anticipated earning for the project. Borough staff estimated to me is that a breach by the Borough could make them liable for around \$14 Million.

The \$20 Million federal grant is very specific for allowed uses, has strict timelines, and has approved the Borough's designs and process up to this date. Federal support and funding of the Lutak Dock has regional and national impacts, asking for a smaller footprint may cause reconsideration of the federal funding.

The Haines Borough Assembly voted to approve the construction contract with TMC. During the Assembly discussion of the *motion to approve* it was stated that the contract approval was needed to allow TMC the authorization to order materials immediately to meet grant and contractual construction deadlines. That discussion and vote to approve the contract obligates the Borough to the costs of materials ordered in good faith, hence the \$14,000,000 estimated current liability.

A loss of funding through Borough negligence, or the Borough attempting to change the valid contract between the Haines Borough and Turnigain Marine Construction would be considered a breach in the contract. I ask each of you, as members of the Assembly, sworn to make decisions in the best interest of the Haines Borough Citizens- including financially:

Is it in the best interest of the Haines Borough and it's citizens to risk having to pay a \$14,000,000 contract cancellation because we missed deadlines or breached the contract?

This type of delay/change/interference could easily cause the \$20,000,000 federal grant to be withdrawn, (anyone recall FEMA and Porcupine funding?), which could also put us in breach of the contract.

Have you considered what the legal costs will be to litigate a scenario in which the Borough loses secured funding then does not want to pay the contract cancellation fees?

If the project is halted we will still have a failing dock. What will our liability be if the Borough does not proceed and again becomes financially unable to repair the currently failing dock?

The Haines Borough can not afford the costs of contract cancellation. Please stop the interference with the Lutak Dock Contract and funding, and allow the process to continue under good faith.

Sincerely,

George Campbell