

**City of Kodiak Regular Council Meeting Agenda for April 9, 2020, 7:30 p.m.**

Elected Officials will be participating via Audio/Video Conferencing and/or a few in person. Public members are encouraged to tune in to KMXT 100.1 FM. For everyone’s protection, there will be no in-person attendance for this regular meeting in compliance with the Centers for Disease Control and Prevention’s guidance on social distancing. Regular meeting agendas and packets are available online at <https://www.city.kodiak.ak.us/meetings>

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- I. Call to Order/Roll Call**  
Invocation/Pledge of Allegiance
  
- II. Previous Minutes**  
Approval of Minutes of the March 12, Regular Council Meeting and March 18, Special Council Meeting .....1
  
- III. Persons to Be Heard**
  - a. Public Comments (limited to 3 minutes; call: 486-7599)
  
- IV. Unfinished Business**
  
- V. New Business**
  - a. First Reading, Ordinance No. 1396, Authorizing a Five-Year Lease of Certain Real Property at Pier II to Matson Navigation of Alaska, LLC .....12
  - b. Authorization to Award the Construction Contract to Jay-Brant General Contractors LLC for the Waste Water Treatment Plant UV Effluent Disinfection Facility Project .....26
  - c. Authorization to Purchase Marine Travel Lift Straps in the Amount of \$106,082.28 With Kendrick Equipment USA LLC.....36
  - d. Extend Professional Services Contract for Annual Audit with Altman, Rogers, & Co for Fiscal Years Ending June 30, 2020 and June 30, 2021.....40
  - e. Authorization of Amendment to City Manager’s Employment Agreement.....44
  
- VI. Staff Reports**
  - a. City Manager
  - b. City Clerk
  
- VII. Mayor’s Comments**
  
- VIII. Council Comments**
  
- IX. Audience Comments** (limited to 3 minutes; call: 486-7599)
  
- X. Adjournment**

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**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD THURSDAY, MARCH 12, 2020  
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. Randall C. Bishop, Laura B. Arboleda, Charles E. Davidson, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. Councilmember Haines was excused and not considered absent due to his attendance to a National League of Cities Conference in Washington, D.C. on behalf of the City. City Manager Mike Tvenge, City Clerk Nova Javier, and Deputy Clerk Michelle Shuravloff-Nelson were also present.

Salvation Army Corps Sergeant Major Dave Blacketer gave the invocation and the Pledge of Allegiance was recited.

**II. PREVIOUS MINUTES**

Councilmember Whiddon MOVED to approve the minutes of the February 27, 2020, regular meeting as presented.

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

**III. PERSONS TO BE HEARD**

**a. Public Comments**

**Les James** spoke in opposition to Ordinance No. 1394 and the importance of annually reviewing the impacts of marijuana within the community.

**Dennis Symmons** thanked the Council for sending two engaged representatives to SWAMC. He said he served on the Kodiak Island Borough Marijuana Task Force and he appreciated and supported the Council's decision on the ordinance. He commended them for not being afraid to move forward and he stressed the importance to reassessment as needed.

**Patrick O'Donnell** via telephone supports edibles by prescription only. He stated he is concerned edibles will adversely affect the youth in the community.

**Cheryl Boehland** said she is pleased that coronavirus updates have been forthcoming.

**Janiese Stevens**, owner of Wildflower, said she supports the adoption of the Ordinance No. 1394. She is in support of education for the youth and is willing to participate in presenting information in the future as needed.

**b. Proclamation: Choose Respect**

Councilmember Arboleda read the proclamation, which encouraged all citizens to stand up against sexual assault, domestic violence, and child sexual abuse.

**Ellamy Tiller**, Outreach Advocate from the Kodiak Women’s Resource and Crisis Center, came forward to accept the proclamation and thanked the Mayor and Council for the support.

**IV. UNFINISHED BUSINESS**

**a. Second Reading and Public Hearing, Ordinance No. 1393, Amending Chapter 3.08 Sales Tax Amending Title 3 And Chapter 3.08 Sales Tax To: 1) Adopt The Alaska Remote Sellers Sales Tax Code By Reference; 2) To Add And Amend Definitions In Section 3.08.280; 3) To Extend The Time For Filing A Final Return By 15 Days In Section 3.08.140(G); 4) To Eliminate The Registration Deposit In Section 3.08.080; 5) To Add A Late Filing Penalty Of Twenty Five Dollars To Section 3.08.170; And 6) To Provide For Extensions Of Time For Filing Returns, Repayment Plans, And Amended Returns**

Mayor Branson read Ordinance No. 1393 by title. The South Dakota vs. Wayfair U.S. Supreme Court case redefined sales tax across many states and local governments. On June 21, 2018, the U.S. Supreme Court upheld the state of South Dakota’s right to require online sellers to collect and remit sales tax on orders delivered to that state.

On November 14, 2019, the Council adopted Resolution No. 2019–23 which authorized the City to enter into an intergovernmental agreement to form a commission for a centralized administration of collection of sales tax imposed by remote sellers. Resolution No. 2019–23 also authorized the City Manager to enter into the Alaska Intergovernmental Remote Sellers Sales Tax Agreement and per Article V of the intergovernmental agreement, the next step for the City is to delegate the remote seller sales tax registration, exemption certification, collection, remittance, and audit authority to the “Commission” by ordinance or resolution. This ordinance meets the terms of the agreement which also require adoption of certain uniform provisions by reference for collection and remittance of municipal sales tax applicable to sales made by remote sellers.

Councilmember Arboleda MOVED to adopt Ordinance No. 1393.

Mayor Branson closed the regular meeting, opened and closed the public hearing when no one came forward to testify, and reopened the regular meeting.

Councilmember Davidson stated he supports Ordinance No. 1393 for the fairness it provides local and remote vendors.

Councilmember Whiddon MOVED to amend Ordinance No. 1393 by substitution.

The following changes were made in the substituted ordinance:

- Ordinance Title, corrected typo, Section 3.08.280 Definitions
- Section 3.08.080(b), Change from city clerk to finance director
- Section 3.08.170(e), changed city manager to finance director

- Reporting of waivers of penalty to the manager
- Under 3.08.162 Amended returns, References to the Commission were changed to the City
- Sections 3.08.164 and 3.08.166, change city clerk to finance director

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

The roll call vote on the main motion as amended was Councilmembers Arboleda, Bishop, Davidson, Walker, and Whiddon in favor. Councilmembers Haines was excused. The motion passed.

**b. Second Reading and Public Hearing, Ordinance No. 1394 Amending Title 5 Business Licenses and Regulations, Chapter 5.24 Marijuana Regulations by Repealing Section 5.24.040 Manufacture and Sale of Marijuana Edibles Prohibited**

Mayor Branson read Ordinance No. 1394 by title. On November 4, 2014, Alaska voters passed Ballot Measure 2, An Act to Tax and Regulate the Production, Use, and Sale of Marijuana, which initiated the State and Statewide municipalities to begin to determine how to regulate marijuana on both State and municipal levels. Subsequently, the Council adopted Resolution No. 2016–16, Establishing a Marijuana Advisory Special Committee, to recommend guidelines for implementing taxation, regulation, production, sale, and use of marijuana within the Kodiak City limit. The Committee met nine times from June 2016 through April 2017 and brought forward for Council consideration regulations and policies governing marijuana establishments within the Kodiak City limit. One of the regulatory recommendations of the Committee was to prohibit the sale of edibles within the City of Kodiak and, along with the recommendation, advocated to the Council to revisit the topic again within a year. The City Council desires to get substantial public input before lifting the prohibition and before allowing the sale of marijuana edibles within the City limits.

Councilmember Bishop MOVED to adopt Ordinance No. 1394.

Mayor Branson closed the regular meeting and opened the public hearing.

**Cheryl Boehland** stated she supports edibles to be sold in Kodiak.

**Les James** shared that his father set examples for drug-free life styles and he does not support Ordinance No. 1394. He expressed his concern regarding edibles that look like Girl Scout cookies at a local marijuana shop.

**Alan Schmitt** said he is 66 years old and stated marijuana was prevalent in his youth. He said responsible adults should be able to enjoy legal products in the privacy of their homes. He supported the passage of the ordinance.

Mayor Branson closed the public hearing after testimony and reopened the regular meeting.

Councilmember Whiddon said he will not support the adoption of the ordinance due to the concern for the youth within the community. He noted that if the ordinance passes, said he will make sure that portion of the taxes generated will be committed to an education program.

Councilmember Davidson spoke about responsible parenting and not penalizing or preventing the usage for adults.

Councilmember Bishop shared that he respected his fellow Councilmembers' comments and shared that edible information is available through social media. He stated there is a local business owner that has been responsible and he thinks the change is inevitable.

Councilmember Walker commented that education and packaging is important. He said he does support moving forward with the ordinance.

Councilmember Whiddon said he did meet with a local business owner and one in-state and viewed the stores and said the edible products are highly regulated.

Councilmember Arboleda stated the edibles are tested and regulated. She said she is protective of her child and younger family members and understands the concerns stated. She highlighted that the industry to produce edibles is highly regulated and products are labeled, which she supported as a safer alternative than non-regulated.

Councilmember Davidson said he understands the concerns and stated that the products are from the creator.

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

## **V. NEW BUSINESS**

### **a. Resolution No. 2020–09, Authorizing Suits for Recovery of Delinquent Sales Tax**

Mayor Branson read Resolution No. 2020–09 by title. Kodiak City Code Chapter 3.08 establishes criteria for all aspects of levying, collecting, filing, and remitting sales tax and sales tax returns. For delinquent filers, the finance department will provide mail correspondence, certified mail correspondence, phone calls and other collection avenues to ensure that sales tax compliance is adhered to for all persons engaged in selling or renting property or rendering services subject to the tax imposed by Chapter 3.08.

Kodiak City Code 3.08.230 provides that the City may recover sales taxes in an action against the person selling or renting the property or services.

Councilmember Arboleda MOVED to adopt Resolution No. 2020–09.

Councilmember Whiddon said this resolution creates fairness for doing business within the City.

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

**b. Authorization to Purchase Radios in the Amount of \$248,314.38 With Motorola Solutions**

The City of Kodiak operates VHF portable radios utilizing Motorola equipment which was purchased as early as 2005. These portable radios are carried by Police Officers, Firefighters, Harbor Officers, and Public Works Employees while conducting their day-to-day job assignments. These radios also play a pivotal role in communications during large-scale community wide emergencies. Current portable radios are obsolete and are not capable of meeting future FCC mandates and State of Alaska ALMR requirements. The City applied for and received State of Alaska grant funding to cover the entire cost of this purchase.

Councilmember Walker MOVED to authorize the purchase of radios in the amount of \$248,314.38 with Motorola Solutions from the account Subscriber Radio Replacement PN 4060 machinery & equipment and authorize the City Manager to execute documents on behalf of the City.

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

**VI. STAFF REPORTS**

**a. City Manager**

Manager Tvenge said City staff is working on the FY2021 budget preparation. He provided information on a recent break in a water main and he said the source had been determined. He provided an update on the Tsunami Sirens proposals. He shared the insurance requirements for the Shipyard marine lift and he referred the public to the Harbor for further information. He said they have been working on providing Coronavirus updates.

**b. City Clerk**

City Clerk Javier informed the public of the next scheduled Council work session and regular meeting. She shared information regarding the next Fisheries Work Group meeting and the Future Fire Station Steering Committee.

**VII. MAYOR'S COMMENTS**

Mayor Branson shared that the City's website has updated information regarding on the Coronavirus (COVID-19). She said she appreciates the work of staff. She commented on barrels of gas prices and replacement on the Tustemena funding. She said it is important to be aware of the cost shifting from the State and said the Alaska Municipal League (AML) is working to help communities provide resources and advocacy.

**VIII. COUNCIL COMMENTS**

Councilmember Walker thanked the Public Works for their work on the water main. He thanked Fire Chief Mullican and Police Chief Putney for their work and commitment. He spoke about the reality of the Coronavirus.

Councilmember Davidson spoke about fear of COVID-19 and encouraging citizens to get a good source of information. He spoke about the March for Respect and encouraged community involvement.

Mayor Branson stated the March for Respect was pending with the updates of COVID-19.

Councilmember Arboleda reminded the public to wash their hands stay healthy and to drive carefully.

Councilmember Whiddon thanked Dennis Symmons for his comments regarding SWAMC and he highlighted the fisheries topics were Marticulture and ocean acidification. He spoke about some of the advantages and resources on Kodiak Island that are not always available in rural Alaska. He spoke briefly about a decorated USCG pilot.

Councilmember Bishop thanked staff for the work on the information regarding the Coronavirus. He reminded everyone the importance of hygiene.

## **IX. AUDIENCE COMMENTS**

**Tim Putney** spoke briefly about his 17 years in law enforcement and cautioned stereotyping for unlawful or drug behavior within the youth. He spoke about individual choices and that it was not always about nature vs. nurture.

**Cliff Davidson** via teleconference said he appreciates the ice removal from both local and state agencies.

## **X. EXECUTIVE SESSION**

### **a. City Manager's Performance Evaluation**

Annually, the City Council reviews the performance of the City Manager. In accordance with the Open Meetings Act, the City Manager does not object to the evaluation being done in executive session.

Councilmember Davidson MOVED enter into executive session, as authorized by Kodiak City Code Section 2.04.100(b)(2), to conduct the City Manager's annual performance evaluation.

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

Mayor recessed the meeting at 8:30 p.m.

The Mayor reconvened the meeting to order at 9:48 p.m.



**XI. ADJOURNMENT**

Councilmember Whiddon MOVED to adjourn the meeting.

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

The meeting adjourned at 9:48 p.m.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Minutes Approved:

**DRAFT**

**MINUTES OF THE SPECIAL COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD WEDNESDAY, MARCH 18, 2020  
IN THE KODIAK PUBLIC LIBRARY MULTI-PURPOSE ROOM**

**I. MEETING CALLED TO ORDER/ROLL CALL**

Mayor Pat Branson called the meeting to order at 1:30 p.m. Councilmembers Laura Arboleda, Randall C. Bishop, Charles E. Davidson, Richard H. Walker, and John B. Whiddon were present. Councilmember Terry J. Haines was absent due to self-quarantine after business travel. A quorum was present. City Manager Mike Tvenge, City Clerk Nova M. Javier, and Deputy Clerk Michelle Shuravloff-Nelson were also present.

**II. PUBLIC COMMENTS BY TELECONFERENCE ONLY ON AGENDA ITEMS ONLY**

None

**III. NEW BUSINESS**

**a. Ordinance No. 1395, An Emergency Ordinance of the Council of the City of Kodiak Temporarily Authorizing the Suspension and/or Modification of Various Sections of the City of Kodiak Code of Ordinances Regarding Public Meetings and Participation in Order to Ensure the Health, Safety, and Welfare of Our Community During a State – Declared Public Health Emergency and Declaring an Emergency**

Mayor Branson read Ordinance No. 1395 by title. The ordinance provides the Mayor the flexibility to cancel or reschedule certain meetings and/or modify its meeting procedures for time-sensitive and important matters so that it can ensure it similarly has protections in place for the public, staff, and its appointed and elected officials during this global pandemic and a public health disaster emergency.

Councilmember Davidson MOVED to adopt Ordinance No. 1395.

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

**b. City Manager Report**

Manager Tvenge recommended the cancellation of the March 24 work session and the March 26 regular meeting. The Mayor and Council agreed that there were not time sensitive agenda items for the next few week, and if a special meeting was needed, it could be scheduled.

City Manager encouraged the Council and the public to watch for email updates and press releases regarding COVID-19. He said the Governor declared a health emergency and health mandate, which was to minimize in-person interaction in closed spaces. On March 18 at 5 p.m., the Governor closed all bars, breweries, restaurants, food and beverage kiosks and trucks, other establishments as defined. Manager Tvenge gave a brief summary of the local closures to include

some City facilities. He said City employees are working but the facilities will have limited public access. He said the goal is to keep employees working at this time. He acknowledged the adverse economic impact that is expected to occur. He said there will be more discussion at a later date on the local economic impacts.

He informed the public about the Emergency Services Council web stream that was scheduled to occur later that evening.

The Mayor asked if the Council has questions that they would like addressed by Manager Tvenge.

Councilmember Whiddon asked how the City is supporting first responders. Manager Tvenge said that police and fire services are following their safety precautions and stated Dr. Everett is the contracted physician that works with the City's emergency services staff. Manager Tvenge referred the public to seek out their health care provider for health related inquires. He said supportive services for the hospital have occurred by placing tents, heat, and establishing a drive through area at the hospital.

Councilmember Davidson clarified those that does not have health care provider should call #211 for additional resources.

Councilmember Arboleda inquired if any information was issued regarding the processors. Manager Tvenge stated the Emergency Coordinator will do some outreach; however, there were no mandates specific to processors.

Manager Tvenge spoke about a mandatory City employee quarantine for off-island travel, which is fourteen days. He said there were 10 employees off-island in locations where the virus had been found. He said those employees are currently quarantined and working from home or on administrative leave as of March 16. He said after March 16, if employees choose to travel they will be required to use sick leave, annual leave, and can accrue a negative balance to cover those days of quarantine. Manager Tvenge inquired if the Council opposed this decision. There was no Council opposition.

Councilmember Walker asked for an update whether Kodiak had any known exposure to COVID-19. Manager Tvenge stated at this time there were no known cases in Kodiak. He said he encouraged isolation after traveling and to keep people from traveling.

Mayor Branson stated she received a citizen comment; the citizen wanted the airlines to shut down. Councilmember Whiddon said RAVN is screening passengers. There was discussion that ensued and it was encouraged for signs at the airport, which encourage individuals to self-quarantine after travel.

Councilmember Davidson encouraged citizens to call proper authorities for factual information.

Councilmember Whiddon complimented Manager Tvenge for the quality of information and calm approach. Mayor Branson reaffirmed that the Council is very supportive of the Manager. Manager Tvenge thanked the City staff and those that are working outside of their job duties. He commended the staff.

Councilmember Arboleda suggested citizens continue to buy supplies in moderation. Manager Tvenge commented that Matson barges are still coming in twice a week.

Manager Tvenge reminded everyone of the Emergency Service Council (ESC) meeting later in the day.

Councilmember Walker asked what the City is doing for the homeless. Manager Tvenge suggested opening the armory. He also stated the Governor enacted the National Guard. There was further discussion on potential funding both public and private and the need to schedule time in the future with the Chamber of Commerce.

Councilmember Davidson moved to adjourn the meeting.

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

The Mayor adjourned the meeting at 2:20 p.m.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Minutes Approved:

# **NEW BUSINESS**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager *MT*  
**Thru:** Josephine Bahnke, Deputy City Manager  
**Date:** April 9, 2020  
**Agenda Item:** V. a. **First Reading, Ordinance No. 1396, Authorizing a Five-Year Lease of Certain Real Property at Pier II to Matson Navigation of Alaska, LLC**

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**SUMMARY:** On February 15, 2020, Matson Navigation of Alaska, LLC submitted an application for purchase, lease, or renewal of lease of real property to the City for U.S. Survey 2537B for Pier II warehouse, office space, and adjacent parking spaces. The request is for a five-year lease (Attachment B).

**PREVIOUS COUNCIL ACTION:**

- March 2010 the Council authorized the previous agreements with Horizon Lines by Ordinance Nos. 1270, 1271, and 1272.
- January 7, 2014, the Council adopted Resolution No. 2014-01 that authorized the extension of those agreements on a month-to-month basis.
- January – August 2014 the Council provided direction to the City’s negotiating team about negotiating new agreements with Horizon Lines, and the team reported to the Council on the progress of those negotiations.
- September 25, 2014, the Council passed Ordinance No. 1326 in the first reading and advanced to second reading and public hearing.
- October 23, 2014, the Council adopted Ordinance No.1326.
- January 8, 2015, Council passed Ordinance No. 1329 in the first reading and advanced to the second reading and public hearing.
- January 22, 2015, Council adopted Ordinance No. 1329(SUB) at their regular meeting, which included the authorization of the warehouse lease.

**BACKGROUND:** Matson Navigation of Alaska LLC formerly Horizon Lines has lease warehouse space at Pier II since 2010.

**DISCUSSION:** Matson Navigation occupies a portion of the Pier II warehouse including offices, a site for a vehicle off-loading ramp, van rows 8 and 9, and parking adjacent to the Warehouse, but excluding the following: (i) all other city-owned property in the vicinity of Pier II, (ii) 162 sq. ft. of office space on the second floor, (iii) a 320 sq. ft. area in the warm room, (iv) two 60-ft parking areas on the north and south sides of the Warehouse, (v) one 120-ft parking area on the east end of the Warehouse, and (vi) a 60 ft. by 120 ft. (7,200 sq. ft.) section of the Warehouse for use as a port maintenance shop and other purposes

as deemed appropriate by the City (the "Premises"), for storage, loading, and unloading of freight shipped or to be shipped across the City port facilities.

**ALTERNATIVES:**

- 1) Pass Ordinance No. 1396 in the first reading with Matson Navigation of Alaska, LLC. This is staff's recommendation.
- 2) Council could amend or postpone the ordinance and/or lease, which is not recommended.

**FINANCIAL IMPLICATIONS:** In 2013, an appraisal of the Pier II Warehouse and uplands was conducted. The proposed rates are consistent with the appraisers recommended rates and fair market value. Matson has agreed to renew their lease at the current rate plus a 2.5 percent increase on July 1<sup>st</sup> of each year of the contract.

**LEGAL:** The City Attorney and insurance broker reviewed all documents for compliance. The attorney also prepared the ordinance.

**STAFF RECOMMENDATION:** Staff recommends Council approve the lease as negotiated with Matson for a five-year term commencing on March 1, 2020, and ending June 30, 2025, by adopting Ordinance No. 1396 in the first reading.

**CITY MANAGER'S COMMENTS:** The Deputy City Manager discussed the renewal of the lease with Matson General Manager and negotiated the terms of the agreement. The lease benefits Matson and the Harbor Department and also provides revenue to the City. I support the recommendation to adopt Ordinance No. 1396 in the first reading.

**ATTACHMENTS:**

- Attachment A: Ordinance No. 1396
- Attachment B: Warehouse Lease Agreement
- Attachment C: Property Application

**PROPOSED MOTION:**

Move to pass Ordinance No. 1396 in the first reading and advance to second reading and public hearing at the next regular or special meeting.

**CITY OF KODIAK  
ORDINANCE NO. 1396**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING A FIVE-YEAR LEASE OF CERTAIN REAL PROPERTY AT PIER II TO MATSON NAVIGATION OF ALASKA, LLC**

**WHEREAS**, the City owns property situated in U.S. Survey 2537B in the City of Kodiak, Alaska, commonly known as Pier II or Fishermen’s Terminal, on which is situated a building (the “Warehouse”), which includes warehouse and office space, and adjacent parking space; and

**WHEREAS**, the City and Matson Navigation of Alaska, LLC are parties to that certain Preferential Use Agreement and Terminal Operation Contract, both dated March 1, 2015; and

**WHEREAS**, Kodiak City Code 18.20.110(b) exempts leases negotiated in connection with an agreement for use of port and harbor facilities from the advertising, competitive bids, public notice, public auctions, and appraisal requirements of Chapter 18.20; and

**WHEREAS**, the Council finds that issuing this lease will facilitate economic development in accordance with the above-described Preferential Use Agreement and Terminal Operation Contract;

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

**Section 1:** **Approval of Lease.** Pursuant to Kodiak City Code 18.20.110(b), lease of the property in accordance with the terms of Lease Agreement No. 249457 is approved.

**Section 2:** **Authorization.** The form and content of the lease agreement between the City and Matson Navigation of Alaska LLC, hereby are in all respects authorized, approved, and confirmed; and the City Manager hereby is authorized, empowered, and directed to execute and deliver the lease agreement to Matson Navigation of Alaska LLC, on behalf of the City, in substantially the form and content now before this meeting but with such changes, modifications, additions, and deletions therein as he shall deem necessary, desirable, or appropriate, the execution thereof to constitute conclusive evidence of approval of any and all changes, modifications, additions, or deletions therein from the form and content of said document now before this meeting, and from and after the execution and delivery of said document, the City Manager hereby is authorized, empowered, and directed to do all acts and things and to execute all documents as may be necessary to carry out and comply with the provisions of the lease agreement as executed.

**Section 3:** **Effective Date.** As provided in Section V-17 of the Charter of the City of Kodiak, if one or more referendum petitions with signatures are properly filed within one month after the passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question. If no referendum petition



with signatures is filed, this ordinance shall go into effect one month after its passage and publication.

CITY OF KODIAK

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MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

First Reading:  
Second Reading:  
Effective Date:

**PORT OF KODIAK  
PIER II WAREHOUSE LEASE AGREEMENT  
City of Kodiak and Horizon Lines of Alaska, LLC  
City Contract 249457**

THIS LEASE AGREEMENT (“Agreement”) made and entered into as of March 1, 2020, by and between the City of Kodiak, Alaska, an Alaska municipal corporation (“City”), and Matson Navigation of Alaska, LLC, a limited liability company organized under the laws of state of Delaware (“Lessee”).

W I T N E S S E T H

WHEREAS, the City owns property situated in U.S. Survey 2537B in the City of Kodiak, Alaska, commonly known as Pier II or Fishermen’s Terminal, on which is situated a building (the “Warehouse”), which includes warehouse and office space, and adjacent parking space.

WHEREAS, the City and Lessee are parties to that certain Preferential Use Agreement and Terminal Operation Contract, both dated March 1, 2015, which together with this Agreement provide for the Lessee’s use and occupancy of facilities at Port of Kodiak Piers II and III.

NOW, THEREFORE, in consideration of the premises and the terms, covenants, conditions, and agreements contained herein, and further stated in the Preferential Use Agreement and the Terminal Operation Contract, the parties agree as follows:

**1. Premises.** The City leases to the Lessee, and the Lessee takes and hires from the City, the Warehouse including offices, a site for a vehicle off-loading ramp, van row 8, and parking adjacent to the Warehouse, but excluding the following: (i) all other city-owned property in the vicinity of Pier II, (ii) 162 sq. ft. of office space on the second floor, (iii) a 320 sq. ft. area in the warm room, (iv) two 60-ft parking areas on the north and south sides of the Warehouse , (v) one 120-ft parking area on the east end of the Warehouse , and (vi) a 60 ft. by 120 ft. (7,200 sq. ft.) section of the Warehouse for use as a port maintenance shop and other purposes as deemed appropriate by the City (the “Premises”), for storage, loading, and unloading of freight shipped or to be shipped across the City port facilities. The Premises is more particularly described in attached Exhibits A and B.

**2. Term.** (a) Initial Term. The term of this Agreement shall commence on March 1, 2020 and shall continue in full force and effect until midnight June 30, 2025, unless earlier terminated pursuant to the terms of Paragraph 12.

(b) This Agreement may be renewed for an additional term of five years, by mutual agreement of the parties. At least 90 days prior to the expiration of the term then in effect, the Lessee shall provide written notice to the City of its desire to renew or not renew this Agreement. The City will then reply within 15 days whether it wishes to renew the Agreement with the Lessee. If both parties agree, they shall then enter good faith negotiations to address any modifications to this Agreement requested by either party.

**3. Rent.** (a) The initial rent period shall run from March 1, 2020 through June 30, 2020. Thereafter, the rent period shall be annual and the annual rent shall be paid in advance on or before June 30 of each year.

(b) The initial annual rent shall be \$10,092.06, which shall be prorated for the initial rent period and is due upon Lessee’s executing this Agreement. On the June 30, 2020, the annual rent then due for the following year shall be 102.5% of the initial annual rent, and the amount due on

each June 30 thereafter shall be 102.5% of the previous year's annual rent.

**4. Use.** The Lessee shall use the Premises for the storage, loading, and unloading of freight shipped or to be shipped across the City port facilities. If on the date of execution of this Agreement there exists a labor organization which represents the majority of the individuals living in or around Kodiak, Alaska, who earn their livelihood as warehousemen, then the Lessee shall make reasonable good faith efforts to negotiate a collective bargaining agreement with said labor organization for the provision of warehousing labor services with respect to the Premises.

**5. Office Space and Mutual Access.** The City agrees that reasonable access to and from the Premises over the contiguous property shall be made available to the Lessee, except during cruise ship operations when access to the dock and east side of the Warehouse may be restricted to comply with marine transportation security requirements. Lessee agrees that the City shall have unrestricted access to the second-floor office, the warm room, the NOAA warehouse area, and the City's port maintenance shop, all located within the Warehouse .

**6. Repairs and Maintenance.** (a) All routine preventive maintenance and repairs costing \$15,000 or less in connection with any single incident of wear & tear, damage, decay, or breakdown shall be accomplished at the sole cost and expense of the Lessee, including but not limited to repairs to the overhead door, exterior doors and windows, boiler and electrical systems, and excepting only repairs to the roof, exterior walls, foundation, water and sewer systems and fire suppression system, all of which shall be maintained by the City.

(b) Except for the foregoing items to be maintained by the City and items covered by insurance and force majeure, the cost of any repairs totaling more than \$30,000 in connection with any single incident of damage, decay, or breakdown, shall be shared by the City and the Lessee, with the Lessee bearing \$30,000 (including the deductible for any insured loss) of such cost and the City bearing the remainder; provided, however, that in no event shall the Lessee be liable for more than \$50,000 in total out-of-pocket costs associated with routine preventive maintenance and repair during any one calendar year.

(c) The above limitations on the Lessee's responsibility for repair shall not apply to the repair of any damage caused by Lessee, for which Lessee shall be wholly responsible.

(d) The Lessee shall keep the Premises in a neat and broom-clean condition and contract with a janitorial service for the offices. The City retains the right to inspect the Premises during regular business hours and, should such inspection reveal a failure by the Lessee to adequately maintain the Premises, the Lessee shall make such corrections as may be required within a reasonable time specified by the City.

(e) Snow removal on the Pier II dock shall be the responsibility of the City.

**7. Utilities.** The City shall pay all water and sewer charges. All electric, heating oil, garbage, telephone, and janitorial charges shall be borne by the Lessee.

**8. Insurance.**

(a) Lessee shall procure and maintain at its sole expense, and shall keep in full force and effect throughout the term of this Lease, the following policies of insurance:

(1) Commercial General Liability Insurance, \$5,000,000 combined single limit per occurrence for bodily injury and property damage claims arising from all operations related to this Lease. The general aggregate limit shall be \$5,000,000.

(2) Commercial Automobile Liability Insurance, \$5,000,000 combined single limit per accident for bodily injury and property damage.

(3) Worker's Compensation and Employers Liability. Worker's Compensation shall be statutory as required by the State of Alaska. Employers Liability shall be endorsed to the following minimum limits and contain USL&H coverage endorsement, if applicable: (i) bodily injury by accident--\$1,000,000 each accident; and (ii) bodily injury by disease--\$1,000,000 each employee, \$1,000,000 policy limit.

(4) Insurance in an amount of not less than \$50,000 for loss due to property lost or stolen while in the Lessee's custody or control.

(b) Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

(1) Commercial General Liability and Automobile Liability

(i) City, its officers, officials, employees and volunteers are to be covered as additional insureds. The coverage shall contain no special limitation on the scope of protection afforded to City, its officers, officials, employees and volunteers.

(ii) Lessee's insurance coverage shall be primary insurance as respects City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees and volunteers shall be excess of Lessee's insurance and shall not contribute to it.

(iii) Lessee's insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and volunteers for losses arising from work performed by Lessee or any sublessee for City.

(2) Worker's Compensation and Employer's Liability. Lessee's insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and volunteers for losses arising from work performed by Lessee or any sublessee for City.

(3) All Insurance. Each insurance policy required by this Lease shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days' prior written notice has been given by the Insurer to City by certified mail, return receipt requested.

(c) Acceptability of Insurers. Insurance is to be placed with insurers qualified to do business in Alaska having a Best's rating of no less than A-: VII.

(d) Verification of Coverage. Lessee shall furnish City with approved certificates of insurance and with certified copies of all endorsements effecting coverage required by this Section. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms which meet industry standard. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(e) The City shall provide fire insurance coverage for the Warehouse and Pier II structures.

**9. Alterations.** The Lessee shall make no alterations, additions, or improvements to the Premises without the prior written approval of the City. At the expiration of this Agreement or

any renewal there-of, any such improvements shall become the property of the City.

**10. Fire or Other Casualty Loss.** In the event the Warehouse is damaged to such an extent as to render the same untenable in whole or in substantial part, or is destroyed, the City has the option to repair, rebuild, or not to rebuild. During such repair or reconstruction, the Lessee's rental shall be abated in the proportion that the damaged space bears to the whole of the leased space. Should the City elect not to rebuild, this Agreement shall be deemed terminated and any advanced but unaccrued rentals shall be repaid to the Lessee. In either event, the City shall furnish notice of its intent to the Lessee within 30 days after the loss occurrence.

**11. Assignment.** Except to an entity that is owned solely by or that is an affiliate of the Lessee, Lessee may not assign or sublease any rights or interests under this Agreement without prior written permission signed by the city manager and approved by the council, which shall be granted or withheld at the City's discretion. Should the City consent to an assignment or sublease, the Lessee shall nevertheless remain liable for the performance of all of its obligations under this Agreement and the acceptance by the City directly from an assignee of any payments or other performance due under this Agreement shall not be construed as a waiver of Lessee's continuing liability. A change of control of the Lessee other than from the parent entity of the Lessee to an affiliate shall constitute an assignment for purposes of this provision.

**12. Default and Termination.** The City may declare a default hereunder and terminate this Agreement upon the occurrence of any of the following:

A. The failure of the Lessee to pay rent or any other sum of money due under this Agreement within 10 days after the due date.

B. The failure of the Lessee to perform or observe any covenant or condition of this Agreement, other than a default in the payment of money described in Section 12(A), which is not cured within 30 days after notice thereof from the City to Lessee, unless the default is of a kind that may be cured, but not within such 30-day period, in which case no event of default shall be declared so long as Lessee shall commence the curing of the default within such 30 day period and thereafter shall diligently and continuously prosecute the curing of same.

C. The commencement of a case under any chapter of the federal Bankruptcy Code by or against the Lessee, or the filing of a voluntary or involuntary petition proposing the adjudication of the Lessee as bankrupt or insolvent, or the reorganization of the Lessee, or an arrangement by the Lessee with its creditors, unless the petition is filed or case commenced by a party other than the Lessee and is withdrawn or dismissed within 90 days after the date of its filing.

D. The admission in writing by the Lessee of its inability to pay its debts when due; the appointment of a receiver or trustee for the business or property of the Lessee, unless such appointment shall be vacated within 10 days after its entry; the Lessee making an assignment for the benefit of creditors; or the voluntary or involuntary dissolution of the Lessee.

E. If the Lessee is in default under either the Preferential Use Agreement or the Terminal Operation Contract.

**13. Indemnification.**

(a) The Lessee shall indemnify and hold harmless the City and its elected and appointed officials, employees, agents, and servants from any and all losses, expenses, damages, demands, and claims by any person in connection with or rising out of any injury (including death) to persons or in connection with damage to property or the natural environment, sustained in whole

or in part as a result of the Lessee's occupancy and maintenance of the Premises, and/or exercise of its rights under this Agreement or the Lessee's breach of this Agreement. The Lessee shall defend all suits and actions brought against the City and any of its elected or appointed officials, employees, agents or servants from any such injury or damage and shall pay all damages, costs, and expenses, including attorney's fees incurred in connection with the suits or actions. The only exception to this indemnity provision shall be for claims resulting from the negligence, gross negligence, or willful misconduct of the City or its employees, agents, or servants, and for claims resulting from an act or omission of a third party, with respect to which the Lessee's obligations under this paragraph shall be limited to that portion of any such claim not attributable to the City and not attributable to a third party.

(b) This indemnity provision specifically includes all environmental damage that may result from the Lessee's operations under this Agreement and any penalties or fines which may be assessed in connection therewith.

(c) Notwithstanding any provision of this Agreement, Lessee shall not be liable for, and shall not be liable to indemnify, defend or hold the City harmless from, any condition on the Premises, whether known or unknown, which was in existence before July 1, 2004.

**14. Compliance with Federal, State, and Local Laws.** At all times during the lease term the Lessee shall conduct operations in accordance with all applicable federal, state, and local laws and ordinances.

**15. Severability.** If any part, term or provision of this Agreement is declared null or unenforceable by a court or other tribunal of competent jurisdiction, the validity and enforceability of the rest of this Agreement shall not be affected.

**16. Waivers.** No waiver by Lessee or the City of any covenant or condition of this Agreement shall be construed as a waiver of any other covenant or condition, nor shall the waiver of one breach be considered a waiver of any other breach.

**17. Modifications and Notices.** (a) No modification of this Agreement shall be effective unless agreed to by Lessee and the City in writing. No modification of one provision of this Agreement shall be considered a waiver, breach or cancellation of any other provision.

(b) All notices required to be given under this Agreement shall be effective on the date of receipt and shall be mailed to the parties at the following addresses:

|                                  |                      |
|----------------------------------|----------------------|
| Matson Navigation of Alaska, LLC | City Manager         |
| 1717 Tidewater Road              | City of Kodiak       |
| Anchorage, Alaska 99501          | 710 Mill Bay Road    |
| Attn: _____                      | Kodiak, Alaska 99615 |

Any notice or document delivered by facsimile transmission to a facsimile machine at which the recipient routinely receives such transmissions shall be effective upon the date of receipt of the complete and fully legible document (so long as the original is also mailed in accordance with this paragraph) unless the transmission occurred outside of the usual business hours of the recipient, in which event the document shall be deemed to have been received on the next business day.

**18. Alaska Law & KCC Chapter 18.20.** (a) This Agreement is entered into in the State of Alaska, Alaska law governs its interpretation and application, and venue of any suit or other action arising out of this Agreement shall be in the Superior Court at Kodiak, Alaska.





City Clerk's Office  
 710 Mill Bay Road, Rm 110  
 Kodiak, AK 99615  
 Phone: (907) 486-8636  
 Fax: (907) 486-8600 (fax)  
 Email: [clerks@city.kodiak.ak.us](mailto:clerks@city.kodiak.ak.us)

## APPLICATION FOR PURCHASE, LEASE, OR RENEWAL OF LEASE OF REAL PROPERTY

PURCHASE

LEASE

\*RENEWAL

TERM REQUESTED: \_\_\_\_\_ YEARS

TERM REQUESTED: 5 YEARS

\*KCC 18.20.340, the lessee shall, not sooner than 60 calendar days prior to expiration, and not later than 30 calendar days prior to the expiration, make application for a renewal lease in writing on forms provided entitled "application for renewal of lease."

|   |   |
|---|---|
| 1. DATE OF APPLICATION <u>2/15/20</u>   |   |
| 2. APPLICANT NAME <u>Matson Navigation of Alaska LLC</u><br>(IF CORPORATION OR PARTNERSHIP, SEE #10 BELOW)  |   |
| 3. MAILING ADDRESS <u>727 Shelikof Street</u>   |   |
| 4. PHYSICAL ADDRESS <u>Same</u>   |   |
| 5. CITY <u>Kodiak</u>   | 6. STATE <u>Alaska</u>  |
| 7. ZIP <u>99615</u>   |   |
| 8. WORK PHONE: _____<br>CELL PHONE: _____   | 9. EMAIL: <u>rkniazowski@matson.com</u><br>FAX: <u>rkniazowski@matson.com</u> |
| 10. IF CORPORATION OR PARTNERSHIP, ATTACH ADDITIONAL INFORMATION<br>CORPORATION: Attach Schedule C, Showing Principal Agent and Contact Information<br>PARTNERSHIP: Attach Schedule P, Listing Partners Names and Contact Information                                     |   |
| 11. LEGAL DESCRIPTION OF THE REQUESTED PROPERTY<br><br>U.S. SURVEY (USS) <u>2537B</u><br><br>LOT _____ BLOCK _____ SUBDIVISION _____<br><br>OR<br>STREET ADDRESS OR OTHER IDENTIFYING DESCRIPTION:<br><u>Pier II warehouse, office space and adjacent parking spaces.</u> |   |
| 12. AREA, IN SQUARE FEET OF REQUESTED PROPERTY:   |   |



**City of Kodiak**

**Application for Purchase, Lease, or Renewal of Lease of Real Property, Page 2**

13. DESCRIPTION OF PURPOSE OF THE PROPOSED LEASE IN DETAIL (KCC 18.20.050 (b.1)). INCLUDE EXISTING IMPROVEMENTS, IF ANY, ON THE PROPERTY  
 Renewal of existing lease of city owned Pier II warehouse. Use of building is for storage, loading and unloading of freight and general administration.

14. PROPOSED USAGE OF LAND (KCC 18.20.050 (b.2))

RESIDENTIAL                       COMMERCIAL                       INDUSTRIAL

15. TYPE OF CONSTRUCTION PLANNED (KCC 18.20.050 (b.3)) **NA - existing metal structure**  
 (e.g.: FILL, FRAME, POST & BEAM, etc)

16. DATE DEVELOPMENT IS PLANNED TO BEGIN, AFTER SALE (KCC 18.20.050 (b.3)): **NA**

17. DATE DEVELOPMENT IS EXPECTED TO BE COMPLETED, AFTER SALE (KCC 18.20.050 (b.4)): **NA**

18. INVESTMENT, INCLUDING EQUIPMENT, PLANNED DURING DEVELOPMENT PERIOD (Optional)                      **\$ NA**

20. DESCRIBE ANY EXPANSION PLANS BEYOND THE INITIAL DEVELOPMENT (Optional)  
**None**

19. ANTICIPATED TAXABLE VALUATION OF THE PROPERTY, AFTER DEVELOPMENT (Optional)                      **\$ Unknown**

- 22. Is the applicant at least 18 years old (KCC 18.20.040 a)? .....  YES  NO
- 23. Are four copies of an accurate plan and elevations of the proposed improvements attached to this application? .....  YES  NO
- 24. Is the preliminary survey plat submitted with this application? .....  YES  NO
- 25. If required, can you post a performance bond amounting to 10% of the estimated taxable valuation? .....  YES  NO
- 26. Does your intended use of the property comply with the zoning regulations and the comprehensive plan of the Kodiak Island Borough (KCC 18.20.020 (b.5))? .....  YES  NO
- 27. Do you agree to comply with all applicable City ordinances and regulations, Borough ordinances and zoning regulations, and all applicable state and federal law? .....  YES  NO

**Notice to Applicant(s)**

A. This application will not be considered unless it is accompanied by a filing fee, as established by the City Council in the Schedule of Fees and Charges. The filing fee is not refundable and should be made payable to the City of Kodiak (KCC 18.20.050b and 18.20.340).

B. Unless specifically exempted by KCC 18.20.030, 18.20.195, 18.20.196 or other provisions of City Code, any sale or lease of City property shall be made by sealed bid or at public auction. The City Council may require specific development or use of property to be sold or leased.

C. If the Council directs staff to proceed with the proposed sale or lease of this property, staff will review the application and set the amount of deposit required from the applicant in accordance with KCC 18.20.060 for costs of survey, appraisals, advertising, etc.

If the property is sold or leased to someone other than the depositor, the deposit will be refunded, unless the depositor fails to enter a bid equal to at least the minimum sale or rental price as established in accordance with KCC 18.20.100 and the property is not sold, in which case the deposit shall be forfeited.

D. Certificates of Insurance will be required to be produced within 10 business days of a lease agreement award.

I testify that I am a qualified applicant or bidder per KCC 18.20.040 and I am the authorized agent to execute the sale or lease documents.

**Rick Kniazowski**  
 \_\_\_\_\_  
 Name of Applicant

  
 \_\_\_\_\_  
 Signature

**2/15/20**  
 \_\_\_\_\_  
 Date

SCHEDULE C

**CORPORATION  
PRINCIPAL AGENT AND CONTACT INFORMATION**

This schedule is attached to the Application for Purchase or Lease of Real Property submitted to the City of Kodiak as follows:

|  |                                     |
|--|-------------------------------------|
| <b>CORPORATION NAME</b><br>Matson Navigation of Alaska LLC | <b>DATE SUBMITTED</b><br>02/15/2020 |
|--|-------------------------------------|

|   |                      |
|---|----------------------|
| <b>C1. NAME OF PRINCIPAL AGENT AUTHORIZED TO EXECUTE THE SALE OR LEASE DOCUMENTS</b><br>Bal Dreyfus |                      |
| <b>C2. TITLE</b><br>Vice President, Alaska  |                      |
| <b>C3. MAILING ADDRESS</b><br>1717 Tidewater Road   |                      |
| <b>C4. CITY</b> Anchorage<br><b>C5. STATE</b> AK  | <b>C6. ZIP</b> 99501 |
| <b>C7. TELEPHONE</b>  | <b>C8. FAX</b>       |


|  |                       |
|--|-----------------------|
| <b>C9. NAME OF ALTERNATE CONTACT</b><br>Rick Kniaziowski |                       |
| <b>C10. TITLE</b><br>General Manager, Kodiak Operations  |                       |
| <b>C11. CITY</b> Kodiak<br><b>C12. STATE</b> AK          | <b>C13. ZIP</b> 99615 |
| <b>C14. TELEPHONE</b>                                    | <b>C15. FAX</b>       |
|  |                       |

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager   
**Thru:** Josephine Bahnke, Deputy City Manager and Glenn Melvin PE, City Engineer  
**Date:** April 9, 2020  
**Agenda Item:** **V. b. Authorization to Award the Construction Contract to Jay-Brant General Contractors LLC for the Waste Water Treatment Plant UV Effluent Disinfection Facility Project No. 20-04/7526**

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**SUMMARY:** The “Invitation to Bid” for the project WWTP UV Disinfection Facility Project No. 20-04/7526 was issued on February 18, 2020. There were two bids received on March 20, 2020, and opened by the Deputy City Manager and City Engineer. Jay-Brant General Contractors LLC was the “Apparent Low bidder” at \$2,418,143. Staff reviewed the bid documents and determined the bid to be a responsible bid. Staff recommends Council authorize the construction contract with Jay-Brant General Contractors LLC for the WWTP UV Disinfection Facility PN 20-04/7526 in the amount: \$2,418,143.

**PREVIOUS COUNCIL ACTION:** None

**DISCUSSION:** The work at the WWTP will include the following scope of items: site civil improvements to provide access to the disinfection facility; modifications to the existing chlorine contact basins and piping to provide flow to the new facility; new pre-engineered metal building with new concrete UV channels; new UV disinfection package system including controls; new building heating and ventilation; new electrical feed for the new facility; integration of the new UV control system into the existing plant SCADA system; and new launder covers on the uncovered secondary clarifier.

The City engineer reviewed the bids and determined that the low bidder, Jay-Brant General Contractors meets the requirements of City of Kodiak Code No. 3.12.080 and is determined to be the “Lowest Responsible Bidder”.

Jay-Brant has performed successful past projects for the City including the Water Treatment Plant UV Disinfection Facility in 2012 and the repair of the Baranof Ice Rink fire damage in 2013. Jay-Brant has a local work force and has indicated in the submitted bid that they will be using local subcontractors. Jay-Brant is familiar with the City’s Standard Construction Specifications and contract administration processes.

The estimated schedule for the project will start upon approval of Council at the April 9, 2020 meeting. If approved, City Engineering will issue a notice of award to Jay-Brant and then a 10-day protest period will

start. After 10 days City Engineering will issue the Notice to Proceed (NTP) and distribute the Construction Contract Agreement for signatures. This is expected to be completed by April 20, 2020. Contractor submittals will be received and reviewed during May 2020 and construction is expected to begin in June 2020. Construction is expected to be complete by December 2020; however, if unanticipated delays develop due to COVID-19 virus, the City and Jay-Brant will work together to develop alternative scheduling.

**ALTERNATIVES:**

- 1) Approve the construction contract award to Jay-Brant General Contractors, LLC, which is staff's recommendation.
- 2) Council may delay or not approve the construction contract. This would result in possible permit violations, significant additional costs, and is not recommended.

**FINANCIAL IMPLICATIONS:** Funding for this project is provided for by Council adoption of Resolution No. 2019–20, Authorizing the Borrowing From the Alaska Clean Water Fund of an Aggregate Amount Not to Exceed Five Million Four Hundred Thirty Five Thousand (\$5,435,000) to Pay For the Cost of an Upgrade to the City of Kodiak Wastewater Treatment Plant Ultraviolet Effluent Disinfection Facility

**STAFF RECOMMENDATION:** Staff recommends Council authorize the construction contract with Jay-Brant General Contractors LLC for the WWTP UV Disinfection Facility PN 20-04/7526 in the amount: \$2,418,143.

**CITY MANAGER'S COMMENTS:** As Council knows, the City secured a loan for this ADEC mandated project in the amount of \$5.4M and construction costs, including contract administration and construction management should bring this project total from \$5.4M to under \$3M, barring any supply and travel related delays. I recommend approving the construction contract to Jay-Brant General Contractors, LLC. ADEC offers a forgiveness of partial loan amount not to exceed \$500,000 the city will be applying for.

**ATTACHMENTS:**

- Attachment A: Bid Tab
- Attachment B: Bid Form

**PROPOSED MOTION:**

Move to authorize the bid award for the construction contract to Jay-Brant General Contractors LLC for the Waste Water Treatment Plant UV Effluent Disinfection Facility Project No. 20-04/7526 in the amount of \$2,418,143 and authorize the City Manager to execute documents on behalf of the City.

Project Name: WWTP UV DISINFECTION FACILITY Project Number: 18-04/7922  
 Date: 3/20/2020  
 Time: 2:00 p.m.  
 Date of Invitation: February 18, 2020  
 Opened By: Glenn Melvin and Josie Bahnke via phone

| Addendum No.   | Date Issued |
|----------------|-------------|
| Addendum No. 1 | 3/11/2020   |
| Addendum No. 2 | 3/13/2020   |
|                |             |

**BIDDER**

**TOTAL BID**

ENGINEERS ESTIMATE \$ 3,961,000

---

Roger Hickel Contracting Inc \$ 5,000,000  
 \$ <2,358,050 > MODIFIED VIA FAX  
 \$ 2,641,950

|                                     |                             |
|-------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> | Addendums Acknowledged      |
| <input checked="" type="checkbox"/> | Bid Bond & Business License |
| <input checked="" type="checkbox"/> | Contractors Certificate     |

Jay-Brant General Contractors LLC \$ 2,418,143

|                                     |                             |
|-------------------------------------|-----------------------------|
| <input checked="" type="checkbox"/> | Addendums Acknowledged      |
| <input checked="" type="checkbox"/> | Bid Bond & Business License |
| <input checked="" type="checkbox"/> | Contractors Certificate     |

\$

|                          |                             |
|--------------------------|-----------------------------|
| <input type="checkbox"/> | Addendums Acknowledged      |
| <input type="checkbox"/> | Bid Bond & Business License |
| <input type="checkbox"/> | Contractors Certificate     |

\$

|                          |                             |
|--------------------------|-----------------------------|
| <input type="checkbox"/> | Addendums Acknowledged      |
| <input type="checkbox"/> | Bid Bond & Business License |
| <input type="checkbox"/> | Contractors Certificate     |

**BID FORM**

**Project:** WWTP UV DISINFECTION FACILITY PN 18-04/7522

**Date of Invitation:** February 18, 2020

**Bidders Declaration**

The undersigned Bidder declares he has a thorough understanding of the Bidding Documents, including, but not limited to: the Plans; Specifications; General Conditions; Supplementary Conditions; Bonding and Insurance requirements; the Contract; payment conditions; and the Contract Times and Liquidated Damages. The Bidder agrees to all terms and conditions of the Bidding Documents. Furthermore, the Bidder agrees to perform the Work in full conformance with the Bidding Documents for the prices set forth on this Bid Form.

The Bidder hereby acknowledges he has received the following list of Addenda:

| Addendum No. | Date Issued    |
|--------------|----------------|
| 1            | March 11, 2020 |
| 2            | March 13, 2020 |
|              |                |
|              |                |
|              |                |

**GC Lump Sum Bid**

one million nine hundred ninety nine thousand three hundred forty three dollars      \$ 1,999,343.00  
 Written in Words      Figures

Trojan UV Equipment and Installation/Startup Support      \$408,800

Furnishings Allowance      \$ 10,000

Total Lump Sum Bid

two million four hundred eighteen thousand one hundred forty three dollars      \$ 2,418,143.00  
 Written in Words      Figures

Enclosed is a Bid Bond in the Amount of 10%  
 of the Lump Sum Bid consisting of

241,815.00

**Qualifications**

Provide name of Bidder's Superintendent on line below and attach current resume for Bidder's Superintendent.

Patrick N. Adams

Name

**Subcontractors**

Bidder agrees to submit, in accordance with the Instructions to Bidders, a listing of subcontracting firms or businesses that will be awarded subcontracts for portions of the Work within the times noted;

Bidder further proposed, in the event the Bidder is awarded the Contract, that the following firms or businesses will be awarded subcontracts (Bidder shall list all subcontracts greater than 5 percent of the Work):

Subcontractor 1

Bering Industrial Contractors

Firm/Company Name

9300 Rezano P drive Kodiak AK 99615

Firm/Company Address

Subcontractor 2

Endeavor Electric

Firm/Company Name

3560 W 74th Anchorage AK 99502

Firm/Company Address

Subcontractor 3

Firm/Company Name

Firm/Company Address



CITY OF KODIAK  
WWTP UV DISINFECTION FACILITY

---

Subcontractor 4

---

---

Firm/Company Name

---

Firm/Company Address

---

Subcontractor 5

---

---

Firm/Company Name

---

Firm/Company Address

---

Subcontractor 6

---

---

Firm/Company Name

---

Firm/Company Address

CITY OF KODIAK  
WWTP UV DISINFECTION FACILITY


Enclosed is a copy of the Bidder's Alaska Contractor's Certificate No. CONE26434

Enclosed is a copy of the Bidder's Alaska Business License No. 264867

Name of Bidder Jay-Brant General Contractors, LLC

Bidder is:  An Individual  
 A Partnership /LLC  
 A Corporation in the State of \_\_\_\_\_  
 A Joint Venture

Address 460 Grubstake Avenue  
Homer, AK 99603

Authorized Signature   
Printed Name Daniel Cope  
Title General Manager

This Bid shall be sealed in an envelope addressed to:

**City Manager  
710 Mill Bay Road, Room 114  
Kodiak, Alaska 99615**

The envelope shall be clearly marked:

**Bid Documents: WWTP UV DISINFECTION FACILITY PN 18-04/7522**

**To be submitted by: March 20, 2020 at 2:00 P.M. ADT**

**END OF SECTION**

Department of Commerce, Community, and Economic Development  
**CORPORATIONS, BUSINESS & PROFESSIONAL  
 LICENSING**

State of Alaska / Commerce / Corporations, Business, and Professional Licensing / Search & Database Download / Professional Licenses / License Details

## LICENSE DETAILS

**License #:** CONE26434

**Program:** Construction Contractors

**Type:** General Contractor Without Residential Contractor Endorsement

**Status:** Active

**DBA:** JAY-BRANT GENERAL CONTRACTORS LLC

**Issue Date:** 06/29/1999

**Effective Date:** 11/21/2018

**Expiration Date:** 12/31/2020

**Mailing Address:** HOMER, AK, UNITED STATES

## Owners

| Owner Name                        | Entity Number |
|-----------------------------------|---------------|
| JAY-BRANT GENERAL CONTRACTORS LLC | 62422D        |

## Relationships

No Relationships Found

## Designations

No Designations Found

## Agreements/Actions/Accusations

No Agreements/Actions/Accusations Found

**Alaska Department of Commerce, Community, and Economic Development**

Division of Corporations, Business, and Professional Licensing  
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

**JAY-BRANT GENERAL CONTRACTORS, LLC**

460 GRUBSTAKE AVE, HOMER, AK 99603-7639

owned by

JAY-BRANT GENERAL CONTRACTORS, LLC

is license by the department to conduct business for the period

November 20, 2018 to December 31, 2020  
for the following line of business:

23 - Construction

This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location.  
It is not transferable or assignable.

Julie Anderson  
Commissioner



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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager *MT*  
**Thru:** Monte Anderson, Acting Harbormaster  
**Date:** April 9, 2020

**Agenda Item:** V. c. Authorization to Purchase Marine Travel Lift Straps in the Amount of \$106,082.28 With Kendrick Equipment USA LLC

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**SUMMARY:** The Kodiak Shipyard 600C Marine Travelift requires new Slings along with Chine/Keel Pads to be purchased and installed in order to continue safe Shipyard operations without interruption. Kendricks Equipment performed an annual inspection on April 30, 2019 and stated the straps still appear to be in good condition at that time; however, with age and UV damage, replacement should be considered. Currently the Travelift straps are showing more signs of wear due to another year of use (34 lift/launches), low winter temperatures and age. The shipyard is entering into the busy season for vessel haul outs beginning at the end of March. The Kodiak Shipyard currently has 10 vessels scheduled between March 20<sup>th</sup> and the middle of June and have several additional inquiries, which may lead to additional bookings.

**PREVIOUS COUNCIL ACTION:** N/A

**ALTERNATIVES:**

- 1) Authorize the purchase of slings, along with chine/keel pads, for the Marine Travelift from Kendrick Equipment USA LLC. This is staff's recommendation.
  
- 2) Do not authorize purchase for sling replacement and limit haul outs of vessels to emergency situations only. Staff does not recommend this option as it would be detrimental to the safety and operations of the Marine Travelift.

**FINANCIAL IMPLICATIONS:** The replacement slings, and chine/keel pads are expected to total \$106,082.28. This funding will come from the shipyard administration machinery & equipment <\$5000 line item. This project was not previously included in the budget or City plan.

This purchase would include:

24 Slings 10" x 31.6' 4ply.

24 Slings 10" x 38.6' 4ply.

12 Chine/Keel Pads 10" x 10" x 108"

24 Chine/Keel Pads 10" x 10" x 208"

APRIL 9, 2020  
Agenda Item V.c. Memo Page 1 of 2

**STAFF RECOMMENDATION:** Staff recommends Council approve the funding for the replacement of the Shipyard Travel Lift straps and chine/keel pads in the amount of \$106,082.28 with funds coming from Shipyard Administration Machinery & Equip<\$5000 account number 512.530.100.470.125.

**CITY MANAGER'S COMMENTS:** This purchase is an important maintenance item to keep the City's asset safe and operational. The current straps are about 9 years old and the Deputy Harbormaster is recommending replacement. This purchase will prepare the Travel Lift for the upcoming seasons. I recommend approval of this purchase.

**NOTES/ATTACHMENTS:**

Attachment A: Fee Quote from Kendrick Equipment USA LLC

**PROPOSED MOTION:**

Move to authorize Council to purchase slings, chine/keel pads, from Kendricks Equipment USA LLC for \$106,082.28 with funds coming from the Shipyard Administration Machinery & Equipment less than \$5,000 line item and authorize the City Manager to execute documents on behalf of the City.

# Kendrick Equipment USA LLC

#1-19089 94th Avenue  
Surrey, British Columbia V4N 3S4

# QUOTE

Attachment A

Quote No.: 78  
Date: 02/25/2020  
Page: 1  
Ship Date:

**Sold To:**

City of Kodiak  
Harbor Dept  
403 Marine Way  
Kodiak, AK 99615

**Ship To:**

City of Kodiak  
Harbor Dept  
403 Marine Way  
Kodiak, AK 99615

**Business No.:**

| Item No.                       | Quantity | Unit | Description                            | Tax | Base Price | Disc % | Unit Price          | Amount     |
|--------------------------------|----------|------|--|-----|------------|--------|---------------------|------------|
| 1109717-31.5-N-0-Y             | 24       | Each | Attn: Monte<br>Sling,NY,10"x31'-6,4Ply |     | 1,496.39   | 10.00  | 1,346.75            | 32,322.00  |
| 1109717-38.5-N-0-Y             | 24       | Each | Sling Half, 10" x 38'.6", 4 ply        |     | 1,665.50   | 10.00  | 1,498.95            | 35,974.80  |
| 1102760-108                    | 12       | Each | PAD, CHINE/KEEL, 10" + 10", 108"       |     | 802.21     | 10.00  | 721.99              | 8,663.88   |
| 1102760-208                    | 24       | Each | Pad, Chine/Keel, 10"+10", 208"         |     | 1,348.22   | 10.00  | 1,213.40            | 29,121.60  |
|                                | 1        | Each | Inbound freight (TBD)                  |     |            |        |                     |            |
|                                |          |      | Subtotal:                              |     |            |        |                     | 106,082.28 |
| Shipped by                     |          |      |  |     |            |        | <b>Total Amount</b> | 106,082.28 |
| Terms: Net 30. Due 03/26/2020. |          |      |  |     |            |        |                     |            |
| <b>Comments</b>                |          |      |  |     |            |        |                     |            |
| Sold By: Gregory Waller        |          |      |  |     |            |        |                     |            |



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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager *mt*  
**Thru:** Kelly Mayes, Finance Director  
**Date:** April 9, 2020  
**Agenda Item:** V. d. **Extend Professional Services Contract for Auditing Services With Altman, Rogers, & Co. for Fiscal Years Ending June 30, 2020 and June 30, 2021**

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**SUMMARY:** Each year, the City Council retains a qualified professional audit firm to perform an independent audit of the City's financial records. The City Charter and the City Code require the Council to accept the Comprehensive Annual Financial Report at the completion of the audit. The City's request for these services is to award a three-year contract with the option to extend for two additional years.

The current professional services contract for independent auditing services with Altman, Rogers & Co. was awarded in May 2017 for fiscal years ending June 30, 2017, 2018, and 2019 with an option to extend the contract for fiscal years ending June 30, 2020 and 2021. Finance staff and Altman, Rogers & Co. desire to extend this contract for the next two fiscal year end periods.

**PREVIOUS COUNCIL ACTION:** Altman, Rogers & Co. was awarded the professional services contract for auditing services for the fiscal years ending June 30, 2017, 2018, and 2019, with the option to extend for fiscal years ending June 30, 2020 and 2021 in May 2017.

**DISCUSSION:** Article V, Section 21 of the City Charter requires an annual audit of the accounting and the financial records of the City by independent certified public accountants in accordance with generally accepted auditing standards and the standards set forth by the Government Accountability Office's Government Auditing Standards, State of Alaska single audit requirements, and Federal single audit requirements under Uniform Guidance.

Altman, Rogers, & Co. has an extensive background with state and local government, and with Alaska municipalities. The individuals assigned to the City's account are also highly trained and have the appropriate qualifications and background.

**ALTERNATIVES:**

- 1) Authorize the extension of the professional services contract for audit services with Altman, Rogers & Co. for fiscal years ending June 30, 2020 and 2021.
- 2) Do not authorize the extension of professional services contract for audit services with Altman, Rogers & Co and perform a search through RFP procedures. The City Staff does not agree with this alternative.

**FINANCIAL IMPLICATIONS:** Auditing fees are budgeted through the annual budget process. The proposed audit fees for fiscal year ending June 30, 2020 are \$75, 200 and June 30, 2021 are \$77,450. Based on the City’s size and complexity, staff believes that these fees are reasonable to perform a thorough, independent audit for the City of Kodiak.

**LEGAL:** The city followed Kodiak City Code section 3.12.040 Advertising for Bids at the time of the original award of the professional services contract. In addition, Article V Section 21 of the City Charter states that Council designates the independent public audits. Per City Code 3.12.070, this award for professional services contracts is listed as an exception to normal bid procedures required for contracts in excess of \$50,000.

**STAFF RECOMMENDATION:** Staff recommends that Council authorize the extension of the professional services agreement for audit services for fiscal years ending June 30, 2020 and 2021 with Altman, Rogers & Co. with an office in Anchorage Alaska.

**CITY MANAGER’S COMMENTS:** The City is required to conduct a financial audit as a condition of Federal and State grant funding received. Also pursuant to Section V, Chapter 21 of the City Charter, this is also a requirement. Communities often rotate audit firms in an effort to provide transparency and clarity of its use of public funding. The city used BDO audit services prior to the change in FY 2017. For this and other reasons aforementioned, I support the authorization of this audit service contract with Altman, Rogers & Co.

**ATTACHMENTS:**

Attachment A: Altman, Rogers & Co. Letter of Interest for Extension of Professional Services

**PROPOSED MOTION:**

Move to authorize an extension of the professional services contract for fiscal years ending June 30, 2020 and June 30, 2021 with Altman Rogers & Co to perform an annual independent audit in the amount of \$75,200 for FY2020 and \$77,450 for FY2021 with funds coming from the Finance Administration Professional Services account and authorize the City Manager to execute documents on behalf of the City.

February 14, 2020

Honorable Mayor and City Council  
City of Kodiak, Alaska

Altman, Rogers & Co. has performed the financial statement audit for the City for past three fiscal years. The original audit RFP that was issued during 2017 had the option for an additional two, one-year contracts to provide audit services. We would be happy to extend the contract if approved by the City. Our fee for these services would be \$75,200 for fiscal year 2020 and \$77,450 for fiscal year 2021. These fees are all-inclusive of out-of-pocket costs.

If you would like to discuss this in more detail or have any questions please feel free to contact me.

Sincerely,



Grant Todd, CPA  
Altman, Rogers & Co., CPA's

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers

**From:** Mike Tvenge, City Manager *MT*

**Date:** April 9, 2020

**Agenda Item:** V. e. Authorization of Amendment to City Manager's Employment Agreement

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**SUMMARY:** The City Manager is hired by contract and works directly for the City Council. The Manager's contract contains a provision that the Council and Manager meet annually to discuss goals and objectives of both the past 12 month performance period as well as the upcoming 12 month performance period. The meeting to discuss goals and objectives was held March 12, 2020, at which time the Manager's contract was discussed and a consensus voiced to amend it.

**PREVIOUS COUNCIL ACTION:**

- February 9, 2017, Council authorized the City Manager's employment agreement
- November 9, 2017, Council provided the City Manager a six-month evaluation
- December 13, 2018, Council postponed the City Manager's annual review
- March 14, 2019, Mayor, Council, and City Manager met in executive session to discuss the Manager's annual performance and employment contract
- March 28, 2019, an Authorization of Amendment to City Manager's Employment Agreement was approved
- March 12, 2020, Mayor, Council, and City Manager met in executive session to discuss the Manager's annual performance and employment contract

**MANAGER'S COMMENTS:** After discussion with the Mayor and Council I would like to make the following changes to my employment agreement. These changes are noted in Sections 1 and 3 of (Attachment A).

**ATTACHMENTS:**

Attachment A: City Manager's Employment Agreement Amendment

**PROPOSED MOTION:**

Move to authorize Amendment 1 of the City Manager's Employment No. 242084.

APRIL 9, 2020

Agenda Item V. e. Memo Page 1 of 1

**City of Kodiak Amendment to the  
Kodiak City Manager Employment Agreement  
Between the CITY OF KODIAK and Mike Tvenge, City Manager  
AMENDMENT NO. 1**

**Effective Date of Agreement: April 9, 2020**

**The Kodiak City Manager Employment Agreement is here by amended as follows:  
Section 1: Term**

The term of this amended agreement shall be from May 1, 2020, (“Effective Date”) until April 30, 2023 (“Termination Date”). This Agreement shall automatically renew on April 30, 2023, for one year unless either party submits written notice of termination to the other party at least thirty days before the Termination Date.

**Section 3: Compensation**

A. Salary:

After a favorable annual review on March 12, 2020, the Council approved a 3.5% retroactive performance increase to \$157,060.80 for the employee’s second evaluation anniversary period of May 1, 2018 to May 1, 2019 (effective May 1, 2019). Employee’s salary changed to \$161,782.40 on July 1, 2019, via Ordinance No. 1386, which granted a 3% cost of living increase to all City employees. The Council approved a 3.5% performance increase to \$167,440 for the employee’s third evaluation anniversary period of May 1, 2019 to May 1, 2020 (effective May 1, 2020).

Executed this the \_\_\_\_\_ day of \_\_\_\_\_, 2020

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the date shown below:

CITY OF KODIAK, EMPLOYER

\_\_\_\_\_  
Pat Branson, Mayor

\_\_\_\_\_  
Mike Tvenge, Employee

ATTEST:

\_\_\_\_\_  
Nova M. Javier, City Clerk