

City of Kodiak Regular Council Meeting Agenda for April 25, 2019
7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)

I. Call to Order/Roll Call	
Invocation/Pledge of Allegiance	
II. Previous Minutes	
Approval of the March 26, 2019, Special Meeting and April 11, 2019, Regular Council Meeting Minutes	1
III. Persons to Be Heard	
a. Presentation of 25 Years of Service Pin to City Clerk.....	8
b. Public Comments (limited to 3 minutes) (486-3231)	
IV. Unfinished Business	
None	
V. New Business	
a. First Reading, Ordinance No. 1385, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2018 and Ending on the Thirtieth Day of June 2019.....	10
b. Resolution No. 2019-08, Transferring \$6,750 From the Water Fund to the Water Capital Project Fund and Authorizing a Professional Services Contract for Dam Safety Inspections With Golder Associates Inc. in the Amount of \$65,523, Project No. 05-03/7039.....	20
c. Authorization of Settlement Agreement in Chiesa v. City of Kodiak.....	32
d. Appointment to the Building Code Board of Appeals.....	42
VI. Staff Reports	
a. City Manager	
b. City Clerk	
VII. Mayor’s Comments	
VIII. Council Comments	
IX. Audience Comments (limited to 3 minutes) (486-3231)	
X. Oath of Office to City Clerk Nova Javier.....	46
XI. Adjournment	

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DRAFT

**MINUTES OF THE SPECIAL COUNCIL MEETING
OF THE CITY OF KODIAK
HELD TUESDAY, MARCH 26, 2019
IN THE KODIAK PUBLIC LIBRARY ALASKANA ROOM**

I. MEETING CALLED TO ORDER

Mayor Pat Branson called the meeting to order at 6:32 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Charles E. Davidson, Terry J. Haines, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. City Manager Mike Tvenge, City Clerk Debra Marlar, and Fire Chief Jim Mullican were also present.

II. Public Comments on Agenda Item Only
None

III. Executive Session

a. Discuss Property Purchase for Fire Station

Councilmember Davidson moved to enter into executive session to discuss purchasing property for the fire station of which the immediate knowledge would have an adverse effect upon the finances of the City.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Haines, Walker, and Whiddon in favor. The motion passed.

The Council entered into Executive Session with the City Manager, City Clerk, and Fire Chief at 6:36 p.m.

The Mayor reconvened the Special Meeting at 7:38 p.m.

IV. Adjournment

Councilmember Whiddon moved to adjourn the meeting.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Haines, Walker, and Whiddon in favor. The motion passed.

Mayor Branson adjourned the meeting at 7:38 p.m.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Minutes Approved:

DRAFT

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, APRIL 11, 2019
IN THE BOROUGH ASSEMBLY CHAMBERS**

I. MEETING CALLED TO ORDER/INVOCATION/PLEDGE OF ALLEGIANCE

Mayor Pat Branson called the meeting to order at 7:30 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Charles E. Davidson, Terry J. Haines, and John B. Whiddon were present and constituted a quorum. Councilmember Richard H. Walker was absent. City Manager Mike Tvenge, City Clerk Debra Marlar, and Deputy Clerk Michelle Shuravloff-Nelson were also present.

Salvation Army Major Dave Davis gave the invocation and the Pledge of Allegiance was recited.

II. PREVIOUS MINUTES

Councilmember Whiddon MOVED to approve the minutes of the March 28, 2019, regular meeting as presented. The March 26, 2019, special meeting minutes will be on the next meeting agenda.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Haines, and Whiddon in favor. Councilmember Walker was absent. The motion passed.

III. PERSONS TO BE HEARD

a. Public Comments

None

IV. UNFINISHED BUSINESS

None

V. NEW BUSINESS

a. Authorization to Cancel the May 21 Work Session and May 23 Regular Meeting and Reschedule the Work Session to May 28 and Authorize a Special Meeting for May 30, 2019

The Council routinely re-schedules regular meetings to reflect summer meeting schedules or training. The Council voiced a consensus at the March 26, 2019, work session to cancel the May 21 work session and May 23 regular meeting and instead reschedule meetings on May 28 and 30, 2019. The May 7 work session and May 9 regular meeting will remain unchanged. This revised meeting schedule will allow Clerk staff to attend annual training necessary for Clerk certification.

Councilmember Arboleda MOVED to cancel the May 21 work session and May 23 regular meeting and authorize the work session be rescheduled to May 28 and a special meeting be held May 30, 2019.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Haines, and Whiddon in favor. Councilmember Walker was absent. The motion passed.

VI. STAFF REPORTS

a. City Manager

Manager Tvenge gave a report on the Pillar Mountain cleanup; he said the City's Public Works crew began a cleanup of discarded items along Pillar Mountain Service Road on Saturday March 30. Nearly 25 volunteers in the community helped to collect 70 bags of trash and hauled items out of the ditches and up to the road to be collected. He reported a total of 20,000 lbs. of trash was hauled to the Kodiak Island Borough's Landfill, which cost \$3,550. He stated that 3,700 lbs. of metals were taken Nick's Auto Wrecking Salvage and Metal Recycling. He shared that the salvage fee will be invoiced to the city later this month. He expressed his gratitude to everyone involved in the cleanup and discouraged the dumping and littering in the area that is used by so many citizens in Kodiak. He provided statistics and stated that the winter month's closure on Pillar Mountain has proven to protect citizens from adverse incidents and reduced the need for resources from police, fire and EMS.

Manager Tvenge shared that City staff held a WWTP UV disinfection kick off meeting Tuesday with representatives from Jacobs Engineering to discuss the details of the EPA/ADEC required effluent disinfection facility. He stated that bidding is planned for February 2020 with completion expected in July or August of 2022. He said this is a federal mandate with a fully operational date of July 2023; however, construction is dependent on a funding source. The project is expected to exceed \$5.1 million.

He stated that the local emergency personnel will conduct a cyber-security table top exercise along with many of our community partners on Friday, April 12 as a part of Alaska Shield 2019. He highlighted that the emergency personnel or Incident Management Team conducts drills for large scale events ranging from earthquakes, wild land fires, to cyber-security attacks. He shared that it is a dedicated group, which consists of city and borough employees.

Manager Tvenge re-announced that Mission Road Tsunami siren was repaired and installed on March 28. He emphasized that all necessary sirens are working and tested each Wednesday at 2 p.m. He said the repairs are funded through a budgeted line item identified in the Long Term Capital Improvement Plan, which was developed in December 2017.

He announced that on Saturday, April 27 staff will present the FY2020 draft budget to Council and the public at the Kodiak Public Library. He highlighted that the draft operational budget is again balanced, sustainable, and did not use the fund balance. He said the budget presentation is an informative presentation and staff continues to provide essential services.

Manager Tvenge provided an update on the Sewer Lift Stations 3 and 4. He thanked Major Dave Davis for his dedication in providing the invocation during City Council meetings.

b. City Clerk

City Clerk Marlar thanked the Deputy Clerk/Records Manager Michelle Shuravloff-Nelson for producing the annual records report as required by Kodiak City Code. She announced the dates of the upcoming April meetings.

VII. MAYOR’S COMMENTS

Mayor Branson thanked the Public Works Department and all the volunteers for the cleanup on Pillar Mountain. She stated there was a well-attended Town Hall meeting the same day as the cleanup and she is pleased the sirens are working. She said the House passed the budget tonight and worked to restore the funds in the Governor’s budget. She encouraged the public to go to the LIO office to testify on local impacts of the proposed budget. She shared that Nova Javier the new Clerk will be starting next week and shared that Debra Marlar will be retiring this month.

VIII. COUNCIL COMMENTS

Councilmember Davidson thanked the Records Manager for the annual report, and he thanked the volunteers for the Pillar Mountain cleanup.

Councilmember Arboleda thanked the Records Manager for the annual report. She shared her gratitude for the volunteers at the Pillar Mountain cleanup and was pleased to be a part of the community effort.

Councilmember Whiddon shared he will miss Clerk Marlar. He thanked Major Dave Davis for his presence and invocations. He said the USCG and KPD have done good work to fight the drug epidemic. He shared that the next Fisheries Work Group will be on April 24 and there will be discussion on the Pebble Mine and salmon fisheries issues.

Councilmember Bishop thanked the Public Works staff and volunteers for the Pillar Mountain cleanup. He said he recently attended the Rotary Club and encouraged citizens to get involved within the community. He wished everyone a Happy Easter.

Councilmember Haines thanked the many individuals for working to clean Pillar Mountain. He shared there are groups that work on community cleanup year round. He encouraged the public to attend the Fisheries Work Group meetings. He said the budget work session will be this month.

IX. AUDIENCE COMMENTS

None

X. ADJOURNMENT

Councilmember Davidson MOVED to adjourn the meeting.

The meeting adjourned at 7:50 p.m.

The roll call vote was Councilmembers Arboleda, Bishop, Davidson, Haines, and Whiddon in favor. Councilmember Walker was absent. The motion passed.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Minutes Approved:

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PERSONS TO BE HEARD

MEMORANDUM TO COUNCIL

Date: April 25, 2019

Agenda Item: III. a. Presentation of 25 Years of Service Pin to City Clerk

SUMMARY: Mayor Branson will present City Clerk Debra Marlar with a City of Kodiak pin for her 25 years of service. Clerk Marlar is retiring on April 30, 2019.

NEW BUSINESS

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager *MT*

Thru: Kelly Mayes, Finance Director *KMM*

Date: April 25, 2019

Agenda Item: **V. a. First Reading Ordinance No. 1385, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2018 and Ending on the Thirtieth Day of June 2019**

SUMMARY: The Supplemental Appropriation No. 1 to the budget for the fiscal year commencing on the first day of July 2018 and ending on the thirtieth day of June 2019 is in the amount of \$3,183,246. It is customary for the City Council to approve at least one supplemental budget annually to authorize the adjustments of current revenues and expenses as detailed in the attachments provided. These adjustments are for the operating funds as well as additions to project funds for grant revenues received and additional expenditures needed that were not known at the time the original budget was adopted.

PREVIOUS COUNCIL ACTION:

- On May 10, 2018, Council adopted Ordinance No. 1375(SUB) for the FY2019 budget in the amount of \$41,073,294 commencing on the first day of July 2018 and ending on the thirtieth day of June 2019.
- Council action thus far in FY2019 includes the following:
 - Adopted Resolution No. 2019-07 accepting a Department of Public Safety Crime Prevention and Response and Equipment Grant for \$100,000 and establishing general capital project number 4056 for appropriately accounting for grant-related expenses.

DISCUSSION: The adoption of the budget by the City Council puts the budget into effect for the budget year July 1 through June 30. Amendments to the budget can occur anytime during the fiscal year by resolution, ordinance, or through a supplemental budget ordinance, which is introduced at one Council meeting and typically adopted at the next Council meeting.

All new appropriations are authorized by resolution or ordinance that amends the annual budget ordinance. The Supplemental No. 1 is requesting the addition of \$3,183,246 to the adopted budget bringing the total amended budget to \$44,356,540 for FY2019.

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The Supplemental No. 1 Appropriation is requesting an increase in revenues due to increase in the State of Alaska Jail Contract, an increased amount received from the State of Alaska Fisheries Business tax, an increase in amount received in property taxes, and Federal and State grants received. Other budget adjustments include the following:

- (1) a net decrease in Finance of \$5,000 that is attributable to an increase in Finance-Professional Services for contract services obtained during the fiscal year and a transfer from the Finance-IT capital outlays to a general capital project;
- (2) a net decrease in Police of \$24,000 due to a transfer to general capital projects for Jail CCTV software and an increase in expenses for the newly opened substation;
- (3) a net decrease of \$37,320 in Parks and Recreation due to a vacant full-time position and the funds were reallocated to the KPD substation, public restrooms facility, and library janitorial services; (4) an increase of \$25,320 to the Library for janitorial services;
- (4) an increase of \$6,000 for public restrooms facility janitorial services; and
- (5) transfers to capital projects and \$318,006 in transfers to the Enhancement Fund by Code for 50 percent of the General Fund surplus determined at the completion of the FY2018 audit.

Other budget adjustments include an increase in capital project revenues and expenses for Federal grants received; a transfer of fund balance from the Cargo Operating fund to the Cargo Capital Improvement fund; and a transfer of \$389,470 from the Harbor Fund to the Shipyard Fund as determined at the completion of the FY2018 audit. All other adjustments are reclassification of budget expenses within the same department and fund.

FINANCIAL IMPLICATIONS: All expense appropriations requested in Supplemental Appropriation No. 1 are funded by increased revenue sources, additional state and federal grant sources, and use of fund balances and transfers. The ordinance makes a number of changes in the FY2019 budget reflecting increased revenues and expenditures, new project and grant funding, and movement of funds to more accurately reflect current City operations. Details of funding sources and expenses have been submitted in the attachments.

LEGAL: The Kodiak City Charter and Kodiak City Code grant Council the authority to make appropriations and adopt and amend budgets as required.

CITY MANAGER'S COMMENTS: The City traditionally adopts one major budget amendment each fiscal year to make necessary adjustments to cover changes or additions to projects, to account for the receipt of additional revenues, and balanced operating expenses. For clarity this supplemental budget ordinance decreases net appropriations of General Fund balance \$91,787 and increases the Enhancement Fund by \$318,000; reconciles the Cargo Fund balance from FY2013 and transfers \$389,470 from the Harbor Fund to the Shipyard Fund to balance that fund. The ordinance and attachments detail the sections of the City's operating and capital budget that require changes.

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ATTACHMENTS:

Attachment A: Ordinance No. 1385

Attachment B: Backup descriptions containing details and summaries by each fund

PROPOSED MOTION:

Move to pass Ordinance No. 1385 in the first reading and advance to second reading and public hearing at the next regular or special meeting.

**CITY OF KODIAK
ORDINANCE NUMBER 1385**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK ESTABLISHING
SUPPLEMENTAL APPROPRIATION NO. 1 TO THE BUDGET FOR THE FISCAL YEAR
COMMENCING ON THE FIRST DAY OF JULY 2018 AND ENDING ON THE THIRTIETH
DAY OF JUNE 2019**

BE IT ORDAINED by the Council of the City of Kodiak, Alaska, as follows:

Section 1: The following estimated revenues and expenditures are hereby appropriated for the corporate purposes and object of the City of Kodiak for the fiscal year 2019.

GENERAL FUND

	Adopted Budget	FY 2019 Council Action	Supplemental No. 1	Amended Budget
Budgeted Revenues				
Property Tax	\$ 1,000,000	\$ -	148,090	\$ 1,148,090
Sales Tax	15,827,500	-	-	15,827,500
Licenses and Permits	58,800	-	-	58,800
Intergovernmental	1,052,800	-	334,223	1,387,023
Charges for Services	1,661,217	-	37,380	1,698,597
Fines and Forfeitures	3,000	-	-	3,000
Interest Income	20,000	-	-	20,000
Rental Income	81,900	-	-	81,900
Other Revenues	4,500	-	-	4,500
Interfund Charges	1,607,662	-	-	1,607,662
Appropriation (to) from Fund Balance	368,400	-	(91,787)	276,613
Transfers In	-	-	-	-
	<hr/>	<hr/>	<hr/>	<hr/>
Total Budgeted Revenues	<u>\$ 21,685,779</u>	<u>\$ -</u>	<u>\$ 427,906</u>	<u>\$ 22,113,685</u>
Budgeted Expenditures				
Legislative	\$ 259,869	\$ -	\$ -	\$ 259,869
Legal	75,000	-	-	75,000
Executive	830,555	-	-	830,555
Emergency Preparedness	38,000	-	-	38,000
City Clerk - Administration	379,101	-	-	379,101
City Clerk - Records Management	193,877	-	-	193,877
Finance	1,898,688	-	(5,000)	1,893,688

General Fund Expenditures continued

Police	7,481,641	-	(24,000)	7,457,641
Fire	2,697,735	-	-	2,697,735
Public Works	2,132,191	-	-	2,132,191
Engineering	297,225	-	-	297,225
Parks & Recreation	1,616,880	-	(37,320)	1,579,560
Library	907,992	-	25,320	933,312
Non-Departmental	633,184	-	6,000	639,184
Transfers	2,243,841	-	462,906	2,706,747
	<u>21,685,779</u>	<u>-</u>	<u>427,906</u>	<u>22,113,685</u>
Total Budgeted Expenditures	\$ 21,685,779	\$ -	\$ 427,906	\$ 22,113,685

SPECIAL REVENUE FUNDS

	Adopted Budget	FY 2019 Council Action	Supplemental #1	Amended Budget
Budgeted Revenues				
Tourism Development	\$ 170,500	\$ -	\$ -	\$ 170,500
City Enhancement	-	-	-	-
Total Budgeted Revenues	<u>\$ 170,500</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 170,500</u>
Budgeted Expenditures				
Tourism Development	\$ 170,500	\$ -	\$ -	\$ 170,500
City Enhancement	-	-	-	-
Total Budgeted Expenditures	<u>\$ 170,500</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 170,500</u>

CAPITAL PROJECTS

	Adopted Budget	FY 2019 Council Action	Supplemental #1	Amended Budget
Budgeted Revenues				
General Capital Projects	860,062	100,000	144,900	1,104,962
Street Improvements	450,000	-	-	450,000
Building Improvement Fund	121,693	-	76,522	198,215
Water Capital Fund	660,000	-	-	660,000
Sewer Capital Fund	390,000	-	-	390,000
Cargo Development Fund	-	-	1,072,224	1,072,224
Harbor Development	500,000	-	-	500,000
Parks & Recreation Fund	50,000	-	-	50,000
Vehicle Replacement Fund	262,086	-	-	262,086
Total Budgeted Revenues	<u>3,293,841</u>	<u>100,000</u>	<u>1,293,646</u>	<u>4,687,487</u>

Capital Projects continued

Budgeted Expenditures

General Capital Projects	860,062	100,000	144,900	1,104,962
Street Improvements	450,000	-	-	450,000
Building Improvement Fund	121,693	-	76,522	198,215
Water Capital Fund	660,000	-	-	660,000
Sewer Capital Fund	390,000	-	-	390,000
Cargo Development Fund	-	-	1,072,224	1,072,224
Harbor Development	500,000	-	-	500,000
Parks & Recreation Fund	50,000	-	-	50,000
Vehicle Replacement Fund	262,086	-	-	262,086
	<u>3,293,841</u>	<u>100,000</u>	<u>1,293,646</u>	<u>4,687,487</u>
Total Budgeted Expenditures	<u>3,293,841</u>	<u>100,000</u>	<u>1,293,646</u>	<u>4,687,487</u>

ENTERPRISE FUNDS

	Adopted Budget	FY 2019 Council Action	Supplemental #1	Amended Budget
Budgeted Revenues				
Cargo Fund	\$ 1,247,287	\$ -	\$ 1,072,224	\$ 2,319,511
Harbor fund	3,939,637	-	389,470	4,329,107
Shipyards (Boat Yard Lift) Fund	1,146,794	-	-	1,146,794
Harbor Electric Fund	626,680	-	-	626,680
Water Utility Fund	3,427,535	-	-	3,427,535
Sewer Utility Fund	4,105,618	-	-	4,105,618
Trident Basin Fund	303,555	-	-	303,555
E-911 Services	450,350	-	-	450,350
	<u>\$ 15,247,456</u>	<u>\$ -</u>	<u>\$ 1,461,694</u>	<u>\$ 16,709,150</u>
Total Budgeted Revenues	<u>\$ 15,247,456</u>	<u>\$ -</u>	<u>\$ 1,461,694</u>	<u>\$ 16,709,150</u>
Budgeted Expenditures				
Cargo Fund	\$ 1,247,287	\$ -	\$ 1,072,224	\$ 2,319,511
Harbor fund	3,939,637	-	389,470	4,329,107
Shipyards (Boat Yard Lift) Fund	1,146,794	-	-	1,146,794
Harbor Electric Fund	626,680	-	-	626,680
Water Utility Fund	3,427,535	-	-	3,427,535
Sewer Utility Fund	4,105,618	-	-	4,105,618
Trident Basin Fund	303,555	-	-	303,555
E-911 Services	450,350	-	-	450,350
	<u>\$ 15,247,456</u>	<u>\$ -</u>	<u>\$ 1,461,694</u>	<u>\$ 16,709,150</u>
Total Budgeted Expenditures	<u>\$ 15,247,456</u>	<u>\$ -</u>	<u>\$ 1,461,694</u>	<u>\$ 16,709,150</u>

INTERNAL SERVICE FUND

	<u>Adopted Budget</u>	<u>FY 2019 Council Action</u>	<u>Supplemental #1</u>	<u>Amended Budget</u>
Budgeted Revenues				
Insurance Internal Service Fund	\$ 675,718	\$ -	\$ -	\$ 675,718
Total Budgeted Revenues	<u>\$ 675,718</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 675,718</u>
Budgeted Expenditures				
Insurance Internal Service Fund	\$ 675,718		\$ -	\$ 675,718
Total Budgeted Expenditures	<u>\$ 675,718</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 675,718</u>
Total Revenues	\$ 41,073,294	\$ 100,000	\$ 3,183,246	\$ 44,356,540
Total Expenditures	\$ 41,073,294	\$ 100,000	\$ 3,183,246	\$ 44,356,540

Section 2: This ordinance shall be in full force and effect from and after its passage as required by law.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:
Effective Date:


GL Acct	Description	Increase	Decrease	Description
100.001.340.100	Boarding of Prisoners	37,380.00		Increase in Jail Contract with State of Alaska
100.001.385.100	GF Appropriations		37,380.00	Increase in Jail Contract with State of Alaska
100.001.310.100	Property Tax	148,090.00		Increase in Property Tax - Actual Amount Received Exceeded Budget
100.001.385.100	GF Appropriations		148,090.00	Increase in Property Tax - Actual Amount Received Exceeded Budget
100.001.330.130	Fisheries Business Tax	334,223.00		Fisheries Business Tax - Actual Amount Received Exceeded budget
100.001.385.100	GF Appropriations		334,223.00	Fisheries Business Tax - Actual Amount Received Exceeded budget
100.170.100.410.100	Salaries		68,320.00	Parks & Rec - Salaries to Janitorial Contract; no increase / decrease to overall FY 2019 budget
100.180.100.430.112	Library Janitorial Services	25,320.00		Parks & Rec - Salaries to Janitorial Contract; no increase / decrease to overall FY 2019 budget
100.190.185.430.112	Nondept. Janitorial Services	6,000.00		Parks & Rec - Salaries to Janitorial Contract; no increase / decrease to overall FY 2019 budget
100.140.140.430.112	KPD Substation Janitorial Services	6,000.00		Parks & Rec - Salaries to Janitorial Contract; no increase / decrease to overall FY 2019 budget
100.170.100.470.126	P&R ManLift Purchase	31,000.00		Parks & Rec - Salaries to Manlift Purchase; no increase / decrease to overall FY 2019 budget
				** FT Parks & Rec person budgeted for Janitorial; FT person not hired - change in direction for Janitorial Services
100.001.385.100	GF Appropriations	105,000.00		Increase due to Finance Director contract services from July 2018 through January 2019
100.130.100.430.110	Finance Professional Services	105,000.00		Increase due to Finance Director contract services from July 2018 through January 2019
100.130.135.430.110	IT Professional Services	20,000.00		Increase due to Spillman software contract for FY 2019 & Adobe Licenses for Records Mgmt
100.130.135.450.510	IT Repairs & Maintenance	15,000.00		Building Improvements for Barn
100.130.135.420.131	Finance IT - benefits	35,000.00		Reclassification of expenses - no increase / decrease to overall FY 2019 budget
100.130.100.420.131	Finance - benefits		9,000.00	To purchase automatated bank rec software; no increase / decrease to overall FY 2019 budget
100.130.100.470.125	Machinery & Equipment < \$5,000	9,000.00		To purchase automatated bank rec software; no increase / decrease to overall FY 2019 budget
100.130.135.470.126	Machinery & Equip > \$5,000		110,000.00	Move Phone System Upgrade from Operating Budget to General Capital Projects
100.190.198.490.300	Transfers to Gen Cap Projects	110,000.00		Move Phone System Upgrade from Operating Budget to General Capital Projects
300.300.XXX	Machinery & Equip > \$5,000	110,000.00		Create Project # 4057 Citywide Phone System Upgrade
300.001.390.100	Transfer from General Fund	110,000.00		Create Project # 4057 Citywide Phone System Upgrade
				**No increase / decrease to overall FY 2019 Budget
100.140.142.470.126	Machinery & Equip > \$5,000		30,000.00	Move Jail CCTV Software from Operating Budget to General Capital Projects
100.190.198.490.300	Transfers to Gen Cap Projects	30,000.00		Move Jail CCTV Software from Operating Budget to General Capital Projects
300.300.XXX	Machinery & Equip > \$5,000	30,000.00		Create Project # 4058 KPD Jail CCTV Software
300.001.390.100	Transfer from General Fund	30,000.00		Create Project # 4058 KPD Jail CCTV Software
				**No increase / decrease to overall FY 2019 Budget
100.140.143.450.135	Investigations - Training		5,000.00	Reallocate funds to replace computer & printer; no increase / decrease to overall FY 2019 budget
100.140.143.470.125	Investigations - M&E < \$5,000	5,000.00		Reallocate funds to replace computer & printer; no increase / decrease to overall FY 2019 budget

GL Acct	Description	Increase	Decrease	Description
100.140.141.470.125	Machinery & Equip < \$5,000	13,000.00		To replace radar units for KPD Patrol; no increase / decrease to overall FY 2019 budget
100.140.146.410.100	Drug Enforcement - Salaries		13,000.00	To replace radar units for KPD Patrol; no increase / decrease to overall FY 2019 budget
100.140.141.470.125	Machinery & Equip < \$5,000	12,000.00		Speed signs for Mission Road; no increase / decrease to overall FY 2019 budget
100.140.146.410.100	Drug Enforcement - Salaries		12,000.00	Speed signs for Mission Road; no increase / decrease to overall FY 2019 budget
100.140.142.470.125	Machinery & Equip < \$5,000	1,600.00		Replace headsets for Dispatch; no increase / decrease to overall FY 2019 budget
100.140.146.450.135	Drug Enforcement - Training		1,600.00	Replace headsets for Dispatch; no increase / decrease to overall FY 2019 budget
100.140.140.450.510	KPD Substation Repairs & Maintenance	7,500.00		KPD Substation R & M to ready for use; no increase / decrease to overall FY 2019 budget
100.140.146.420.110	Drug Enforcement - Benefits		7,500.00	KPD Substation R & M to ready for use; no increase / decrease to overall FY 2019 budget
				**Funds moved due to vacant position in Drug Enforcement
100.001.385.100	Appropriations	4,900.00		Increase due to additional grant funding required for Code Blue Ambulance
100.190.198.490.300	Transfer to General Cap Projects	4,900.00		Increase due to additional grant funding required for Code Blue Ambulance
300.001.390.100	Transfer from General Fund	4,900.00		Increase due to additional grant funding required for Code Blue Ambulance
300.300.XXX	Machinery & Equipment > \$5,000	4,900.00		Increase Project Number 4047 Ambulance Replacement - Code Blue Grant
100.150.100.420.131	Fire Dept - Benefits		15,000.00	To replace extractor for Hazmat cleaning of turnouts; no increase / decrease to overall FY 2019 budget
100.150.100.470.126	Machinery & Equipment > \$5,000	15,000.00		To replace extractor for Hazmat cleaning of turnouts; no increase / decrease to overall FY 2019 budget
302.302.XXX	Federal Grant - Fire Station	76,755.61		To formally adjust budget for Federal Grants and Setup New Fire Station Project # 6016
302.302.XXX	Fire Station - Construction	76,755.61		To formally adjust budget for Federal Grants and Setup New Fire Station Project # 6016
302.302.XXX	PN 6015 Demolish Old Library		719,690.25	To rename PN 6015 to Demolish Old Library due to decision to build Fire Station in another location
302.302.XXX	PN 6016 Kodiak Fire Station	719,690.25		and move funds to new Project # 6016 Kodiak Fire Station
100.190.198.490.299	Transfers to Enhancement	318,006.00		Per City Code, Transfer 1/2 GF Surplus to Enhancement Fund
100.001.385.100	GF Appropriations	318,006.00		Per City Code, Transfer 1/2 GF Surplus to Enhancement Fund
299.001.390.100	Transfers In - General Fund	318,006.00		Per City Code, Transfer 1/2 GF Surplus to Enhancement Fund
299.001.385.100	Enhancement Appropriations		318,006.00	Per City Code, Transfer 1/2 GF Surplus to Enhancement Fund
500.510.198.490.500	Transfer to Cargo Capital Projects	1,072,223.99		Transfer from Cargo Operating to Cargo Capital Projects due to overappropriations from FY 2013
500.001.385.100	Cargo Appropriations		1,072,223.99	**Note: This occurred prior to capital project reconciliations being performed (pre-FY 2014); As the
307.001.390.500	Transfer from Cargo Fund	1,072,223.99		Cargo Fund and Cargo Improvement Fund are consolidated for financial reporting purposes, this will
307.001.385.100	Cargo Improvement Fund Appropriations		1,072,223.99	not have a financial statement impact nor will it have an overall consolidated Cargo Fund balance
				impact; this is to correct overappropriations from the Cargo Improvement fund in prior fiscal years.
510.520.198.490.512	Transfers Out - Shipyard	389,470.00		Transfer to Shipyard from Harbor Fund due to FY 2018 Deficit in Shipyard
510.001.385.100	Harbor Appropriations	389,470.00		Transfer to Shipyard from Harbor Fund due to FY 2018 Deficit in Shipyard
512.001.390.510	Transfers In - Harbor	389,470.00		Transfer to Shipyard from Harbor Fund due to FY 2018 Deficit in Shipyard
512.001.385.100	Shipyard - Appropriations		389,470.00	Transfer to Shipyard from Harbor Fund due to FY 2018 Deficit in Shipyard

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager 

Thru: Craig Walton, Public Works Director, Glenn Melvin P.E., City Engineer

Date: April 25, 2019

Agenda Item: V. b. Resolution No. 2019–08, Transferring \$6,750 From the Water Fund to the Water Capital Project Fund and Authorizing a Professional Services Contract for Dam Safety Inspections With Golder Associates Inc. in the Amount of \$65,523, Project No. 05-03/7039

SUMMARY: The State of Alaska Department of Natural Resources (ADNR) regulation requires that Hazard Class I or II dams have Periodic Safety Inspection (PSI) performed by a qualified engineer. All Hazard class I and II dams must be inspected every three years. Staff recommends Council authorize the award of a Professional Services contract to Golder Associates Inc. to perform the City's required periodic dam safety inspections in the amount of \$65,523.

PREVIOUS COUNCIL ACTION: The Council approved the last PSI contract with Golder Associates Inc. in February 2016. In the FY2016 budget, Council approved the funding needed for this required project in the amount of \$60,000.

BACKGROUND: All dams that fall under the definition of regulated as defined in 11 AAC 93 need a Certificate of Approval to operate a dam issued by ADNR. Certificates to Operate a dam expire every three years. A current, approved Periodic Safety Inspection Report, an Operation and Maintenance Manual and other information, must be on file with the Dam Safety and Construction Unit in order to receive a current Certificate to Operate a dam. In addition, Class I and II dams must have an Emergency Action Plan.

DISCUSSION: To comply with the regulations, every three years the City contracts with an Engineering firm to conduct the PSI's. Since 2003, the City has requested a proposal for the inspections and reports from Golder Associates Inc., which has performed the PSIs. In addition to performing the 2004, 2007, 2010, 2013, and 2016 PSI's, Golder also designed the 2003 rising of the Monashka Dam. ADNR Regulations require that the engineer and scope of work be approved by the State Dam Safety and Construction Unit. The inspections typically require three to four days in the field to complete and are a comprehensive inspection of all aspects of the dams. This includes all slopes, crests, embankments, abutments, spillways, seepages and control structures. Some survey to continue monitoring of the Upper Bettinger Dam will be performed by a licensed surveyor. The survey work is included in the Golder proposal. If during any previous inspections issues of concern were identified, they will be investigated further to assure the safety of the dam is not compromised. The scope of work and costs are detailed in

APRIL 25, 2019

Agenda Item V. b. Memo Page 1 of 3

Golder's fee proposal presented as (Attachment B). The last inspections were completed in May 2016. The Certificates to Operate the dams require that these inspections take place, within three years, on or before the last inspection date. We would intend to have these inspections completed in early May 2019.

When the Certificates to Operate the dams are issued, they include special conditions that address any special needs or future expectations for the next periodic safety inspections. In 2013, the Certificates to Operate required us to do a comprehensive review and update of the Baseline Report. Since 2008, each report was based off the baseline report created as part of the 2007 Periodic Dam Safety inspection. This report is a comprehensive overview of each dam. This year we must review and update the Baseline Report that was done in 2015.

ALTERNATIVES:

- 1) Award a professional services contract with Golder Associates to perform the periodic safety inspections and comply with regulations. Golder has performed this work well in the past and is currently the firm most familiar with our dams. This alternative is recommended to comply with ADNR regulations.
- 2) Do not award a contract with Golder. This alternative is not recommended. Golder is one of the leading engineering firms performing this type of engineering. They have performed well for the City on previous projects and they are the firm that is currently most familiar with the City's dam systems.
- 3) Do not perform the Periodic Safety Inspection. This alternative is not recommended, because it will violate State of Alaska regulations and potentially endanger the public. The Dam Safety Program was created to assure dams are periodically inspected by a competent, impartial third party to assure the dams are, and continue to be, safe and not present undue risks to the general public.

FINANCIAL IMPLICATIONS: Golder has provided a proposal to perform the required PSI in the amount \$65,523, which is more than the \$60,000 approved for the project in the FY2019 budget. Golder has included extra time on the Data Review portion of the cost estimate to account for more detailed review of the Hydrology, which they feel will be necessary. The PSI is on the Public Works Capital Improvement list so the funding can be identified every three years. These inspections requirements will continue at three-year intervals unless a change occurs in the regulations.

LEGAL: The City must perform the PSIs to comply with state regulations, ensure the safety of the public, and retain required certificates.

STAFF RECOMMENDATION: Staff recommends Council authorize a professional services agreement with Golder Associates in the amount of \$65,523 with funds coming from the Water Improvement Fund, Periodic Safety Inspection account, Project No. 05-03/7039.

CITY MANAGER’S COMMENTS: These dam safety inspections are required at three-year intervals as set by state regulations and managed by the Department of Natural Resources. Golder has performed our inspections since 2003 and is a very reputable specialty engineering firm. I support staff’s recommendation to award the PSI contract to Golder.

ATTACHMENTS:

Attachment A: Resolution No. 2019–08.

Attachment B: Golder Associates proposal dated March 19, 2019

PROPOSED MOTION:

Move to adopt Resolution No. 2019–08.

**CITY OF KODIAK
RESOLUTION NUMBER 2019-08**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK TRANSFERRING \$6,750 FROM THE WATER FUND TO THE WATER CAPITAL PROJECT FUND AND AUTHORIZING A PROFESSIONAL SERVICES CONTRACT FOR DAM SAFETY INSPECTIONS WITH GOLDER ASSOCIATES INC. IN THE AMOUNT OF \$65,523, PROJECT NO. 05-03/7039

WHEREAS, the State of Alaska Department of Natural Resources (ADNR) regulation requires that Hazard Class I or II dams have Periodic Safety Inspection (PSI) performed every three years by a qualified engineer;

WHEREAS, the last PSI on City dams was done in 2016; and

WHEREAS, Golder Associates Inc. has performed City PSI's since 2004; and

WHEREAS, Golder Associates is a leading engineering firm performing this type of work and has performed well for the City on previous projects; and

WHEREAS, Article V of the City of Kodiak Charter provides that an appropriation of funds separate from the budget document may be made by resolution.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska:

Section 1. The Fiscal Year 2019 Capital Budget is amended by appropriating and transferring \$6,750 from the Water Fund to Water Capital Project No. 7039 – Dam Safety to pay for the periodic safety inspections:

Transfer From:

<u>Account Description</u>	<u>Amount</u>
Water Fund - Appropriations	\$6,750

Transfer to:

<u>Account Description</u>	<u>Amount</u>
Water Capital Projects Fund - Dam Safety Project No. 7039	\$6,750

Section 2. Purchase of services for periodic Dam Safety Inspections from Golder Associations, Inc. in an amount not to exceed \$65,523 is authorized.

Section 3. This resolution shall become effective upon adoption.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Adopted:

March 19, 2019

Proposal No. P19116093

Craig Walton

City of Kodiak
2410 Mill Bay Road
Kodiak, Alaska 99615

PROPOSAL TO PERFORM PERIODIC DAM SAFETY INSPECTIONS FOR THE BETTINGER, PILLAR CREEK AND MONASHKA DAM COMPLEXES IN KODIAK, ALASKA

Dear Mr. Walton

Golder Associates Inc. (Golder) is pleased to present to the City of Kodiak this proposal to perform periodic safety inspections (PSI), as defined in Alaska Administrative Code 11 AAC 93.159, for the following dams:

- Bettinger Upper Reservoir Dam (NID ID#AK00073)
- Pillar Creek Dam Complex:
 - Pillar Creek Dam 1A (NID ID#AK00020)
 - Pillar Creek Dam 1B (NID ID#AK00072)
 - Pillar Creek Dam 2A (NID ID#AK00021)
 - Pillar Creek Dam 2B (NID ID#AK00070)
 - Pillar Creek Dam 2C (NID ID#AK00071)
 - Pillar Creek Dam 3 (NID ID#AK00171)
- Monashka Dam Complex:
 - Monashka Creek Dam (NID ID#AK00073)
 - Monashka Creek Dike (NID ID#AK00185)

Scope of Work

This work will update and supplement the Golder 2015 PSI Baseline Report and will be done in compliance with the “Guidelines for Cooperation with the Alaska Dam Safety Program,” draft revision prepared by the Dam Safety and Construction Unit, Alaska Department of Natural Resources (ADNR Dam Safety), dated July 2017. As required in Attachment A of the ADNR Dam Safety “Certificate of Approval to Operate a Dam” for the above dams, this work will include:

- Completing a visual inspection checklist for the dam using the most current form provided by the Department including the review of the O&M manual and the emergency action plan as noted therein.
- Current photographs of key elements of the dam, appurtenant works, and any unusual observations that could affect the safety of the dams
- Reviewing of all inspection and maintenance records, monitoring data, and other information and compare with previous inspection reports and the baseline report
- Providing opinions and conclusions of the inspection engineer on the performance and condition of the dam and recommendations for maintenance and repairs as needed to ensure the safety of the dam.

Task 1 – Record Review

Prior to performing our field inspection of the dam, we will perform a review of the available record documents. We expect that this review will include the following:

- The 2015 PSI Report
- The current Operations and Maintenance (O&M) Manual
- The current monitoring data (seepage weir measurements, etc.)
- The current Emergency Action Plan (EAP)
- The seismic stability analysis report for the Bettinger Upper Reservoir Dam that will be completed in March 2019
- Any other documents that were not available when the 2015 PSI Report was submitted

Most of this historic data is already in our files; however, documents and data collected since the last PSI in 2015, such as inspection data, monitoring data, maintenance data, and additional documents from ADNR Dam Safety, will need to be provided by the City of Kodiak at least two weeks prior to the field inspection to allow Golder time for review.

Task 2 – Field Inspection

Prior to the site visit, we will prepare a site-specific health and safety plan. After completing the review of the record documents, a field inspection will be performed by a team of two professional engineers that will include Mr. Christopher Valentine, who is experienced with dam safety, design, construction, and regulations and has performed the previous three PSIs for the City of Kodiak’s dams.

We are assuming that the brush and trees from the downstream slopes will be cleared before our site visit to facilitate inspection, and that a representative of the City of Kodiak who is familiar with the dam and its operation will accompany Golder during the site visit to provide access and field support for operation of the valves.

The inspection of the dams will include the following:

- Visual inspection of all dam features and appurtenances, including slopes, control structures, pumps, and pipelines as applicable. Photographic documentation for comparison to previous inspection photos.

- Review and documentation of the site conditions using the Alaska Dam Safety Visual Inspection Checklist (VIC) of each dam.
- Review of the weir monitoring records.
- Operation and documentation of all control valves.
- Review of downstream areas within the zone of potential inundation.
- Discuss operations and maintenance with maintenance personnel.

This task will also include surveying the alignment and elevation of the five monuments at the Upper Bettinger Dam. The field survey will be performed by a local licensed surveyor, Kodiak Land Surveying.

Task 3 – Analysis and Report

The results of our inspections and reviews will be presented in a report that will supplement the Baseline Report for these dams, and will include the following for each of the dam complexes:

- A summary of the record document review including dam location and ownership, dam and reservoir details, existing dam documents, hazard classification, and the O&M Manual
- A summary of the field investigation that includes our observations regarding critical dam features with supporting photographs
- A discussion of any recent changes to the critical dam design features and any changes to dam stability and dam hydrology/hydraulics
- An evaluation of the survey data and instrumentation (weirs) monitoring records
- Updated tables and figures
- A discussion of the dam operation, maintenance, and inspections
- Conclusions and recommendations

To meet the ADNR Dam Safety requirements, a draft report will be issued via email to both the City of Kodiak and ADNR Dam Safety after review and approval from the City of Kodiak and before 30 calendar days following the field inspection.

Schedule

We will be prepared to begin our review of the record documents following approval of a Professional Services Agreement, which is anticipated to be received from the City of Kodiak on or before April 2019. The field inspection will be scheduled in the late spring (May 2019) on a short-notice basis to optimize the weather conditions for the field observations. Dry weather is helpful for observation and evaluation of possible seeps adjacent to the dam structures.

As detailed in Task 3 of this proposal, our draft report will be submitted to the City of Kodiak and the ADNR Dam Safety within 30 days following completion of the field visual inspection. Three hard copies of the final report that have been stamped and certified by the engineer who conducted the PSI will be submitted to the City of Kodiak within two weeks after receiving ADNR Dam Safety's comments.

Cost

This work will be completed for an estimated cost of \$66,523, which will be billed on a time and material basis in accordance to our attached 2019 rate schedule. The cost breakdown for each task is shown on the attached spreadsheet. These estimated costs will not be exceeded without your prior authorization.

Closing

If you approve of our scope of work, rate schedule, and estimated costs, please issue an Agreement for Professional Services referencing this proposal. Please contact us at (907) 865-2516 if you have any questions or would like to discuss this proposal.

Golder Associates Inc.



Christopher A. Valentine, PE
Senior Professional Engineer

CAV/SLA



Steven L. Anderson, PE
Associate and Senior Geotechnical Engineering Consultant

Attachments: Cost Estimate
Golder Associates Inc. 2019 Rate Schedule

https://golderassociates.sharepoint.com/sites/103179/proposal_project_management/p19116093_kodiak_2019_dam_psi_proposal.docx

**COST ESTIMATE FOR
Bettinger, Pillar Creek, and Monashka Dam Complexes PSI, Kodiak, Alaska**

Task & Subtask Description	Name, Rate & Projected Hours								Golder Costs			Subcontractor or Direct Costs			TASK TOTAL				
	Sr Practice	Leader	Practice Leader	Senior Consultant	Sr. Engr/Geo	Sr. Project Engr/Geo	Project Engineer	Staff Engineer	Engr/Geo	Drafter / Engr. Tech	Secretary	Labor	Estimated Misc. Expenses (Estimated as 5% of labor)	Total Golder Labor & Expense		No. Unit Rate	Subcontractor or Direct Cost	Markup	Total Subcontractor or Direct Cost plus Markup
Billing Level	8	7	6	5	4	3	2	1	D3	B3									
Billing Rate	\$260	\$240	\$205	\$180	\$155	\$135	\$115	\$105	\$120	\$93									

1. Record Review

Review Past PSI Reports, Records, EAP, and O&M Manual												\$ 5,020	\$ 251	\$ 5,271					\$ 5,271
TASK TOTAL	0	8	0	0	20	0	0	0	0	0	0	\$ 5,020	\$ 251	\$ 5,271					\$ 5,271

2. Field Inspection

Site Visit Expenses							40					\$ 10,800	\$ 540	\$ 11,340					\$ 11,340	
Airfare (ANC to Kodiak)												\$ -	\$ -	\$ -	2	\$ 750	\$ 1,500	\$ 150	\$ 1,650	
Car Rental												\$ -	\$ -	\$ -	3	\$ 100	\$ 300	\$ 30	\$ 330	
Room and Board												\$ -	\$ -	\$ -	8	\$ 200	\$ 1,600	\$ 160	\$ 1,760	
Survey												\$ -	\$ -	\$ -	1	\$ 3,100	\$ 3,100	\$ 310	\$ 3,410	
TASK TOTAL	0	0	0	0	40	0	40	0	0	0	0	\$ 10,800	\$ 540	\$ 11,340			\$ 6,500	\$ 650	\$ 7,150	
																				\$ 18,490

3. Analysis and Report

Draft Reports Preparation							40		12	2		\$ 20,106	\$ 1,005	\$ 21,111					\$ 21,111
Data Review							40		40			\$ 15,600	\$ 780	\$ 16,380					\$ 16,380
Finalize Reports		4			16				4	1		\$ 4,013	\$ 201	\$ 4,214	1	\$ 52	\$ 52	\$ 5	\$ 4,271
TASK TOTAL	0	36	0	0	96	0	80	0	56	3	3	\$ 39,719	\$ 1,986	\$ 41,705			\$ 52	\$ 5	\$ 57

GRAND TOTAL = \$ 65,523

Invoices from Golder Associates Inc. include all labor charges, other direct costs, and costs associated with in-house services. Charges include only those services directly attributable to the execution of the work. Time spent when traveling in the interest of the work will be charged in accordance with the hourly rates.

Labor charges are based upon standard hourly billing rates for each category of staff. The billing rates include costs for salary, payroll taxes, insurance associated with employment, benefits (including holiday, sick leave, and vacation), administrative overheads, and profit. Rates by labor category are as follows:

Billing Level	Personnel Category	Hourly Rate (U.S.\$)
B1	Admin Support	\$73.00
B2	Staff Admin Support	\$83.00
B3	Senior Admin Support	\$93.00
T1	Technician	\$80.00
T2	Staff Technician	\$105.00
T3	Senior Technician	\$115.00
T4	Senior Technician	\$125.00
D1	Draftsperson	\$85.00
D2	Staff Draftsperson	\$95.00
D3	Senior Draftsperson	\$120.00
D4	Senior Draftsperson	\$125.00
C1	Engineer/Scientist	\$105.00
C2	Staff Engineer/Scientist	\$115.00
C3	Project Engineer/Scientist	\$135.00
C4	Senior Project Engineer/Scientist	\$155.00
C5	Senior Engineer/Scientist	\$180.00
C6	Senior Consultant	\$205.00
C7	Practice/Program Leader	\$240.00
C8	Sr. Practice/Program Leader	\$260.00

Other direct costs, including materials, travel, subsistence, and subcontractor costs, will be invoiced at cost plus a general and administrative fee of 10% or as specified in the Agreement.

An Office Service Fee for direct project non-labor office costs including mail, telephone, fax transmissions, personal computers as well as reasonable and customary in-house photocopying will be billed at 5% of the total labor fees or as specified in the Agreement. Rates for laboratory services and use of equipment owned by Golder Associates Inc. will be provided upon request.


Rates for Professional services related to expert testimony, including time spent in depositions and the preparation and presentations of testimony, are available upon request.

Rates for laboratory services and use of equipment owned by Golder Associates Inc. will be provided upon request.

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge, City Manager 

Date: April 25, 2019

Agenda Item: V. c. Authorization of Settlement Agreement in Chiesa v. City of Kodiak

SUMMARY: A settlement agreement with Michael Chiesa v. City of Kodiak, Kodiak Police Department has been drafted (Attachment A).

PREVIOUS COUNCIL ACTION: On March 14, 2019, at a regular meeting the Council had an executive session to receive legal advice regarding the Chiesa lawsuit.

LEGAL: The settlement agreement has been reviewed and recommended by Mr. Patrick Munson, Boyd, Chandler, Falconer & Munson, LLP (Attachment B).

CITY MANAGER'S COMMENTS: This agreement constitutes a total settlement of the issues between both parties. The City will be required to comply with remedial provisions to include adopting a revised anti-discrimination/anti-harassment policy by ordinance and provide training to a select group, identified in the agreement. This acceptance is recommended.

ATTACHMENTS:

- 1) Settlement Agreement between Michael Chiesa and the City of Kodiak Police Department
- 2) Settlement Agreement recommendation from Patrick W. Munson dated 4/17/19

PROPOSED MOTION:

Move to enter into a Settlement Agreement J-15-068 and J-16-291 in the amount of \$56,447 with Michael Chiesa and authorize the City Manager to sign documents on behalf of the City.



Via Electronic Mail

Patrick W. Munson
Boyd, Chandler, Falconer & Munson, LLP
911 W. 8th Avenue, Suite 302
Anchorage, AK 99501

Michael Chiesa
1370 Toolik Drive
North Pole, AK 99705

RE: *Michael Chiesa v. City of Kodiak, Kodiak Police Department*
ASCHR No. J-15-068 and

Michael Chiesa v. City of Kodiak, Kodiak Police Department
ASCHR No. J-16-291

SETTLEMENT AGREEMENT

Charges have been filed with the Alaska State Commission for Human Rights, hereinafter the Commission, by the above-named complainant against the above-named Respondent, under the provisions of the Alaska Human Rights Law, AS 18.80.010-.300. The charges were investigated; the Commission determined that substantial evidence to support the allegations of discrimination existed and filed the above-referenced actions. The City of Kodiak, hereinafter the City, denies the allegations of discrimination but has determined that it is in the City's best interest to enter into this Settlement Agreement, hereinafter the Agreement, in order to fully and finally resolve the above-referenced actions and any and all outstanding civil or and administrative claims that may exist between the parties to this Agreement.

I. GENERAL PROVISIONS:

A. All Parties:

1. It is agreed that this agreement constitutes a total settlement of the issues between the parties in this case.
2. It is understood that this Agreement does not constitute an admission by the Respondent of any violation of the Alaska Human Rights Law or other applicable federal, state, or municipal civil rights laws. It is further

understood that this Agreement does not represent an admission or statement by any party relating to the requirements or remedies available pursuant to the Alaska Human Rights Law.

3. All parties agree that the Commission, on request of any party or on its own motion, may review compliance with this Agreement. As a part of such review, the Commission may require written reports concerning compliance, inspect premises, examine witnesses, and examine and copy documents.
4. The Commission will submit this Agreement, if applicable, to the agencies that also have accepted this complaint pursuant to work-sharing agreements with the Commission.

B. The Commission:

The Commission agrees to close the cases identified as ASCHR No. J-15-068 and J-16-291 and refrain from seeking other statutory remedies relating to the above-captioned complaints, subject to the parties' compliance with the terms of this Agreement. In the event of noncompliance, the Commission staff may find that the Agreement has been breached and seek enforcement in Superior Court.

C. Respondent City of Kodiak:

1. Respondent hereby waives all further administrative procedures before the Commission on this matter.
2. This Agreement shall not be interpreted to mean that Respondent is absolved from the duty to offer equal employment opportunities or affirmative action as may be required under other applicable laws and regulations.

D. Complainant Michael Chiesa:

1. For and in consideration of the mutual promises, covenants and other consideration set forth in this Agreement, Complainant Michael Chiesa, hereinafter Chiesa, voluntarily and knowingly forever releases, discharges, holds harmless, and relinquishes the City (which as used herein includes the City's employees, elected and appointed officials, city council members, insurers, attorneys and successors in interest) from any and all claims, demands, causes of action, fees, costs, liability, debts, wrongs, damages, complaints, judgments, and executions, irrespective of the legal theory upon which they may be based, whether in law or in equity, civil, regulatory or administrative, whether known or unknown, anticipated or unanticipated, direct or indirect, fixed or contingent, whether heretofore asserted or not, whether based upon an act or an omission, whether for pecuniary or

nonpecuniary losses, property damages, personal injuries, medical expenses, attorney fees, or otherwise, including but not limited to all matters that arose out of or are in any way connected with Chiesa's employment with the City, which were made or could have been made, either in law or in equity, in *Michael Chiesa v. City of Kodiak, Kodiak Police Department*, ASCHR No. J-15-068 and *Michael Chiesa v. City of Kodiak, Kodiak Police Department*, ASCHR No. J-16-291 (collectively hereinafter, the Released Claims). The Released Claims include, but are not limited to, any claim that the City violated the National Labor Relations Act, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, Sections 1981 through 1988 of Title 42 of the United States Code, the Age Discrimination in Employment Act, the Employee Retirement Income Security Act, the Immigration Reform Control Act, the Americans with Disabilities Act, the Occupational Safety and Health Act, the Alaska Human Rights Law (AS 18.80.010-.300), and/or the Alaska Wage Laws; any claim that the City violated any other federal, state or local statute, law, regulation or ordinance; any claim of unlawful discrimination of any kind; and any public policy and/or contract claim based on the former employment relationship between Chiesa and the City, including any claim for severance pay, tort claim, or common law claim. This release shall not prevent the parties from asserting or pursuing any claim to enforce the terms of this Agreement.

2. Chiesa represents and agrees that he has thoroughly reviewed all aspects of his rights pursuant to this Agreement; that he has carefully read and fully understands all of the provisions of this Agreement; that he is voluntarily entering into this Agreement; that this agreement constitutes written notice from the City that he should consult with an attorney before executing this Agreement, and that he acknowledges that he has either done so, or consciously, knowingly, and voluntarily elected not to do so; and that he does not rely on, and has not relied on, any representation or statement not expressly set forth herein with regard to the subject matter, basis, or effect of this Agreement, or for any other purpose.

II. ENFORCEMENT:

The parties agree that the terms of this Agreement are legally binding in the same manner and to the same extent as a Commission order issued following a public hearing pursuant to AS 18.80.130. This Agreement shall be enforceable in any court of competent jurisdiction.

III. REMEDIAL PROVISIONS:

- A. Respondent agrees that discrimination based on race, color, sex, age, national origin, physical or mental disability, religion, pregnancy, parenthood, marital status, or changes in marital status has no place in the consideration of employees for

positions, promotions, layoffs, terminations, or any other employment practices.

- B. Respondent also agrees that to discharge, expel, or otherwise discriminate against a person because that person has filed a complaint, testified, or assisted in a proceeding filed under the Human Rights Law or because that person has opposed any practice forbidden under AS 18.80.200-.260 is to engage in unlawful retaliation.
- C. Respondent agrees to pay complainant a lump sum of \$56,447, hereinafter the Settlement Payment, as consideration for the covenants and agreements made by Chiesa in this Agreement, including but not limited to those identified in Part I(D) hereof.
 - 1. The Settlement Payment is allocated as follows: (1) \$30,056 for reimbursement of estimated lost wages (and therefore subject to normal payroll withholdings); and (2) \$26,391 for resolution of Chiesa's claims of alleged personal injury and/or damages, including but not limited to claims for discrimination.
 - 2. Nothing in this allocation of the Settlement Payment shall limit the scope of the release set forth in this Agreement.
 - 3. Each party bears full responsibility for payment of any state or federal taxes or contributions required by reason of the Settlement Payment. Respondent shall issue complainant a corresponding Internal Revenue Service W-2 or 1099 form for this payment.
- D. Respondent agrees to send a check to the Commission, payable to the Complainant, in the amount specified in paragraph C (less required withholdings, if any), along with a written explanation of how the monetary award was computed within thirty (30) days from the date the Commission approves this Agreement. The Commission will forward the check to the Complainant.
- E. Respondent is to adopt and disseminate to all City of Kodiak employees an antidiscrimination/antiharassment policy that is approved by the Alaska State Human Rights Commission. A draft policy is to be submitted to ASCHR for interim approval no later than thirty days (30) from the date the Commission approves this Agreement. The City will then adopt a substantially similar policy, and provide the same to ASCHR, within 60 days after the City receives interim approval of the draft policy. The final policy will be disseminated at a mutually agreeable time soon thereafter.
- F. Respondent agrees to provide training to City of Kodiak management (to include, at a minimum, the City Manager, Deputy City Manager (if any), Human Resources Manager, Police Chief and police lieutenants) regarding Alaska Statute 18.80 and the function of the Alaska State Commission for Human Rights (ASCHR). The

presentation is also to include disseminating and explaining the City's workplace antiharassment/ antidiscrimination policy. The training shall be approximately thirty (30) minutes in length and shall be conducted in person or by videoconference by Ms. Carleen Mitchell, or any other qualified person approved by ASCHR in advance. The training content shall be reviewed and approved by ASCHR a minimum of 15 days prior to the presentation date.

- G. Respondent will arrange to have the training completed no later than thirty (30) days after the City's adoption of the policy described in Paragraph III(E). Within fifteen (15) days after the date the training session takes place Respondent shall submit a report to the Commission on the training provided, including the subject matter covered and the names and job titles of the attendees.
- H. Respondent agrees to eliminate from Complainant's personnel records all documents and entries relating to the facts and circumstances that led to Complainant's filing of the above-captioned charge of discrimination and the related events occurring thereafter. Respondent also affirms that Complainant may apply or reapply for employment with Respondent and that Complainant will not be penalized in future considerations for employment or, if rehired, for transfers, promotions, or upgrading because of the circumstances of this case. Respondent further agrees that no other employer or potential employer of Complainant will be advised in any way that Complainant initiated this case or of the facts and circumstances of this case, except that Respondent may, if requested by Complainant or Complainant's employer or potential employer, confirm Complainant's dates of City employment and departure without prejudice, provided that Respondent does so without reference to the facts and circumstances of this case.
- I. Respondent shall submit a report to the Commission within fifteen (15) days after the date the training session described in Paragraph III(E) takes place describing how it has carried out the undertakings herein outlined.

IV. EXECUTION:

The parties agree that this document may be executed by conformed copies and that a party's signature on one conformed copy constitutes that party's signature on all other conformed copies.

Date

Mike Tvenge, City Manager, City of Kodiak

Date

Michael Chiesa

Approved at Anchorage this _____ day of _____ 2019.

For the Commission:

Sarah Monkton
Acting Executive Director




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MEMORANDUM

TO: Kodiak City Council

CC: Mike Tvenge, City Manager

FROM: Patrick W. Munson 
Boyd, Chandler, Falconer & Munson, LLP

RE: Settlement Agreement Recommendation
Michael Chiesa v. City of Kodiak, Kodiak Police Department
ASCHR No.: J-16-291
EEOC No.: 38A201700012

DATE: April 17, 2019

Our office recommends the City approve the Settlement Agreement that has been provided in the Council packet for the meeting scheduled for April 25. The primary material terms of the proposed Agreement are as follows:

1. Within 30 days after the Agreement is finalized (*i.e.*, signed by the ASCHR Executive Director), the City will pay Chiesa a lump sum of \$56,447, of which \$30,056 is considered wages and therefore subject to withholding as normal payroll. Paragraphs III(C) and I(D). The City's insurer will reimburse the City the full \$56,447.
2. The City will adopt an updated anti-discrimination and harassment policy. Paragraph III(E). The City is expected to submit a proposed policy to ASCHR for approval within 30 days after the Agreement is finalized. ASCHR will presumably approve it fairly promptly, after which the City has 60 days to adopt a final version of the policy. The City will submit the final adopted policy to ASCHR.¹

¹ Our office recently provided a draft updated policy to Mr. Tvenge and Ms. Sharratt to begin working to achieve this goal. If this Agreement is approved, we recommend the City

3. Within 30 days after an updated policy is adopted, the City will provide at least 30 minutes of in person or videoconference anti-discrimination training (including disseminating and going over the new policy) to top management including, at a minimum, the City Manager, Deputy City Manager (if any), Human Resources Manager, Police Chief and police lieutenants. Paragraph III(F). Carleen Mitchell of APEI has agreed to provide this training.
4. City will submit a report to ASCHR within 15 days after the completion of the training describing the training and all other acts undertaken to comply with the agreement. Paragraph III(I).
5. ASCHR will dismiss and close these two cases and Chiesa waives any right to additional damages or the right to make any further claims arising out of his employment with the City of Kodiak. Paragraph I(B) and (D).

Our office believes these terms and the attached Agreement represent a satisfactory resolution of this matter. If approved by the Council, the Agreement will result in the dismissal of the two pending cases and the end of expenses and any potential liability associated with them. We therefore recommend the Council approve the Settlement Agreement and authorize Mr. Tvenge to execute it on the City's behalf.

We can be available to discuss this matter further or to answer any questions you may have if desired.

consult with Carleen Mitchell at APEI as needed to prepare a draft policy for Council consideration. We are of course available to assist as well if needed.

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Mike Tvenge City Manager and Debra Marlar, City Clerk

Date: April 25, 2019 *MT*

Agenda Item: V. d. Appointment to Building Code Board of Appeals

SUMMARY: The Building Code Board of Appeals is a five member board. Currently, there are two vacancies that need to be filled. Since December 2018, volunteers were solicited via newspaper advertisements and recruitment efforts were made by the City Clerk, Building Official, and the department head. An application was received from Mr. Cache Seel. Mr. Seel has served on the Board from February 8, 2018 to December 31, 2018. Appointments to this board are made by the Mayor and confirmed by the Council.

BACKGROUND: Advisory board members are appointed at the end of each year when terms expire and throughout the year as necessary.

{Mayor Branson will make her appointment to the Building Code Board of Appeals.}

Building Code Board of Appeals KCC 14.40.010: *“The building code board of appeals shall consist of five members, four of whom shall be qualified by experience and training to pass upon matters pertaining to building construction. One member shall be selected from the community at large. Each of the five members shall be appointed by the mayor and ratified by the Council.” No residency requirement.*

2 seats ending December 31, 2021

Applicant: Cache Seel

ATTACHMENT:

Attachment A: Building Code Board of Appeals Application and Current Member List

PROPOSED MOTION:

Move to confirm the Mayoral advisory board appointment to Building Code Board of Appeals as stated.



City Clerk's Office
710 Mill Bay Road, Rm 219
Kodiak, AK 99615
(907) 486-8636 * (907) 486-8633 (fax)

Advisory Board Application Form

Cache Seal
NAME

512 7515 512 7515 seelconstructionkodiak@gmail.com
HOME TELEPHONE WORK TELEPHONE FAX EMAIL

515 Carolyn St Kodiak, AK 99615
RESIDENCE (STREET) ADDRESS

same KODIAK, AK 99615
MAILING ADDRESS

23
LENGTH OF RESIDENCE IN KODIAK

23
LENGTH OF RESIDENCE IN ALASKA

Are you a registered voter in the City of Kodiak?
Do you own property in the City of Kodiak?

Yes No
 Yes No

On which boards are you interested in serving?
(Please list in order of preference)

Building Code Board of Appeals

Please list your areas of expertise and education that would benefit the boards for which you are applying.

20 years construction familiar w/ residential, commercial, and medical facilities

Community Activities: Volunteer work w/ St. Mary's, Lions Club, Baranof Museum and Kodiak Maritime Museum

Professional Activities: Licensed Contractor mostly involved in remodels also work on wooden boat repair

[Signature]
SIGNATURE

3/30/19
DATE

Return application to City Clerk, 710 Mill Bay Road, Room 219, Kodiak, AK 99615
Fax: 486-8633



Office of the City Clerk

710 Mill Bay Road, Room 219, Kodiak, Alaska 99615

BUILDING CODE BOARD OF APPEALS

Five seats

TERM	BOARDMEMBER	HOME	WORK	FAX	MAILING ADDRESS
2021	Douglas Mathers mathers@gci.net	486-4591			P.O. Box 2916
2021	Vacant				
2021	Vacant				
2019	Jerrol Friend	539-1975	486-3908		P.O. Box 175
2019	Chris Sibrel	760-977-8277	942-1997		12816 Noch Dr.

Legislation	Appointments
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Kodiak City Code Chapter 14.40

10/25/84	01/23/86	2/12/87
01/08/87	12/14/87	12/12/88
01/26/89	01/11/90	12/14/90
01/09/92	01/14/93	01/27/94
12/22/94	12/14/95	12/12/96
3/27/97	12/11/97	12/10/98
2/10/00	5/24/01	12/13/01
01/23/03	01/13/05	12/15/05
12/13/07	2/28/08	12/11/09
12/9/10	2/23/12	12/13/12
2/13/14	12/10/15	01/12/17
2/9/17	2/8/18	01/10/19

OATH OF OFFICE

MEMORANDUM TO COUNCIL

Date: April 25, 2019

Agenda Item: X. Oath of Office to City Clerk Nova Javier

SUMMARY: KCC 2.08.130 requires the City Clerk to take and subscribe to the Oath of Office. Outgoing City Clerk Debra Marlar will now administer the Oath of Office to the new City Clerk Nova Javier.

ATTACHMENTS:

Attachment A: Oath of Office

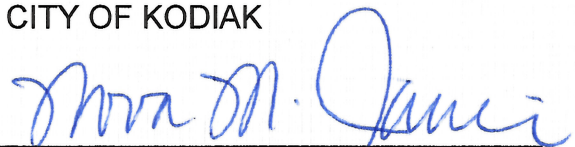
CITY OF KODIAK, ALASKA

Oath of Office

April 15, 2019

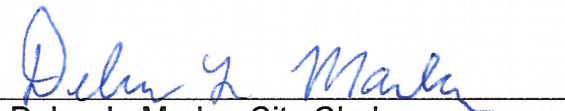
I, Nova Javier do solemnly affirm that I will support the Constitution and laws of the United States, the laws of the State of Alaska, the ordinances of the City of Kodiak, and that I will faithfully and honestly perform the duties of City Clerk, so help me God.

CITY OF KODIAK



Nova M. Javier, City Clerk

ATTEST:



Debra L. Marlar, City Clerk