

City of Kodiak Regular Council Meeting Agenda for January 22, 2015
7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)

I. Call to Order/Roll Call	
Pledge of Allegiance/Invocation	
II. Previous Minutes	
Approval of Minutes of the January 6, 2015, Special Meeting and January 8, 2015, Regular Council Meeting.....	1
III. Persons to Be Heard	
a. Public Comments (limited to 3 minutes) (486-3231)	
IV. Unfinished Business	
a. Second Reading and Public Hearing, Ordinance No. 1329(SUB), Authorizing the City to Enter Into Amendments to the Preferential Use Agreement, Terminal Operating Contract, and Warehouse Lease Agreement With Horizon Lines of Alaska, LLC.....	10
b. Second Reading and Public Hearing, No. 1330, Amending Ordinance No. 1323, Authorizing a Lease of a Communication Site in U.S. Survey 3945 on Pillar Mountain to NCWPCS MPL 31 – Year Sites Tower Holdings, LLC	50
V. New Business	
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b. Resolution No. 2015–02, Rescinding Resolution No. 2013–03 and Adopting a Revised Travel Policy for the Mayor and Councilmembers.....	88
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a. City Manager	
b. City Clerk	
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VIII. Council Comments	
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X. Executive Session
a. Clerk's Annual Evaluation.....148

XI. Adjournment

<p>DRAFT</p>

**MINUTES OF THE SPECIAL COUNCIL MEETING
OF THE CITY OF KODIAK
HELD TUESDAY, JANUARY 6, 2015
IN THE PUBLIC LIBRARY MULTI-PURPOSE ROOM**

I. Call to Order

Mayor Pat Branson called the meeting to order at 6:30 p.m. Councilmembers Randall C. Bishop, Terry J. Haines, Richard H. Walker, and John B. Whiddon were present and constituted a quorum. Councilmembers Charles E. Davidson and Gabriel T. Saravia were absent. City Clerk Debra L. Marlar and Harbormaster Lon White were also present.

II. Public Comments on Agenda Items Only

None

III. Executive Session

a. Discussion of Horizon Lines Contract Negotiations

Councilmember Whiddon MOVED to enter into executive session pursuant to AS 44.62.310(c)(1) to discuss matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the City, specifically the negotiation of new contracts with Horizon Lines.

The roll call vote was Councilmembers Randall C. Bishop, Terry J. Haines, Richard H. Walker, and John B. Whiddon in favor. Councilmembers Charles E. Davidson and Gabriel T. Saravia were absent. The motion passed.

IV. Adjournment

Councilmember Whiddon MOVED to adjourn the meeting.

The roll call vote was Councilmembers Randall C. Bishop, Terry J. Haines, Richard H. Walker, and John B. Whiddon in favor. Councilmembers Charles E. Davidson and Gabriel T. Saravia were absent. The motion passed.

The meeting adjourned at 7 p.m.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Minutes Approved:

<p style="font-size: 2em; margin: 0;">DRAFT</p>

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, JANUARY 8, 2015
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

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

After the Pledge of Allegiance, Salvation Army Sergeant Major Dave Blacketer gave the invocation.

II. PREVIOUS MINUTES

Councilmember Whiddon MOVED to approve the minutes of the December 11, 2014, regular meeting as presented.

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

III. PERSONS TO BE HEARD

a. Proclamation: Stalking Awareness Month

Councilmember Bishop read the proclamation, which acknowledges stalking as a serious crime and supports the efforts of victim service providers, police officers, prosecutors, national and community organizations, and private sector supporters for their efforts in assisting victims and promoting awareness about stalking. Isabel Sorto accepted the proclamation for the Kodiak Women's Resource and Crisis Center.

b. Public Comments

None

IV. UNFINISHED BUSINESS

a. Second Reading and Public Hearing, Ordinance No. 1328, Authorizing a Contract With the Kodiak Historical Society to Operate the Baranov Museum

Mayor Branson read Ordinance No. 1328 by title. The City of Kodiak has partially funded the Kodiak Historical Society (KHS) to operate the Baranov Museum for many years. The KHS requested that the City enter into an operating agreement or contract with them for the services. The City Manager worked with the KHS Executive Director over several months to develop a

two-year agreement. Based on City Charter requirements and legal advice, the approval for a two-year operating agreement is made by Council through the ordinance process.

Councilmember Haines MOVED to adopt Ordinance No. 1328.

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

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

b. Appointment to the City Position on the Prince William Sound Regional Citizens Advisory Council

The City of Kodiak has a dedicated seat for a representative on the Prince William Sound Regional Citizens' Advisory Council (PWSRCAC). Jane Eisemann, who had served as the City's representative since 2001 resigned her position, and another individual needs to be appointed to the City-designated seat. Ms. Eisemann's vacant seat expires in May 2015. PWSRCAC staff informed the City that the Council may recommend appointment through May 2015 or may recommend appointment through May 2017. At the December 11, 2014, regular meeting the Council moved to approve the seat through May 2017. At that same meeting, the Council's motion to elect the position via secret ballot resulted in a tie vote; thereby, moving the issue to this meeting for the Mayor to break the tie.

Mayor Branson appointed Wayne Donaldson as the City of Kodiak representative on the Prince William Sound Regional Citizen' Advisory Council. Mr. Donaldson will serve through May 2017.

V. NEW BUSINESS

a. First Reading, Ordinance No. 1329, Authorizing the City to Enter Into an Amendment to the Preferential Use Agreement With Horizon Lines of Alaska, LLC

Mayor Branson read Ordinance No. 1329 by title. Ordinance No. 1329 authorizes amendment of the Preferential Use Agreement between the City of Kodiak and Horizon Lines of Alaska, LLC, previously approved by Council on October 23, 2014. Section VIII-A of the agreement is amended to allow for Horizon Lines to have a lien on the New Crane securing general corporate financing obligations of the company. The change does not affect the financial terms of the agreement.

Councilmember Walker MOVED to pass Ordinance No. 1329 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

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

b. First Reading, Ordinance No. 1330, Amending Ordinance No. 1323, Authorizing a Lease of a Communication Site in U.S. Survey 3945 on Pillar Mountain To NCWPCS MPL 31 – Year Sites Tower Holdings, LLC

Mayor Branson read Ordinance No. 1330 by title. The City has issued a lease for the Pillar Mountain Communication Site No. 11 with AT&T and affiliates since 2010. The current lease for Site No. 11 with CCATT, LLC, expired in December. Its successor, NCWPCS MPL 31-Year Sites Tower Holdings, LLC, through Crown Castle, requested the lease be renewed. The Council renewed the lease via Ordinance No. 1323 at the September 11, 2014, regular meeting. The company requested additional changes to the lease after the ordinance was approved by Council, so staff worked with them and the City Attorney to review and incorporate changes acceptable to both parties. This action requires Council to amend the original ordinance and lease to reflect the changes by approving the revisions through Ordinance No. 1330.

Councilmember Bishop MOVED to pass Ordinance No. 1330 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

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

c. Resolution No. 2015–01, Accepting a State of Alaska Legislative Grant for E911 Updates

Mayor Branson read Resolution No. 2015–01 by title. The State of Alaska approved re-appropriation of funds in the amount of \$381,472 from the Department of Transportation and Public Facilities to Department of Commerce, Community, and Economic Development for a new FY2015 Designated Legislative Grant per AS 37.05.315 (Grants to Municipalities) for the purpose of E911 equipment replacement. Staff recommends Council formally accept the grant funds by adopting Resolution No. 2015–01.

Councilmember Whiddon MOVED to adopt Resolution No. 2015–01.

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

d. Authorization of Change Order No. 1 (Second Amendment) to the Composting Contract With Quayanna Development Corporation

Council approved the original contract agreement with Quayanna Development Corporation (QDC) for composting of biosolids at Middle Bay on October 25, 2012, for a period of five years. Amendment No.1 was signed on December 14, 2012, which addressed delays in permitting of the Middle Bay site and allowed a Class B composting process be moved to a small piece of land on top of the current Kodiak Island Borough Landfill site. Amendment No. 2, executed by Change Order No. 1, is being presented to Council. This change order provides for a one-time lump sum payment of \$87,370 to compensate QDC for increased cost going back to October 2013 and also provides for an additional monthly amount of \$8,275.33 due to changed conditions. The increases approved by this change order will be effective January 1, 2015, and continue until the new permitted Class A compost facility is operational.

Councilmember Haines MOVED to authorize Change Order No. 1 (Second Amendment) to the composting contract with Quayanna Development Corporation with required funding to be transferred from the Sewer Utility fund balance to the WWTP biosolid disposal line item with FY2015 Supplemental Budget Amendment No. 1.

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

e. Acceptance of the FY2014 Comprehensive Annual Financial Report (Audit)

Each year the City Council retains a qualified accounting firm to perform an annual audit of the City's financial records and accounting practices. The City Charter and the City Code require the Council to accept the comprehensive annual financial report. Council typically accepts the report and results of the audit by motion. Staff recommends Council approve the results of the financial statement audit for Fiscal Year 2014 in accordance with KCC 3.24.020 and accept the Fiscal Year 2014 Comprehensive Annual Financial Report.

Councilmember Walker MOVED to accept the City's Fiscal Year 2014 audited Comprehensive Annual Financial Report.

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

f. Advisory and Personnel Board Appointments and Planning and Zoning Commission Recommendation

Several seats expired on various City advisory boards at the end of December. Except for the Personnel Board, whose members are appointed by the Council, and the Employee Advisory Board, whose members are elected by City employees, members of advisory boards are appointed by the Mayor and confirmed by the Council. Additionally, the Council makes a recommendation to the Borough Mayor for appointment to City designated seats on the Planning and Zoning Commission.

Mayor Branson appointed Nick Szabo, Marty Owen, and Paddy O'Donnell to regular seats on the Port and Harbors Advisory Board, with terms ending December 31, 2017; and Stormy Stutes as Alternate No. 1 and Raymond May as Alternate No. 2 on the Port and Harbors Advisory Board, with terms ending December 31, 2016.

Councilmember Whiddon MOVED to appoint Pat Szabo to the Personnel Board for a term ending December 31, 2016, recommend Alan Schmitt for appointment to the three-year City seat on the Planning and Zoning Commission; and confirm the Mayoral advisory board appointments to the Port and Harbors Advisory Board as stated.

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

VI. STAFF REPORTS**a. City Manager**

Manager Kniazowski said the water levels were an all time high at the WWTP last month. She indicated a small emergency team was stood up to monitor the flooding last month. She mentioned the rain impacted the roof at the Fire station and some repairs were done. She indicated that DEC opened public notice and comments for the composting permit through January 20. She said the Downtown Water, Sewer, and Storm Drain Draft Master Plan will be finalized and brought back to the Council for approval in February. She indicated that the Monashka project is going well and Pier III is moving forward with some challenges with pilings. She stated the Parks and Recreation Advisory Board met with the new Director and the meeting went well. She indicated some repairs are being made at the skate park and parts of the park will be closed for repairs. She shared the Christmas lights will be taken down at the end of January. She stated she was excited the Kodiak Public Library was chosen as a location for Poems in Place. She said the Council planning session will be held on January 31 and as a follow up to a recent inquiry, the general fund balance dipped due to capital projects in previous years.

b. City Clerk

City Clerk Marljar informed the public of the next scheduled Council work session, regular meeting, and planning session. She said the annual records management report has been submitted to Council as required by Kodiak City Code. She said the records management program hired a consultant in 2004 to help create the current policies and records infrastructure. She gave an overview of the report, which included recommendations, departmental compliance, and a summary of the disposition process. She gave an overview of annual production statistics and public records requests. She thanked the records manager, records coordinators, department heads, and City Manager for their work and adherence to applicable laws. Clerk Marljar stated Pier II vans are used for records storage, which is in a tsunami zone, and she suggested to the Council a records storage center would be optimal in future planning of a new City building.

VII. MAYOR'S COMMENTS

Mayor Branson complimented the City-wide records management program and indicated a better storage facility will be looked at in the future. Mayor Branson congratulated the City Manager for a clean audit and said she was proud of staff. She indicated she was pleased with the contract with the Kodiak Historical Society to operate the Baranov Museum. She thanked all the volunteers for the advisory boards. She stated she was excited to see the plan for the infrastructure downtown and stated the sub-committee chairs will be meeting on January 29. She said the planning meeting is on January 31. Mayor Branson thanked Senator Gary Stevens, Representative Austerman, and Representative elect-Stutes for support of Kodiak capital funding, and she looks forward to the continuing partnerships.

VIII. COUNCIL COMMENTS

Councilmember Walker said he was impressed with the annual audit presentation, and he thanked the City Manager, department heads and staff for their work on all the City-wide projects. He said the town of Kodiak is in good hands. He wished everyone a happy new year.

Councilmember Haines said records management has evolved over the years, and it is a very important part of the City efficiency. He reminded the public to make sure pedestrians, bicyclists, and children wear reflective gear and use the crosswalks for their safety. He shared he is very excited for the Downtown, Water, Sewer, and Storm Drain Master plan to get formalized.

Councilmember Whiddon said the records management report and the audit presentation were both done well. He said the Fisheries Work Group (FWG) had a lively meeting. He said the group has progressed, and he feels the work is going well and indicated it helps NPFMC. He said the State Acting Interim Director for Fish and Game, Sam Cotton, has put a hold trawl by-catch management plans. He said in the upcoming FWG meeting, they will continue with the economic analysis study; invite stakeholders to participate; and try and have a community forum during Com-fish. He reminded everyone the FWG is open to the public, and the administrative notes are online. He highlighted the Fisheries Analyst will publish a report online after every meeting.

Councilmember Bishop thanked Senator Gary Stevens and Representative Alan Austerman for securing funds for all the capital projects, and he welcomed Representative-elect Louise Stutes. He thanked the department directors for holding the budget and maintaining operations. He thanked the advisory board applicants. He reminded the public that the annual Joe Floyd tournaments will be occurring during the weekend. He wished everyone a happy new year.

IX. AUDIENCE COMMENTS

Alan Schmitt, Interim Chair of the Planning and Zoning Commission, thanked the Council for his appointment recommendation. He said the position is enjoyable, and he said the public hearings for the code rewrite are ongoing. He stated the next public hearing is Monday, January 12 at 6:30 p.m. in the Assembly Chambers. He encouraged the villages to participate during the public hearing. He said Titles 16, 17, and 18 are being reviewed. He commented that he is pleased to participate in the commission and looks forward to community feedback. He complimented the City Council and staff and KIB Assembly and staff for their service.

X. ADJOURNMENT

Councilmember Whiddon **MOVED** to adjourn the meeting.

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

The meeting adjourned at 8:35 p.m.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Minutes Approved:

UNFINISHED BUSINESS

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Derrik Magnuson for Lon White, Acting City Manager for Horizon Lines Agreements

Date: January 22, 2015

Agenda Item: **IV. a. Second Reading and Public Hearing, Ordinance No. 1329(SUB), Authorizing the City to Enter Into Amendments to the Preferential Use Agreement, Terminal Operating Contract, and Warehouse Lease Agreement With Horizon Lines of Alaska, LLC**

SUMMARY: Ordinance No. 1329 authorizes amendment of the Preferential Use Agreement between the City of Kodiak and Horizon Lines of Alaska, LLC, previously approved by Council on October 23, 2014. The agreement is amended to allow for Horizon Lines to have a lien on the New Crane securing general corporate financing obligations of the company. The change does not affect the financial terms of the agreement and are recommended by the City Attorney and staff. Since the Council approved the Preferential Use Agreement, the Terminal Operating Contract, and the Warehouse Lease Agreement with Horizon Lines of Alaska, LLC on October 23, 2014, Horizon Lines, Inc. entered into an Agreement and Plan of Merger dated November 11, 2014, under which Horizon Lines, Inc. would be acquired by Matson Navigation Company, Inc. Horizon Lines now has asked that the City also approve amendments to each of the Horizon Lines Agreements that would consent to the assignment of the agreements as part of the acquisition transaction. A substitute Ordinance No. 1329 has been prepared for second reading to authorize an amendment to each agreement to include the requested consent to assignment. These changes also do not affect the financial terms of the agreements and are recommended by the City Attorney and staff.

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.

BACKGROUND: On October 23, 2014, the Council adopted Ordinance No. 1326 in the second reading. No public comments were received, and the contracts were forwarded to Horizon Lines for signature. On or about December 10, 2014, Horizon Lines notified the City that Horizon Lines could not sign the Preferential Use Agreement (PUA) as written, because of language in section VIII-A stating “Horizon Lines may not permit any lien to be filed or recorded against the New Crane”. In fact, the New Crane, as well as other assets of Horizon lines, is subject to a lien securing general corporate financing obligations for Horizon Lines. Horizon Lines, Inc. entered into an Agreement and Plan of Merger dated November 11, 2014, under which Horizon Lines, Inc. would be acquired by Matson Navigation Company, Inc. On January 8, 2015, Horizon Lines asked that the City also approve amendments to each of the Horizon Lines Agreements that would consent to the assignment of the agreements as part of the acquisition transaction.

DISCUSSION: After consultation with the City Attorney Tom Klinkner, it was determined it is in the City’s best interest to amend the PUA to allow for Horizon Lines to have the existing lien on the New Crane. The original terms of PUA section VIII-A were intended to address liens that applied only to the New Crane. Horizon Lines could default on an obligation that was secured by such a lien without affecting its operations beyond the loss of the New Crane through lien foreclosure. In contrast, foreclosure of a lien securing Horizon Lines’ general corporate financing obligations could effectively put Horizon Lines out of business. Regardless of the presence of such a lien, the City is subject to the risk that Horizon Lines could go out of business. Thus, the City does not incur any significant additional risk in permitting such a lien. The recommended changes do not impact the financial terms of the agreement, and the City maintains the right to purchase the New Crane under the terms of the contract. Similarly, it is in the best interest of the City to consent to the assignments of all three agreements in connection with the acquisition of Horizon Lines, Inc. by Matson Navigation Company, Inc., to facilitate the prompt execution of all three agreements by Horizon Lines of Alaska, LLC.

ALTERNATIVES:

- 1) Adopt substitute Ordinance No. 1329 in the second reading authorizing the amendment of the three agreements with Horizon Lines of Alaska, Inc. as amended. This is staff’s recommendation.
- 2) Council could choose to renegotiate the agreements or reject them entirely and continue to use the month-to-month agreements or tariff rates. This may affect the City’s ability to maintain a viable operation at Pier II and Pier III and is not recommended by staff.

FINANCIAL IMPLICATIONS: The proposed amendments to the Horizon Lines Agreements will not impact the financial terms of the agreements and continue to give the City the right to purchase the New Crane if Horizon Lines ceases operation in Kodiak or offers to sell the crane to a third party.

LEGAL: The City Attorney drafted substitute Ordinance No. 1329 and the recommended changes to the applicable sections of the Horizon Lines agreements.

STAFF RECOMMENDATION: Staff recommends City Council approve this ordinance in order to maintain the agreements with Horizon Lines of Alaska, LLC, and to ensure uninterrupted freight service to and from City-owned Port facilities.

ACTING CITY MANAGER'S COMMENTS: As Acting City Manager for this agreement and the lead for the City negotiating team, I recommend the City Council adopt substitute Ordinance No. 1329 in the second reading.

ATTACHMENTS:

- Attachment A: Substitute and Original Ordinance No. 1329
- Attachment B: Amended Preferential Use Agreement, Terminal Operating Contract, and Warehouse Lease Agreement
- Attachment C: Ordinance No. 1326

PROPOSED MOTION:

1. Move to adopt Ordinance No. 1329.
2. Move to amend by substituting Ordinance 1329(SUB) for Ordinance No. 1329.

**CITY OF KODIAK
ORDINANCE NUMBER 1329(SUB)**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE CITY TO ENTER INTO AMENDMENTS TO THE PREFERENTIAL USE AGREEMENT, TERMINAL OPERATING CONTRACT AND WAREHOUSE LEASE AGREEMENT WITH HORIZON LINES OF ALASKA, LLC

WHEREAS, City Charter Article V-17 requires that any contract which by its terms will not be fully executed within five years and which cannot be terminated by the City upon not more than one month’s notice without penalty, and the sale or lease of any City property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease, or interest is more than \$30,000, shall be made only by ordinance; and

WHEREAS, By Ordinance Number 1326 the City authorized a ten-year Preferential Use Agreement, Terminal Operating Contract, and Warehouse Lease Agreement to provide for Horizon Lines of Alaska, LLC’s use of Kodiak port facilities; and

WHEREAS, the terms of the Preferential Use Agreement provide for Horizon Lines of Alaska, LLC to provide a new 100-foot gauge container crane (“New Crane”) on the new Pier III; and

WHEREAS, it is necessary to amend the terms of the Preferential Use Agreement to reflect that the New Crane may be subject to a lien securing the general corporate financing obligations of Horizon Lines, LLC; and

WHEREAS, it also is necessary to amend all three agreements to provide for the acquisition of Horizon Lines of Alaska, LLC by Matson Navigation Company, Inc.

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

Section 1: The Council of the City of Kodiak hereby authorizes the amendment of the Preferential Use Agreement with Horizon Lines of Alaska, LLC to provide that the New Crane may be subject to a lien securing the general corporate financing obligations of Horizon Lines, LLC, but that the City’s option to purchase the New Crane shall not be subject to that lien.

Section 2: The Council of the City of Kodiak hereby authorizes the amendment of the Preferential Use Agreement, Terminal Operating Contract and Warehouse Lease Agreement with Horizon Lines of Alaska, LLC to provide that each agreement may be assigned in connection with the acquisition of Horizon Lines of Alaska, LLC by Matson Navigation Company, Inc. without the consent of the City.

Section 3: The agreement amended by this ordinance is subject to the requirements of City Charter Section V-17. Therefore, 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 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

MAYOR

ATTEST:

CITY CLERK

First Reading: January 8, 2015

Second Reading:

Effective Date:

**CITY OF KODIAK
ORDINANCE NUMBER 1329(ORIGINAL)**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE CITY TO ENTER INTO AN AMENDMENT TO THE PREFERENTIAL USE AGREEMENT WITH HORIZON LINES OF ALASKA, LLC

WHEREAS, City Charter Article V-17 requires that any contract which by its terms will not be fully executed within five years and which cannot be terminated by the City upon not more than one month's notice without penalty, and the sale or lease of any City property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease, or interest is more than \$30,000, shall be made only by ordinance; and

WHEREAS, By Ordinance Number 1326 the City authorized a ten year Preferential Use Agreement ("PUA") to provide Horizon Lines of Alaska, LLC preferential berthing rights at the Port of Kodiak Pier III Terminal; and

WHEREAS, the terms of the PUA provide for Horizon Lines of Alaska, LLC to provide a new 100-foot gauge container crane ("New Crane") on the new Pier III; and

WHEREAS, it is necessary to amend the terms of the PUA to reflect that the New Crane may be subject to a lien securing the general corporate financing obligations of Horizon Lines, LLC.

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

Section 1: The Council of the City of Kodiak hereby authorizes the amendment of the Preferential Use Agreement with Horizon Lines of Alaska, LLC to provide that the New Crane may be subject to a lien securing the general corporate financing obligations of Horizon Lines, LLC, but that the City's option to purchase the New Crane shall not be subject to that lien.

Section 2: The agreement amended by this ordinance is subject to the requirements of City Charter Section V-17. Therefore, 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 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

MAYOR

ATTEST:

CITY CLERK

First Reading: January 8, 2015

Second Reading:

Effective Date:

**PORT OF KODIAK
PREFERENTIAL USE AGREEMENT
(Pier III)
City of Kodiak and Horizon Lines of Alaska, LLC
City Contract 217720**

This Preferential Use Agreement (“Agreement”) is made and entered into as of _____ 1, ~~2015~~~~2014~~, between the City of Kodiak, an Alaska municipal corporation (“City”), and Horizon Lines of Alaska, LLC (“Horizon Lines”), a limited liability company organized under the laws of the state of Delaware.

WHEREAS, Horizon Lines and the City have entered into a Terminal Operation Contract and a Warehouse Lease Agreement, both dated _____ 1, ~~2015~~~~2014~~, which together with this Agreement provide for Operator’s use and occupancy of facilities at Port of Kodiak Piers II and III.

WHEREAS, Horizon Lines has agreed herein to install a 100 foot gauge crane for use on Pier III and to make a minimum number of container vessel calls at Pier III annually, and leases all storage areas, marshalling yard and buildings at the Pier III Terminal, and it is therefore appropriate that the City grant Horizon Lines the preferential use of the Pier III Terminal as provided herein.

NOW, THEREFORE, in consideration of the premises, and the terms, covenants, conditions, and agreements contained herein and further stated in the Terminal Operation Contract and the Warehouse Lease Agreement, Horizon Lines and the City hereby agree as follows:

I. DESCRIPTION OF PREMISES

The premises that are the subject of this Agreement consist of the terminal and adjacent property at Pier III as further described below (“Premises”).

- A. At the commencement of this Agreement, the Premises consists of 4.46 acres for freight operations; a container terminal pier, 490 feet by 64 feet with an overall length of 880 feet, bollard to bollard; and a 30-ton Paceco container crane (“Old Crane”); as depicted in Exhibit A to this Agreement.
- B. The City presently is preparing to construct a new Pier III dock structure, consisting of a new 330-ft. long, 110-ft wide dock structure extending eastward from the existing Pier III, plus associated backland terminal area, which should be substantially complete on or about June 30, 2015, as depicted in Exhibit A to this Agreement. Upon its substantial completion, the new Pier III will become part of the Premises. As further described below, Horizon Lines will provide, at its own expense, a 100-foot gauge container crane (“New Crane”) on the new Pier III to replace the Old Crane on the existing Pier III. Horizon Lines will own the New Crane, and the New Crane will not be part of the Premises.

II. USE OF PREMISES; PREFERENTIAL BERTHING

- A. The City hereby grants Horizon Lines the right to use and occupy the Premises in connection with its transportation business and related activities during the term of this Agreement.

- B.** Horizon Lines vessels calling to load and discharge containerized cargo on a scheduled basis shall be entitled to preferential berthing rights at Pier III in accordance with the terms and conditions set forth in this Agreement.
1. Preferential Berthing and Old Crane Use Rights.
 - a. Horizon Lines shall have the preferential right to use the Pier III dock, berth and Old Crane for purposes of mooring, docking, and loading or discharging cargo on or from Horizon Lines' vessels, including ships, barges, or other watercraft which are owned, operated, or chartered by or for Horizon Lines or any affiliated or related company, or which are used in connection with any of Horizon Lines' freight operations, or a vessel owned or operated by an entity with which Horizon Lines has a connecting carrier, consortium, or rationalization agreement, if, and to the extent that, said vessel is carrying cargo on Horizon Lines' behalf. Horizon Lines' preferential right to use the Old Crane terminates upon the earlier to occur of (i) one year after the date on which the New Crane becomes operational, and (ii) the date when removal of the Old Crane has been completed.
 - b. The preferential right of use provided by this paragraph is defined to mean that Horizon Lines shall be accorded the right, after furnishing a vessel schedule, to berth a vessel and utilize the Old Crane in preference to any other user immediately upon the vessel's arrival in Kodiak harbor, provided that (a) the vessel arrives during a period of twelve (12) hours before or after the arrival time designated in a vessel schedule on file with the City Harbormaster (which schedule may be changed from time-to-time upon ten (10) days' written notice), or (b) the vessel arrives at an arrival time designated at least eight (8) hours in advance by radio or other message from Horizon Lines to the City Harbormaster.
 - c. The preferential right provided herein shall apply whether or not the Pier III dock, berth and Old Crane are being used by any other vessel, and any such other vessel, barge or craft occupying the berth at the time of arrival of Horizon Lines' vessel during a preferential berthing period shall be removed immediately from the berth at no cost to Horizon Lines.
 - d. Horizon Lines shall make a reasonable effort to vacate the berth within six (6) hours after working cargo; provided however, should weather conditions prevent the vessel from leaving safely, an extension may be granted by the City Harbormaster.
 - e. Horizon Lines agrees that during the term of this Agreement its Kodiak representative, upon request, will furnish the City Harbormaster with information as to the position, estimated time of arrival in Kodiak, and estimated port time of any vessel due to arrive in Kodiak which will claim preferential berthing rights under this Agreement.
 2. Preferential Use of Storage, Marshaling Areas, and Facilities Other than the Dock, Berth and Old Crane. Horizon Lines shall have a continuing preferential right to

use and occupy the storage, marshaling areas, parking areas, and all improvements included in the Pier III Terminal other than the dock, berth and Old Crane for its freight operations, including without limitation the operations of loading, unloading, working, parking, and storage of cargo, vans, chassis, trucks, and other equipment; provided that the City reserves from this grant of preferential right the use of access ways shown on Exhibit A for the transit of cargo from non-Horizon Lines vessels between Pier III and public rights-of-way. "Preferential right" as used in this paragraph is defined to mean that Horizon Lines' use and occupancy of the Premises shall have first priority over any use and occupancy of the Premises by others which interferes with Horizon Lines' operation, at no cost to Horizon Lines other than as elsewhere set forth in this Agreement.

3. Reservation of Secondary Rights. The City specifically reserves to itself and for non-Horizon Lines vessels secondary rights to use and occupy the Pier III Terminal, or portions thereof, subject to the priorities of use accorded to Horizon Lines under this Agreement. The City agrees that it will issue tariffs governing the rates, charges, and conditions for the secondary use of the Pier III Terminal by others, and shall assess reasonable rates and charges to secondary users of the facility.
4. Berthing of Horizon Lines Barges. In addition to preferential berthing for loading and unloading cargo as provided above, barges owned, chartered, or operated by Horizon Lines shall be allowed to berth at Pier III while not engaged in cargo operations, unless the City Harbormaster requests their removal to allow the use of Pier III by other vessels. In such event, the City Harbormaster will notify the tug captain as early as possible of the time the barge must clear the pier.

III. OPERATION AND MAINTENANCE OF CRANES.

A. Operation, Maintenance and Removal of Old Crane.

1. Horizon Lines shall provide competent and qualified operators for the Old Crane who shall be available on a 24-hour basis during the time that it is operational, to provide crane services to vessels utilizing the Pier III Terminal. Horizon Lines shall be responsible for all costs of operating and maintaining the Old Crane.
2. Third parties requiring use of the Old Crane shall request such services through Horizon Lines. Third parties shall be charged for the use of the Old Crane at the rate of \$1,000.00 per hour, with a minimum of one hour for equipment warm-up plus a minimum of one hour for equipment usage. Horizon Lines shall retain \$850.00 per hour of this amount and shall remit the balance of \$150.00 per hour to the City.
3. Within one year after the New Crane becomes operational, Horizon Lines shall be responsible for all costs of decommissioning, removing and disposing of the Old Crane. At time that demolition of the Old Crane is to commence, the City shall transfer title to the Old Crane to Horizon Lines or to a third party designated by Horizon Lines for this purpose, and Horizon Lines may retain any proceeds from the salvage, scrapping or sale of the Old Crane.

B. Installation, Operation and Maintenance of New Crane.

1. Commencing upon the later to occur of (i) determination by the City or its representative that the new Pier III is substantially complete under the terms of the contract for its construction (“Substantial Completion”), and (ii) Kodiak Electric Association completion of the power line extension to Pier III and the flywheels needed for the operation of the New Crane, and continuing thereafter for the duration of this Agreement, the City grants Horizon Lines an easement to install, operate and maintain the New Crane on the crane rails located on the new Pier III. The City may not grant any other entities the right to use the crane rails without Horizon Lines’ consent, but the City may grant to other entities the right to cross the easement or to install equipment or fixtures or other improvements in the easement that do not interfere with Horizon Lines’ use of the easement. The City shall install on Pier III in time for the commencement of operation of the New Crane a 12.47kva isolation transformer for the protection of the New Crane. Upon the installation of the transformer, Horizon Lines shall reimburse the City’s actual cost of acquiring and installing the transformer, which is estimated to be approximately \$60,000.
2. Horizon Lines shall maintain sole authority for and control of the New Crane. Horizon Lines shall provide competent and qualified operators for the New Crane who shall be available on a 24-hour basis commencing upon the New Crane becoming operational and continuing thereafter for the duration of this Agreement, to provide crane services to all vessels utilizing the Pier III Terminal, and may allow its use for other purposes at its discretion. Horizon Lines shall be responsible for all costs of installing, operating and maintaining the New Crane.
3. Horizon Lines shall charge third parties an hourly rate for the use of the New Crane based on comparable rates in the marketplace, with a minimum time requirement not greater than two hours. Horizon Lines shall retain the entire amount of such charges.

IV. PAYMENTS

A. Horizon Lines shall pay to the City wharfage fees at the rates shown in the following table. Transhipped/transloaded cargo shall be subject to a single-move, one-time wharfage charge at the same rate.

<u>Year</u>	<u>Rate per Ton</u>	<u>Year</u>	<u>Rate per Ton</u>
2014	\$3.45	2019	\$4.60
2015	3.45	2020	4.72
2016	3.45	2021	4.83
2017	3.80	2022	4.96
2018	4.17	2023	5.08

B. All Horizon Lines vessels (as described in Section II.B.1.a) shall pay dockage fees at the rates shown in the following table.

<u>Year</u>	<u>Rate per Foot</u>	<u>Year</u>	<u>Rate per Foot</u>
2014	\$1.62	2019	\$2.27
2015	1.62	2020	2.50
2016	1.70	2021	2.75
2017	1.87	2022	3.05
2018	2.06	2023	3.64

C. Horizon Lines shall submit to the City within ten days of the end of each month a statement detailing the vessel dockage and cargo tonnage handled during the previous month.

D. Horizon Lines shall pay the City for use of the facilities depicted on Exhibit “A,” including the Old Crane until its replacement, and in addition to wharfage, dockage, and other fees or charges elsewhere specified in this Agreement, the monthly payments due on the first day of each month as shown in the table below.

<u>Year</u>	<u>Monthly Payment</u>	<u>Year</u>	<u>Monthly Payment</u>
2014	\$23,352.92	2019	\$26,906.25
2015	23,352.92	2020	27,578.91
2016	23,352.92	2021	28,268.38
2017	24,750.00	2022	28,975.09
2018	26,250.00	2023	29,699.47

E. Amounts payable by Horizon Lines for facilities or services under this Agreement supersede any charges for the same facilities or services under the Tariff for the Port of Kodiak Cargo Terminal. Nothing in this Agreement reduces or modifies the liability of Horizon Lines for fees or charges for other facilities or services set out in the Tariff for the Port of Kodiak Cargo Terminal.

F. All amounts due under this Agreement that are not paid within thirty days of the date of invoice thereafter shall bear interest at the rate of 12% per annum for as long as the delinquency continues.

V. TERM OF AGREEMENT

A. Initial Term. The term of his Agreement shall commence on _____ 1, ~~2015~~2014, and shall continue in full force and effect until midnight _____, ~~2025~~2024, unless earlier terminated pursuant to this section.

B. Renewal Terms. This Agreement may be renewed for two consecutive additional five-year periods (each a “Renewal Term”), by mutual agreement of the parties. At least ninety (90) days’ prior to the expiration of the term then in effect, Horizon Lines shall provide written notice to the City of its desire to renew or not renew this Agreement for the next succeeding Renewal Term. The City will then reply to Horizon Lines within fifteen (15) days whether it wishes to renew this Agreement. If both parties agree to renew this Agreement, they shall then enter good faith negotiations to address any modifications to this Agreement requested by either party. The failure of the parties to agree upon a renewal of this Agreement shall cause this Agreement to terminate at the end of the current term.

C. The City may declare a default hereunder and terminate this Agreement, in addition to exercising any other available remedy, upon the occurrence of any of the following:

1. The failure of Horizon Lines to pay any sum of money due under this Agreement within ten (10) days after the due date.
2. The failure of Horizon Lines to perform or observe any covenant or condition of this Agreement, other than a default in the payment of money described in Section V.C.1, which is not cured within thirty (30) days after notice thereof from the City to Horizon Lines, unless the default is of a kind that may be cured, but not within such thirty (30)-day period, in which case no default shall be declared so long as Horizon Lines shall commence the curing of the default within such thirty (30) day period and thereafter shall diligently and continuously prosecute the curing of same.
3. The commencement of a case under any chapter of the federal Bankruptcy Code by or against Horizon Lines, or the filing of a voluntary or involuntary petition proposing the adjudication of Horizon Lines as bankrupt or insolvent, or the reorganization of Horizon Lines, or an arrangement by Horizon Lines with its creditors, unless the petition is filed or case commenced by a party other than Horizon Lines and is withdrawn or dismissed within ninety (90) days after the date of its filing.
4. The admission in writing by Horizon Lines of its inability to pay its debts when due; the appointment of a receiver or trustee for the business or property of Horizon Lines, unless such appointment shall be vacated within ten (10) days after its entry; Horizon Lines making an assignment for the benefit of creditors; or the voluntary or involuntary dissolution of Horizon Lines.
5. If Horizon Lines is in default under either the Warehouse Lease Agreement or the Terminal Operation Contract.

- D. The City may terminate this Agreement on one hundred eighty (180) days' notice to Horizon Lines if Horizon Lines makes (i) fewer than forty-five (45) container vessel calls at the City in any period of twelve (12) consecutive months, or (ii) no Horizon Lines vessel calls at Pier III for a period of ninety (90) or more consecutive days.

VI. USE OF PREMISES

- A. Horizon Lines shall not use the Premises or any facilities for any unlawful purposes.
- B. Horizon Lines shall use the Pier III Terminal area solely for freight transportation purposes.
- C. Horizon Lines is entitled to quiet enjoyment of the Premises provided that Horizon Lines does not breach the terms of this Agreement.

VII. MAINTENANCE AND REPAIR OF PREMISES

- A. The City shall maintain and repair, at its own expense, the utilities (water, sewer or septic system, storm drainage, and electrical except items stated in Paragraph VII.B), common roadbeds and pier structures (less mooring capstans). In no event shall the City be obligated to repair or otherwise mitigate or respond to damages resulting from Horizon Lines' use of the pier and pavement pursuant to this Agreement; except that the City shall be obligated to repair or otherwise attempt to mitigate or respond to damages resulting from an act or omission by the City or a third party. The City shall insure that other users of Pier III, if any, keep it clean and orderly.
- B. Horizon Lines shall, at its own expense, provide all routine preventive maintenance, repairs, and replacements to the structures, including: marine department building, maintenance facility building, container cranes, crane medium voltage 12.47KVA electrical system and associated equipment, crane rails, cable trench, heat trace system, overhead lights, electric pedestals, van back stack area, and electric capstan mooring units.
- C. Asphalt: Horizon Lines will maintain and repair all asphalt pavement in good condition. Horizon Lines will provide all snow removal and de-icing of the Pier III Terminal. Horizon Lines shall keep the Premises clean, orderly, and free of rubbish. If Horizon Lines fails to adequately remove snow, ice, or debris, the City may furnish the necessary equipment and manpower to provide this service in which event Horizon Lines shall promptly pay the City's billings for such services.
- D. Horizon Lines shall provide the City Harbormaster a semi-annual maintenance and repair report on any single incident of damage or repair over ten thousand dollars (\$10,000).
- E. Within thirty (30) days after each anniversary of the date of this Agreement, Horizon Lines and the City agree to inspect the Premises and prepare a report describing the condition of the Premises and specifying any items in need of repair. The party responsible for those repairs shall start those repairs within thirty (30) days after the report is prepared and shall promptly complete them.
- F. If, at any time during the term of this Agreement, the Premises are damaged or destroyed by fire or other casualty, due to any cause other than an act or omission solely of Horizon Lines, the City may elect to either (i) at its expense, repair, rebuild, replace and restore the Premises to a condition comparable to that which existed immediately prior to the fire

or other casualty, or (ii) terminate this Agreement. In the event the City elects to repair, rebuild, replace or restore the Premises, payments under this Agreement shall be abated in proportion to the extent that the Premises are not usable by Horizon Lines during the time the unusable areas remain unrepaired or unrestored.

- G. The City shall maintain a depth of approximately minus 38 feet MLLW in the berthing area.
- H. Horizon Lines shall make no alterations, additions, or improvements to the Pier III Terminal without the prior written approval of the City. At the expiration of this Agreement, or any renewal thereof, any such improvements shall become the property of the City.
- I. Horizon Lines acknowledges having inspected or having been given a full opportunity to inspect the Premises and hereby accepts them in their present condition, and shall at the termination of this Agreement surrender said Premises in as good a condition and repair to the City, reasonable wear and tear excepted.
- J. Notwithstanding any other provision of this Agreement:
 - 1. Commencing upon the earlier to occur of (i) one (1) year after the date on which the New Crane becomes operational, and (ii) the date when removal of the Old Crane has been completed, neither party shall have any obligation to maintain, repair or restore the old Pier III.
 - 2. On and after the date of Substantial Completion of the new Pier III, Horizon Lines may continue to use the old Pier III at its own risk, subject to load limits that the City may impose from time to time, and subject to J.3 of this paragraph.
 - 3. At any time after the earlier to occur of (i) one (1) year after the date on which the New Crane becomes operational, and (ii) the date when removal of the Old Crane has been completed, the City may determine in its sole discretion to:
 - a. Discontinue permission to use the old Pier III, or
 - b. Decommission, demolish and remove the old Pier III.

VIII. ADDITIONAL TERMS REGARDING THE NEW CRANE.

- A. Covenant against Liens. Horizon Lines may not permit any lien other than a lien securing the general corporate obligations of Horizon Lines, including without limitation ~~a lien to secure financing or~~ a mechanic's or materialman's lien, to be filed or recorded against the New Crane. The Operator shall indemnify and save the City harmless from all liability for damages occasioned by any such lien, together with all costs and expenses (including attorneys' fees) incurred by the City in negotiating, settling, defending, or otherwise protecting against such lien and shall, in the event of a judgment of foreclosure of the lien, cause the lien to be discharged and removed prior to any attempt at execution of such judgment. If any lien other than a lien securing the general corporate obligations of Horizon Lines is filed or recorded against the New Crane, Horizon Lines shall cause the lien to be removed; provided that Horizon Lines may in good faith and at Horizon Lines' own expense contest the validity of any mechanic's or materialman's lien without subjecting the New Crane to foreclosure, if Horizon Lines has furnished the bond

required in AS 34.35.072 (or any comparable statute hereafter enacted providing for a bond freeing the New Crane from the effect of such a lien claim).

B. Option to Purchase.

1. Upon occurrence of any of the following events, the City shall have the option to purchase the New Crane as provided below: (i) the City terminates this Contract upon a default by Horizon Lines as provided in Section V; or (ii) Horizon Lines ceases to operate at Pier III under the terms of this Agreement.
2. The City shall exercise the option to purchase by giving Horizon Lines written notice not less than ninety 90 days before the purchase date. The City shall, at its own expense, retain an independent appraiser, who shall determine the fair market value of the New Crane at its location on Pier III. The City shall complete such appraisal and deliver a copy of the appraisal report to Horizon Lines with its notice exercising the option to purchase.
3. The appraiser's determination of the fair market value of the New Crane under (2) of this paragraph shall constitute a final binding determination of the fair market value and the option purchase price for the New Crane, unless Horizon Lines gives written notice to the City of its objection to the appraiser's determination within thirty (30) days after receiving the appraiser's report, and Horizon Lines shall then engage a second independent appraiser at Horizon Lines' expense to make a second appraisal of the fair market value in accordance with (2) of this paragraph.
4. If the second appraisal determines a fair market value that varies from that determined by the first appraisal by no more than twenty percent (20%), then the option purchase price shall be the average of the fair market values determined by the appraisals. If the second appraisal determines a fair market value that varies from the first appraisal by more than twenty percent (20%), then, unless the City and Horizon Lines agree on an option purchase price themselves, the option purchase price shall be determined by arbitration by a single arbitrator under the rules of the American Arbitration Association.
5. Upon the final determination of the option purchase price, the City shall pay the purchase price for the New Crane to Horizon Lines in exchange for a bill of sale or other appropriate document conveying title to the New Crane to the City free of all liens.

C. Right of First Refusal. The City is hereby given a right of first refusal to purchase the New Crane on the following terms and conditions:

1. Horizon Lines may accept an offer to purchase the New Crane only if it is made subject to the City's right of first refusal herein. Upon acceptance of an offer to purchase the New Crane from a third party (the "Purchase Offer"), Horizon Lines will present a copy of the offer and acceptance to the City by written notice at the address set forth in Section XIX. The City will then have ninety (90) days to either agree to purchase the New Crane on the same terms and conditions set forth in the Purchase Offer or decline to exercise its right of first refusal. The City shall give written notice of its decision to exercise or decline to exercise its right of first

refusal to Horizon Lines at the address set forth in Section XIX no later than ninety (90) days after being presented with a copy of the Purchase Offer.

2. If the City does not exercise its right of first refusal, Horizon Lines may then sell the New Crane to the third party, or any assignee/nominee of said third party, on the same terms and conditions set forth in the Purchase Offer. If the New Crane sells to the third party, or any assignee/nominee of said third party, on the same terms and conditions set forth in the Purchase Offer, then any interest of the City in and to the New Crane shall cease and be of no further force and effect.
3. If the New Crane is not sold to the third party, or the third party's assignee/nominee, on the terms and conditions in the Purchase Offer, then the City will continue to have the right of first refusal to purchase the New Crane under the procedures outlined above in this paragraph.

IX. INDEMNITY

- A. Horizon Lines 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 Horizon Lines' use and operation of the Old Crane or New Crane, its occupancy and maintenance of the Premises, and/or exercise of its rights under this Agreement or Horizon Lines' breach of this Agreement. Horizon Lines 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 Horizon Lines' 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 Horizon Lines' operations under this Agreement and any penalties or fines which may be assessed in connection therewith.
- C. Claims arising in whole or in part out of any incident or event occurring during the term of this Agreement or any extension or renewal of it shall be covered by the provisions of this section IX even though they may not have been asserted or discovered until after the expiration of said term.

X. UTILITIES

- A. During the term of this Agreement, except as provided in paragraph B of this section, Horizon Lines shall pay the providers directly for all utility bills and accounts for utility services used or consumed by Horizon Lines on or in connection with the Premises, including all operating costs for the Old Crane.
- B. The City shall provide water and septic tank pump-out service, or sewer service if available, to the Premises at no charge to Horizon Lines.

C. Horizon Lines shall be responsible for obtaining its own janitorial services for the facilities associated with the Pier III Terminal.

XI. INSURANCE

A. Horizon Lines shall procure and maintain at its sole expense, and shall keep in full force and effect throughout the term of this Agreement, 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.

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

1. Commercial General Liability and Automobile Liability
 - a. 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.
 - b. Horizon Lines' 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 Horizon Lines' insurance and shall not contribute to it.
 - c. Horizon Lines' insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and volunteers for losses arising from work performed by Horizon Lines for City.
2. Worker's Compensation and Employer's Liability. Horizon Lines' insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and volunteers for losses arising from work performed by Horizon Lines for City.
3. All Insurance. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (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. Horizon Lines 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.

XII. RIGHT OF INSPECTION

- A. The City shall have the right to inspect the Premises without prior notice to ensure compliance with the terms of this Agreement.
- B. The City shall have the right to audit Horizon Lines' records and to require Horizon Lines to prepare summaries or reports from its records to determine compliance with the payment terms of this Agreement.

XIII. TAXES

- A. In addition to the fees and charges provided in this Agreement, Horizon Lines shall pay when due all taxes and other charges which are levied at any time during the term of this Agreement upon the leasehold interest and any improvements on the Premises. If the City receives a notice of assessment from any taxing jurisdiction claiming that the City or Horizon Lines is liable for any tax or charge for which Horizon Lines has agreed to make payment under this paragraph, the City shall notify Horizon Lines in writing no later than thirty (30) days after receipt of the claim. If the City fails to provide Horizon Lines such notice, Horizon Lines shall have no obligation to pay the tax or charge.
- B. If Horizon Lines has a reasonable basis to contest, protest, or appeal (the "Appeal") the imposition or amount of any tax or charge, Horizon Lines, at its own expense, may prosecute the Appeal, in which case the City shall cooperate fully with Horizon Lines including, but not limited to, providing documentation and other information as required for Horizon Lines to settle or sustain the Appeal. If Horizon Lines prosecutes the Appeal, and if, but only if, such proceedings suspend enforcement and collection of the tax or charge, and no part of the Premises or any interest therein is or will be in danger of being sold or forfeited, Horizon Lines shall have no obligation to pay the tax or charge until the taxing jurisdiction's decision that the City or Horizon Lines is liable for the tax or charge becomes final. If any of the Premises is subjected to a lien which is not discharged within thirty (30) days after Horizon Lines receives notice of such lien, Horizon Lines shall deposit with the City cash, a sufficient corporate surety bond or other security satisfactory to the City in an amount adequate to provide for the discharge of the lien plus any interest, costs, attorneys' fees or other charges that could accrue as a result of such contest.

XIV. ASSIGNMENT

The parties stipulate and agree that the services rendered under this Agreement are of such a nature that the rights and duties of Horizon Lines hereunder shall not be assignable without the prior written consent of the City, which consent shall not be unreasonably withheld, except to an entity that is owned solely by or that is an affiliate of Horizon

Lines, after thirty (30) days' prior notice to the City. Horizon Lines shall include in such notice a statement of any legal requirement for confidentiality regarding the notice or the related transaction, with which the City shall comply. Should the City consent to an assignment Horizon Lines 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 Horizon Lines' continuing liability. A change of control of Horizon Lines other than from the parent entity of Horizon Lines to an affiliate shall constitute an assignment for purposes of this provision. Notwithstanding the foregoing, no consent by the City shall be required in connection with the merger pursuant to that certain Agreement and Plan of Merger dated as of November 11, 2014 by and among Horizon Lines, Inc., Matson Navigation Company, Inc. and Hogan Acquisition Inc.

XV. COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

At all times during the term of this Agreement, Horizon Lines shall conduct operations in accordance with all applicable federal, state, and local laws and ordinances.

XVI. 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.

XVII. WAIVERS

No waiver by Horizon Lines 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 as a waiver of any other breach.

XVIII. SURRENDER

- A.** Horizon Lines agrees not to encumber the Premises at any time during the term of this Agreement. Horizon Lines agrees that the Premises shall not be subject to any liens, charges or encumbrances and agrees that at the expiration of the term of this Agreement it will deliver to the City or its designee, the Premises in good condition (ordinary wear and tear excepted) and without liens, charges, or encumbrances.
- B.** Unless required for the performance by Horizon Lines of its obligations hereunder, Horizon Lines shall have the right at any time during the Term to remove from the Premises all its equipment, removable fixtures and other personal property, and all property of third persons for which Horizon Lines is responsible, and on or before the expiration or earlier termination of this Agreement it shall remove all of the same from the Premises, repairing all damage caused by any removal; provided, however, that, except with respect to the New Crane, if Horizon Lines shall fail to remove all such property within forty-five (45) days after the expiration or earlier termination of this Agreement, the City may remove such property to a public warehouse for deposit or may retain the same in its own possession and in either event may sell the same at public auction; provided, further, that the City shall have given Horizon Lines ten (10) days' notice of the City's intent to sell such property at public auction, the proceeds of which shall be applied: first to the expenses of removal, including repair required thereby, and of storage and sale; second, to any sums owed by Horizon Lines to the City, with any

balance remaining to be paid to Horizon Lines; if the expenses of such removal, repair, storage, and sale shall exceed the proceeds of sale, Horizon Lines shall pay such excess to the City upon demand. Without limiting any other term or provisions of this Agreement, Horizon Lines shall indemnify and hold harmless the City, its officers, agents, employees, and contractors from all claims of third persons arising out of the City's removal and disposition of property pursuant to this Section, including claims for conversion, claims for loss of or damage to property, claims for injury to persons (including death), and claims for any other damages, consequential or otherwise, excluding only claims based on the City's sole negligence.

XIX. MODIFICATIONS AND NOTICES

- A. No modification of this Agreement shall be effective unless agreed to by Horizon Lines 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 in writing, and shall be effective on the date of receipt and shall be mailed to the parties at the following addresses:

Horizon Lines of Alaska, LLC 1717 Tidewater Road Anchorage, Alaska 99501 Attn: _____	City Manager City of Kodiak 710 Mill Bay Road Kodiak, Alaska 99615
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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.

XX. ANTI-DISCRIMINATION

During the performance of this Agreement, Horizon Lines agrees:

- A. In connection with its performance under this Agreement including construction, maintenance, and operation of or on the Premises, Horizon Lines will not discriminate against any employee or applicant for employment because of age, race, color, ancestry, religion, sex, or national origin.
- B. Horizon Lines and its employees shall not discriminate, by segregation or otherwise, against any person on the basis of race, color, ancestry, religion, sex, or nationality by curtailing or refusing to furnish accommodations, facilities, services, or use privileges offered to the public generally.
- C. Horizon Lines shall include and require compliance with the above nondiscrimination provisions in any subletting or subcontract made with respect to construction or maintenance operations under this Agreement.

XXI. ALASKA LAW

The parties agree that this Agreement was entered into in the State of Alaska, that Alaska law will govern its interpretation and application, and that venue of any suit or other action arising out of this Agreement shall be in Alaska.

XXII. BINDING ON SUCCESSORS AND ASSIGNS

All provisions of this Agreement shall inure to the benefit of and be binding on the parties, their successors, and permitted assigns.

XXIII. COMPLETE AGREEMENT

This Agreement, including Exhibit A hereto, and the Terminal Operation Contract and Warehouse Lease Agreement, both dated _____, ~~2015~~2014, between Horizon Lines and the City, constitute the final agreement between the parties. They are the complete and exclusive expression of the parties' agreement on the matters contained in this Agreement. All prior and contemporaneous oral and written negotiations and agreements between the parties on the matters contained in this Agreement are expressly merged into and superseded by the aforementioned agreements.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date or dates indicated beneath the signature of their respective officers or agents.

City of Kodiak

Horizon Lines of Alaska, LLC

Lon White Date
Harbormaster/Acting City Manager

Kenneth Gill Date
Director of Operations

ATTEST:

ATTEST:

Debra L. Marlar Date
City Clerk

Richard Kniazowski Date
Terminal Manager

**PORT OF KODIAK
TERMINAL OPERATION CONTRACT
(Piers II and III)
City of Kodiak and Horizon Lines of Alaska, LLC
City Contract 217719**

This Terminal Operation Contract made and entered into as of _____ 1, ~~2015~~~~2014~~, by and between the City of Kodiak, Alaska, an Alaska municipal corporation (“City”), and Horizon Lines of Alaska, LLC, a limited liability company organized under the laws of state of Delaware (“Operator”).

W I T N E S S E T H

WHEREAS, the parties desire to enter into a Terminal Operation Contract and Operator is willing and able to perform the services; and

WHEREAS, the Operator and the City have entered into a Preferential Use Agreement and a Warehouse Lease Agreement, both dated _____ 1, ~~2015~~~~2014~~, which together with this Contract provide for Operator’s use and occupancy of facilities at Port of Kodiak Piers II and III, and the City agrees that it is in the best interest of the public for the Operator to provide services for the Port of Kodiak at Piers II and III; and

WHEREAS, Operator has agreed in the Preferential Use Agreement to install a 100 foot gauge crane for use on Pier III and to make a minimum number of container vessel calls at Pier III annually, and leases all storage areas, marshalling yard and buildings at Pier III, and it is therefore appropriate that Operator be the exclusive provider of stevedoring and terminal services at Pier III.

NOW, THEREFORE, in consideration of premises, and the terms, covenants, conditions, and agreements herein contained and further stated in the Warehouse Lease Agreement and Preferential Use Agreement, the Operator and the City hereby agree as follows:

1. Term.

A. Pier III. With regard to Operator’s services at Pier III, this Contract shall continue in effect for the term of the Preferential Use Agreement.

B. Pier II. With regard to Operator’s services at Pier II:

1. Initial Term. The term of this Contract shall commence on _____ 1, ~~2015~~~~2014~~, and shall continue in full force and effect until midnight _____, ~~2025~~~~2024~~, unless earlier terminated pursuant to the terms of Paragraph 13 below.

2. Renewal Terms. This Contract may be renewed for two consecutive additional five-year terms (each a “Renewal Term”) by mutual agreement of the parties. At least ninety (90) days prior to the expiration of the term then in effect, the Operator shall provide written notice to the City of its desire to renew or not renew this Contract for the next succeeding Renewal Term. The City will then reply to the Operator within fifteen (15) days whether it wishes to renew this Contract. If both parties agree to renew this Contract, they shall then enter good faith negotiations to address any modifications to this Contract requested by either party. The failure of the parties to agree upon a renewal of this Contract shall cause this Contract to terminate at the end of the current Term.

2. Facilities. The City will make available to the Operator those certain terminals and adjacent properties at Piers II and III, as depicted in Exhibit A to this Contract (the “Facilities”). The City shall have the right to make additions, alterations, or improvements to the Facilities which do not impede Operator's access to or use of the Facilities.

3. Terminal Operator Services. Subject to the foregoing and to any future modifications or revisions of the Preferential Use Agreement, the Operator agrees to perform Stevedoring and Cargo Terminal Services at the Facilities in a prompt, efficient, prudent, and economical manner including the provision of all clerical personnel, laborers, and supervision necessary to perform such Stevedoring and Cargo Terminal Services.

A. Exclusive and Non-Exclusive Rights

(1) **Horizon Lines Vessels.** The Operator shall have the exclusive right to perform Stevedoring of vessels and Cargo Terminal Services twenty-four (24) hours per day, seven (7) days per week on Horizon Lines vessels and associated cargo at the Facilities. Horizon Lines vessels include ships, barges, or other watercraft which are owned, operated, or chartered by or for Horizon Lines or any affiliated or related company, or which are used in connection with any of Horizon Lines’ freight operations, or a vessel owned or operated by an entity with which Horizon Lines has a connecting carrier, consortium, or rationalization agreement, if, and to the extent that, said vessel is carrying cargo on Horizon Lines’ behalf.

(2) **Non-Horizon Lines Vessels at Pier II**

(a) The City shall have the planning and management responsibility in accommodating any non-Horizon Lines vessels at Pier II, including the planning and assignment of berthing and cargo staging/storage space and the rearrangement or relocation of other customers’ berthing and cargo staging/storage space at Pier II.

(b) The Operator shall have a non-exclusive right to perform Stevedoring of vessels and Cargo Terminal Services twenty-four (24) hours per day, seven (7) days per week on all non-Horizon Lines vessels at Pier II.

(3) **Non-Horizon Lines Vessels at Pier III**

(a) Subject to (3)(b) below, the Operator shall have the exclusive right to perform Stevedoring and Cargo Terminal Services for non-Horizon Lines vessels at Pier III.

(b) The Operator and City agree to cooperate and collaborate in good faith in accommodating any non-Horizon Lines vessels at Pier III under the City’s secondary berthing rights in the Preferential Use Agreement, including the planning and assignment of berthing and cargo staging/storage space and the rearrangement of Horizon Lines’ cargo staging/storage space at Pier III, provided Operator’s Stevedoring and Cargo Terminal Services for Horizon Lines vessels are not unreasonably altered or disrupted.

(4) **Exemptions.** Unless services are requested, the following vessels are exempt from using the services of the Operator: vessels of the Alaska Marine Highway System, vessels in port at the invitation of the City for special occasions where the ship will be open to the public, U.S. flagged government vessels, including university research

vessels, and vessels seeking fuel or other services from Harbor Enterprises dba Petro Marine Services and North Pacific Fuel aka Petro Star. Commercial fishing vessels, catcher-processors and fish processors, and cargo vessels under 300' are also exempt, unless loading or unloading commercial freight or hazardous materials. For this purpose, commercial freight means cargo transported on a vessel under a bill of lading.

(5) Use of Vessels' Gear. It is recognized that some vessels carry on-board cranes or other vessel's gear for the discharging or loading of cargo. In the interests of safety and expeditious handling of cargo, it is agreed that vessel's cranes or vessel's gear may be used for the discharge or loading of cargo at Pier II unless, in the City's opinion the vessel's cranes are not suitable for the handling of such cargo.

B. Stevedoring. For the purpose of this Contract, the term "Stevedoring" is defined to include the following vessel loading and discharging functions:

(1) Perform the stowage of cargo on board vessels in accordance with instructions received from their masters or their designated representatives.

(2) Discharge cargo or containers from vessels and transport the cargo or containers to a place of rest in the Facilities.

(3) Transport cargo or containers from a place of rest in the Facilities and load and stow cargo or containers onto the vessels.

(4) Lash and unlash cargo on vessels.

(5) Open and close hatches and cells.

(6) Plug and unplug shipboard electrical reefer receptacles if necessary to the extent not performed by the vessels.

(7) Check and tally containers and container seals and cargo.

(8) Spot vessels and handle lines as may be required.

(9) Bill, receive, or attempt to collect and, where applicable, remit to the City, all charges incurred under the applicable Port of Kodiak Tariff by persons, vessels, or cargo utilizing Port facilities or services subject to this Contract.

C. Cargo Terminal Services. For the purpose of this Contract, the term ("Cargo Terminal Services" is defined to include the following functions:

(1) Transport empty and loaded containers within the Facilities.

(2) Receive and deliver empty or loaded containers or chassis.

(3) Perform all necessary housekeeping services.

(4) Furnish all security at Pier III, for commercial cargo vessels, in accordance with a U.S. Coast Guard approved facility security plan, except for cruise ship operations.

(5) Visually inspect the condition of containers and cargo discharged from vessels at the Facilities, reporting to the vessels' masters or agents any damage or defects noted.

(6) Prepare daily reports reflecting the movement of containers or cargo.

(7) Provide expeditious movement of containers and cargo.

(8) Perform such other duties as are reasonable in such operations and as negotiated between the parties involved.

4. Definition of Vessel. For the purpose of this Contract, the term “vessel” shall mean and include every type of self propelled or non-self propelled vessel, including without limitation barges, container vessels, break-bulk vessels, and combinations of break-bulk and container vessels, and all other types of cargo or passenger vessels.

5. Operator’s Equipment. The Operator will provide all equipment necessary to perform the services required by this Contract.

6. Public Berth. It is agreed that the berths and facilities as above mentioned are public berths and subject to the provisions of the Preferential Use Agreement regarding Pier III shall be made available to and are available to all types of vessels that may wish to load or unload without discrimination in favor of or against any vessel, shipper, or consignee; provided, however, that the City at its option may determine that a given vessel is unsuitable for servicing at the berth and may prohibit the berthing of such vessel or alternatively may require the owner of such vessel to post such bond as the City may deem appropriate in the circumstances. Nothing contained herein is to be deemed to allow the berthing or transit of cargo which is prohibited by any applicable law including without limitation explosives or other dangerous commodities.

7. Services by Other Persons at Pier II. A person other than Operator may provide Stevedoring or Cargo Terminal Services at Pier II only under the following conditions.

A. Such other person may provide Stevedoring or Cargo Terminal Services only in accordance with the terms of a written contract between the City and such other person. The City will provide a copy of such contract to the Operator.

B. If any term of such contract between the City and such other person to provide Stevedoring or Cargo Terminal Services at Pier II is more favorable to such other person than the terms of this Contract are to the Operator, the Operator may elect to adopt any or all of such more favorable terms under this Contract, commencing as of the date on which the contract with such other person becomes effective.

C. A contract between the City and any other person to provide Stevedoring or Cargo Terminal Services at Pier II shall require that if there exists a labor organization which represents a majority of the individuals living in or around Kodiak, Alaska who earn their livelihood as stevedores or longshoremen, such other person shall make reasonable good-faith efforts to negotiate a collective bargaining agreement with said labor organization for the provision of the Stevedoring and Cargo Terminal labor under the contract.

8. Compensation to City. As and for compensation to the City, the City shall be entitled to all income derived from wharfage, dockage, and sale of water. All such sums shall be a charge against the vessel or cargo, as the case may be, and shall be collected by the Operator and remitted by the Operator to the City. Such remittances shall be accompanied by appropriate itemized documentation. Charges shall be paid by the Operator to the City within ninety (90) days after the first billing to the vessel or cargo, as the case may be or within ten (10) working days of receipt of payment by the Operator, whichever is less, provided that credit terms shall be those chosen by the Operator. All such billings to the vessels and cargo will be itemized for services rendered by the Operator and shall be made promptly after performance of those services.

9. Compensation to Operator. The Operator shall be entitled to keep all other charges (including charges for electrical energy, storage, and the movement of cargo) authorized and fixed in accordance with the applicable Port of Kodiak Tariff. The Operator shall be bound by any future modification or amendments of the Port of Kodiak Tariff; provided, however, the City shall not alter the credit terms of the tariff during the term of this Contract. When charges involve stevedoring or other labor services based upon an hourly wage rate, then the Operator may add to the total applicable labor charge an administrative fee not exceeding thirty percent (30%) and shall collect such fee from the person or vessel requiring the services in question. In no event, however, shall the Operator charge or collect an administrative fee with respect to any portion of its labor costs which are based upon or derived from wage rates exceeding those applicable to similar work under contracts or agreements subject to the Davis-Bacon Act. If, on the date of execution of this Contract, there exists a labor organization which represents a majority of the individuals living in or around Kodiak, Alaska who earn their livelihood as stevedores or longshoremen, then the Operator shall make reasonable good-faith efforts to negotiate a collective bargaining agreement with said labor organization for the provision of stevedoring labor services under this Contract.

10. Indemnification.

A. The Operator 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 Operator's occupancy and maintenance of the Facilities, and/or exercise of its rights under this Contract or the Operator's breach of this Contract. The Operator 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 Operator'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 Operator's operations under this Contract and any penalties or fines which may be assessed in connection therewith.

C. Notwithstanding any provision of this Contract, Operator shall not be liable for, and shall not be liable to indemnify, defend or hold the City harmless from, any condition at the Facilities, whether known or unknown, which was in existence before July 1, 2004.

11. Insurance.

A. Operator 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 Contract. 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.

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) Operator'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 Operator's insurance and shall not contribute to it.

(iii) Operator'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 Operator for City.

(2) Worker's Compensation and Employer's Liability. Operator'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 Operator for City.

(3) All Insurance. Each insurance policy required by this Contract 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. Operator 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.

12. Damage to the Facilities. The Operator shall pay for all damage to City-owned property caused by the Operator, its agents, employees, or invitees. A person does not become an invitee of the Operator under this section solely because of the person's use of the Operator's stevedoring or cargo terminal services.

13. Default and Termination. The City may declare a default hereunder and terminate this Contract, in addition to exercising any other available remedy, upon the occurrence of any of the following:

A. The failure of the Operator to pay any sum of money due under this Contract within ten (10) days after the due date.

B. The failure of the Operator to perform or observe any covenant or condition of this Contract, other than a default in the payment of money described in Paragraph 13(A), which is not cured within thirty (30) days after notice thereof from the City to the Operator, unless the default is of a kind that may be cured, but not within such thirty (30)-day period, in which case no default shall be declared so long as the Operator shall commence the curing of the default within such thirty (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 Operator, or the filing of a voluntary or involuntary petition proposing the adjudication of the Operator as bankrupt or insolvent, or the reorganization of the Operator, or an arrangement by the Operator with its creditors, unless the petition is filed or case commenced by a party other than the Operator and is withdrawn or dismissed within ninety (90) days after the date of its filing.

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

E. If the Operator is in default under either the Preferential Use Agreement or the Warehouse Lease Agreement.

14. Inspection of Books. The City reserves the right at any reasonable time after seven days written notice to Operator to inspect and make copies of the books and records of the Operator related to operations conducted pursuant to this Contract. The Operator agrees that cargo manifests shall not be released by Operator to a third party except in accordance with the laws of the United States.

15. Assignment. The parties stipulate and agree that the services rendered under this Agreement are of such a nature that the rights and duties of the Operator hereunder shall not be assignable without the prior written consent of the City, which consent shall not be unreasonably withheld, except to an entity that is owned solely by or that is an affiliate of the Operator, after thirty (30) days' prior notice to the City. The Operator shall include in such notice a statement of any legal requirement for confidentiality regarding the notice or the related transaction, with which the City shall comply. Should the City consent to an assignment the Operator 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 the Operator's continuing liability. A change of control of the Operator other than from the parent entity of the Operator to an affiliate shall constitute an assignment for purposes of this provision. Notwithstanding the foregoing, no consent by the City shall be required in connection with the merger pursuant to that certain Agreement and Plan of Merger dated as of November 11, 2014 by and among Horizon Lines, Inc., Matson Navigation Company, Inc. and Hogan Acquisition Inc.

16. Compliance with Federal, State, and Local Laws. At all times during the term of this Contract, the Operator shall conduct operations in accordance with all applicable federal, state, and local laws and ordinances. Without limiting the generality of the foregoing, the Operator shall obtain coverage under the Multi-Sector General Permit for all industrial storm water discharges from the Pier III Terminal.

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

18. Waivers. No waiver by the Operator or the City of any covenant or condition of this Contract shall be construed as a waiver of any other covenant or condition, nor shall the waiver of one breach be considered as a waiver of any other breach.

19. Modifications and Notices.

A. No modification of this Agreement shall be effective unless agreed to by the Operator 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 in writing, and shall be effective on the date of receipt and shall be mailed to the parties at the following addresses:

Horizon Lines 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.

20. Alaska Law. The parties agree that this Contract was entered into in the State of Alaska, that Alaska law will govern its interpretation and application, and that venue of any suit or other action arising out of this Contract shall be in Alaska.

21. Binding on Successors and Assigns. All provisions of this Contract shall inure to the benefit of and be binding on the parties, their successors, and permitted assigns.

22. Complete Agreement. This Contract, including Exhibit A, hereto, and the Preferential Use Agreement and Warehouse Lease Agreement, both dated _____ 1, ~~2015~~2014, between the Operator and the City, constitute the final agreement between the parties. They are the complete and exclusive expression of the parties' agreement on the matters contained in this Contract. All prior and contemporaneous oral and written negotiations and agreements between the parties on the matters contained in this Contract are expressly merged into and superseded by the aforementioned agreements.

IN WITNESS WHEREOF, these parties have signed this Contract on the date or dates indicated beneath the signature of their respective officers or agents.

City of Kodiak

Horizon Lines of Alaska, LLC

Lon White Date
Harbormaster/Acting City Manager

Kenneth Gill Date
Director of Operations

ATTEST:

ATTEST:

Debra L. Marlar Date
City Clerk

Richard Kniazowski Date
Terminal Manager

**PORT OF KODIAK
PIER II WAREHOUSE LEASE AGREEMENT
City of Kodiak and Horizon Lines of Alaska, LLC
City Contract 217718**

THIS LEASE AGREEMENT (“Agreement”) made and entered into as of _____ 1, ~~2015~~~~2014~~, by and between the City of Kodiak, Alaska, an Alaska municipal corporation (“City”), and Horizon Lines 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 has entered into a Preferential Use Agreement and a Terminal Operation Contract with the Lessee, both dated _____ 1, ~~2015~~~~2014~~, 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 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. The Premises is more particularly described in attached Exhibits A and B.

2. Term. (a) Initial Term. This Agreement shall continue in effect for a period of five (5) years commencing on _____ 1, ~~2015~~~~2014~~, and shall continue in full force and effect until midnight _____, ~~2020~~~~2019~~, unless earlier terminated pursuant to the terms of Paragraph 12.

(b) This Agreement may be renewed for an additional term of five (5) years, by mutual agreement of the parties. At least ninety (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 fifteen (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. Rental. (a) Lessee agrees to pay rent for the Premises in monthly installments due on the first day of each month as shown in the table below.

<u>Year</u>	<u>Monthly Rent</u>
2014	\$8,966.70
2015	\$8,966.67
2016	\$9,235.67
2017	\$9,512.74
2018	\$9,798.12
2019	\$10,092.06

(b) Insurance Cost Escalation Clause. The monthly rent may be adjusted no more than once annually so as to require the Lessee to reimburse the City for the full amount by which the cost to the City of maintaining casualty insurance coverage for the Premises has increased over the cost of such insurance as of July 1, 2013, but only if such insurance premium costs incurred by the City have increased by five (5%) percent or more over the FY2013 cost.

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 fifteen thousand dollars (\$15,000) or less in connection with any single incident of 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 fifteen thousand dollars (\$15,000) in connection with any single incident of damage, decay, or breakdown, shall be shared by the City and the Lessee, with the Lessee bearing the first fifteen thousand dollars (\$15,000) of such cost and the City bearing the remainder; provided, however, that in no event shall the Lessee be liable for more than fifty thousand dollars (\$50,000) in total out-of-pocket costs associated with routine preventive maintenance and repair during any one calendar year.

(c) 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.

(d) 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 thereof, 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 thirty (30) days after the loss occurrence.

11. Assignment. The Lessee may not assign or sublease any rights or interests under this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld, except to an entity that is owned solely by or that is an affiliate of the Lessee, after thirty (30) days prior notice to the City. The Lessee shall include in such notice a statement of any legal requirement for confidentiality regarding the notice or the related transaction, with which the City shall comply. Should the City consent to an assignment 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 The 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. Notwithstanding the foregoing, no consent by the City shall be required in connection with the merger pursuant to that certain Agreement and Plan of Merger dated as of November 11, 2014 by and among Horizon Lines, Inc., Matson Navigation Company, Inc. and Hogan Acquisition Inc.

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 ninety (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.

**CITY OF KODIAK
ORDINANCE NUMBER 1326**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE CITY TO ENTER INTO A PREFERENTIAL USE AGREEMENT, A TERMINAL OPERATION CONTRACT, AND A WAREHOUSE LEASE AGREEMENT WITH HORIZON LINES OF ALASKA, LLC

WHEREAS, City Charter Article V-17 requires that any contract which by its terms will not be fully executed within five years and which cannot be terminated by the City upon not more than one month's notice without penalty, and the sale or lease of any City property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease, or interest is more than \$30,000, shall be made only by ordinance; and

WHEREAS, the City of Kodiak and Horizon Lines of Alaska, LLC have renegotiated a ten-year Preferential Use Agreement to provide Horizon Lines of Alaska, LLC preferential berthing rights at the Port of Kodiak Pier III Terminal, a ten-year Terminal Operation Contract for Horizon Lines of Alaska, LLC to provide services for the Port of Kodiak at Piers II and III, and a five-year Warehouse Lease Agreement of the City property located at 727 Shelikof Street, Kodiak, Alaska, situated within U.S. Survey 2537B, commonly known as the Pier II Warehouse; and

WHEREAS, the terms of the Preferential Use Agreement, the Terminal Operation Contract and the Warehouse Lease Agreement are intended to complement one another; and

WHEREAS, City Code Section 18.20.230 requires that the subleasing of any property leased from the City must be approved by the Council and subject to the terms and conditions of the original lease; and

WHEREAS, Horizon Lines of Alaska, LLC will continue to sublease space in the Pier II Warehouse to American President Lines, Ltd. (APL) and Amak Towing Company, Inc. (Amak Towing); and

WHEREAS, there have been presented to this meeting the forms of the Preferential Use Agreement, the Terminal Operation Contract and the Warehouse Lease Agreement, and it appears that these documents, which now are before this meeting, are in appropriate form and are appropriate instruments for the purposes intended.

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

Section 1: The Council of the City of Kodiak hereby authorizes the Preferential Use Agreement with Horizon Lines of Alaska, LLC, which is attached hereto and incorporated by reference according to the terms, covenants, conditions, and agreements contained in the Agreement and further stated in the Terminal Operation Contract and the Warehouse Lease Agreement.

Section 2: The Council of the City of Kodiak hereby authorizes the Terminal Operation Contract with Horizon Lines, LLC, which is attached hereto and incorporated by reference according to the terms, covenants, conditions, and agreements contained in the Contract and further stated in the Warehouse Lease Agreement and the Preferential Use Agreement.

Section 3: Notwithstanding anything to the contrary in Kodiak City Code Chapter 18.20, the Council of the City of Kodiak hereby authorizes the Warehouse Lease Agreement with Horizon Lines of Alaska, LLC of the property located at 727 Shelikof Street, Kodiak, Alaska, situated within U.S. Survey 2537B, more commonly known as the Pier II Warehouse, which is attached hereto and incorporated by reference according to the terms, covenants, conditions, and agreements contained in the Agreement and further stated in the Preferential Use Agreement and the Terminal Operation Contract.

Section 4: The Council of the City of Kodiak hereby authorizes Horizon Lines of Alaska, LLC to sublease space in the Pier II Warehouse to APL and Amak Towing.

Section 5: The agreements authorized by this ordinance are subject to the requirements of City Charter Section V-17. Therefore, 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 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

Pat Mau
MAYOR

ATTEST:

Michelle Sherwood-Hels
for CITY CLERK

First Reading: September 25, 2014

Second Reading: October 23, 2014

Effective Date: November 29, 2014

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager
Debra Marlar, City Clerk *DM*
Date: January 22, 2015

Agenda Item: IV. b. Second Reading and Public Hearing, Ordinance No. 1330, Amending Ordinance No. 1323, Authorizing a Lease of a Communication Site in U.S. Survey 3945 on Pillar Mountain To NCWPCS MPL 31 – Year Sites Tower Holdings, LLC

SUMMARY: The City has issued a lease for the Pillar Mountain Communication Site No. 11 with AT&T and affiliates since 2010. The current lease for Site No. 11 with CCATT, LLC, expired in December. Its successor, NCWPCS MPL 31- Year Sites Tower Holdings, LLC, through Crown Castle, requested the lease be renewed. The Council renewed the lease via Ordinance No. 1323 at the September 11, 2014, regular meeting. The company requested additional changes to the lease after the ordinance was approved by Council, so staff worked with them and the City Attorney to review and incorporate changes acceptable to both parties. This action requires Council to amend the original ordinance and lease to reflect the changes by approving the revisions through Ordinance No. 1330.

The lease requires approval by ordinance due to the value of the lease, the termination clause, and the five-year duration of the lease. Staff recommends Council adopt Ordinance No. 1330 in the second reading after the public hearing.

PREVIOUS COUNCIL ACTION:

- Council entered a lease for Pillar Mountain Site No.11 with AT&T on January 1, 2010.
- Council authorized a sublet of the Pillar Mountain Site No. 11 from AT&T to CCATT, LLC on January 16, 2014.
- Council renewed the lease for Pillar Mountain Site No. 11 with NCWPCS MPL-31 Year Sites Tower Holdings, LLC via Ordinance No. 1323 on September 11, 2014.
- Council passed Ordinance No. 1330 in the first reading at the January 8, 2015, regular meeting and reviewed the ordinance material at the January 20 work session.

DISCUSSION: The Pillar Mountain Communications Site No. 11 is used to support AT&T's communication services in Kodiak. The five-year lease between the City and the AT&T cell tower management company, Crown Castle (CCATT), for that site expired at the end of 2014. The City received a letter from CCATT in July requesting a renewal of the lease. The letter included several proposed provisions that were not acceptable to the City, so City staff requested help from the City

Attorney to research the offer and develop more standard communication lease language. The Council approved the lease in September 2014. When the lease was sent to the Lessee for signatures, the Lessee requested additional changes to the lease. The requested changes were sent to the City Attorney for further review, and he wrote Ordinance No. 1330 to accomplish the additional requested changes to the lease.

The new lease (Attachment B) is between the City and CCATT LLC's successor, NCWPCS MPL 31 – Year Sites Tower Holdings LLC. It is for a five-year term from January 1, 2015, through December 31, 2019, with a 12-month cancellation clause. The lease allows two five-year term extension if the Lessee provides the required written notice of intent and is not in default with lease terms. The first year's annual payment is \$13,577 with a 2.5 percent annual rate increase each year thereafter.

The lease requires Council approval by ordinance (Attachment A) due to the value and terms of the lease per the City's Charter, Article V-17. Therefore, staff requests Council adopt Ordinance 1330 following the public hearing at tonight's meeting.

ALTERNATIVES:

- 1) Adopt Ordinance No. 1330 in the second reading after the public hearing, which is staff's recommendation, because it will provide income to the City and allow the site to continue to be used as a communications site for the community.
- 2) Do not adopt Ordinance No.1330, which is not recommended, because it would result in a loss of revenue and would affect communications in Kodiak.

FINANCIAL IMPLICATIONS: There is a financial benefit each year of the lease through receipt of lease payments into the General Fund starting at \$13,577 per year with a 2.5 percent increase in rent payments each subsequent year of the lease. The successor to CCATT, LLC, NCWPCS MPL 31 – Year Sites Tower Holdings, LLC, will be responsible for site management, maintenance, insurance, and rental payments.

LEGAL: The City Attorney worked with staff to develop the amended lease and drafted the attached ordinance to meet the requirements of the City Charter, Article V-17.

STAFF RECOMMENDATION: Staff recommends Council adopt Ordinance No. 1330.

MANAGER'S COMMENTS: I support the renewal of the amended lease for the Pillar Mountain Communications Site No. 11 with CCATT, LLC's successor, NCWPCS MPL 31 – Year Sites Tower Holdings, LLC. This will provide some income for the General Fund, and the site will continue to provide a communications service to the community of Kodiak. I recommend Council adopt Ordinance No. 1330 following the public hearing.

ATTACHMENTS:

Attachment A: Ordinance No. 1330

Attachment B: Revised Lease for Pillar Mountain Communications Site No.11

Attachment C: Email Requesting Additional Changes to Lease

Attachment D: Ordinance No. 1323

Attachment E: Letter from Crown Castle requesting renewal, dated July 2, 2014

PROPOSED MOTION:

Move to adopt Ordinance No. 1330.

**CITY OF KODIAK
ORDINANCE NUMBER 1330**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING
ORDINANCE NUMBER 1323 AUTHORIZING A LEASE OF A COMMUNICATION
SITE IN U.S. SURVEY 3945 ON PILLAR MOUNTAIN TO NCWPCS MPL 31 – YEAR
SITES TOWER HOLDINGS, LLC**

WHEREAS, the City owns property on Pillar Mountain known as Pillar Mountain Communication Site No. 11 that it has leased to New Cingular Wireless PCS, LLC (“New Cingular”), for a communications site; and

WHEREAS, the City approved the assignment of the lease by New Cingular to CCATT, LLC (“CCATT”) by Resolution No. 2014–05 on January 16, 2014; and

WHEREAS, the lease to CCATT expired on December 31, 2014; and

WHEREAS, NCWPCS MPL 31 – Year Sites Tower Holdings, LLC, a Delaware limited liability company (“NCWPCS”), is the successor to CCATT, and the City Council by Ordinance Number 1323, adopted September 11, 2014, authorized a new Lease Agreement – Pillar Mountain Communications Site No. 11 ("Lease") between the City and NCWPCS for Pillar Mountain Communication Site No. 11 for a five-year term commencing January 1, 2015; and

WHEREAS, after the adoption of Ordinance Number 1323, NCWPCS proposed additional changes to the terms of the Lease; and

WHEREAS, the purpose of this ordinance is to amend Ordinance Number 1323 to approve the amended Lease that now is before this meeting.

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

Section 1: Ordinance Number 1323 is amended by deleting all references therein to the Lease originally authorized by that ordinance, and substituting for each such reference a reference to the amended Lease that now is before this meeting.

Section 2: The Lease authorized by Ordinance Number 1323 as amended by this ordinance is subject to the requirements of City Charter Section V-17. Therefore, 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

MAYOR

ATTEST:

CITY CLERK

First Reading: January 8, 2015
Second Reading:
Effective Date:

LEASE AGREEMENT

PILLAR MOUNTAIN COMMUNICATION SITE NO. 11
NCWPCS MPL 31 – YEAR SITES
TOWER HOLDINGS, LLC

LEASE made as of the 1st day of January 2015, by and between the CITY OF KODIAK, an Alaska municipal corporation ("Lessor"), and NCWPCS MPL 31 – YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company ("Lessee"):

1. **Leased Premises.** Upon the terms and conditions set forth herein and subject to the prompt payment and performance by Lessee of each and every sum and other obligation hereinafter referred to, Lessor does hereby lease, let, and demise to Lessee, and Lessee does hereby lease from Lessor the following described premises within U.S. Survey 3945 in the Kodiak Recording District, Third Judicial District, State of Alaska, more particularly described as follows:

Commencing at a brass cap monument set in a gun turret, "U.S. Army Corp of Engineers Alkod Rm 2;"
Thence N 51° 20' 30" E 2433.41' to the true point of beginning;
Thence S 88° 17' 08" E, 80.00 feet;
Thence S 01° 42' 52" W, 40.00 feet;
Thence N 88° 17' 08" W, 80.00 feet;
Thence N 01° 42' 52" E, 40.00 feet to the true point of beginning;
Containing 3200.0 square feet more or less

These leased premises are hereinafter referred to as the "Site."

2. **Term.**

A. This Lease shall continue in effect for a period of (5) five years from January 1, 2015, through December 31, 2019 ("Term"), ~~provided, however, that either party shall have the right to cancel this Lease upon [six (6) months'] [one (1) year's] written notice in advance of the date of such cancellation, such notice to be by certified mail sent to the usual mailing address of the party to be notified.~~

~~B. Lessee has the option to extend the Term for one (1) additional five (5) year period ("Extended Term"), provided that:~~

~~(1) Lessee gives Lessor written notice of its exercise of the option not more than one (1) year and not less than one hundred twenty (120) days before the last day of the initial Term.~~

~~(2) At the time Lessee exercises the option, and at all times thereafter until the Extended Term commences, Lessee is not materially in default of any term or condition of this Lease.~~

~~Lessee's failure to exercise the option to extend the Term in strict compliance with all the requirements in this section renders that option null and void.~~

B. Lessee shall have the right to terminate this Lease upon twelve (12) months' written notice:

Pillar Mt. Communication Site. No. 11
December 31, 2019
City Contract No. 216603
NCWPCS MPL 31 – Year Sites Tower Holdings LLC
Lessee Site Name: Pillar Mountain
Lessee Business Unit #: 857449

(1) if the approval of any agency, board, court, or other governmental authority necessary for the construction, operation or modification of the technology or site configuration of Lessee’s facility on the Site is denied by the public agency authorized to issue such approval, or, if Lessee determines, in its reasonable discretion, the cost of obtaining such approval is commercially unfeasible; or,

(2) a required permit or approval is issued, but subsequently revoked, canceled or not renewed, through no act, omission or fault of Lessee; or,

(3) if Lessee determines, in its sole discretion, that the Site is not appropriate for its operations due to technological, engineering or economic reasons.

C. Lessor shall have the right to terminate this Lease upon twelve (12) months’ written notice to Lessee in the event Lessor determines in good faith that the Site is needed by Lessor for public purposes.

D. Lessee has the option to extend the Term for two (2) additional five (5) year periods (each an “Extended Term”), provided that:

(1) Lessee gives Lessor written notice of its exercise of the option not more than one (1) year and not less than one hundred twenty (120) days before the last day of the initial Term; and

(2) At the time Lessee exercises the option, and at all times thereafter until the Extended Term commences, Lessee is not materially in default of any term or condition of this Lease.

Lessee’s failure to exercise the option to extend the Term in strict compliance with all the requirements in this section renders that option null and void.

3. Rental. A. Lessee agrees to pay as and for rent in equal monthly installments which fall due on the first of each calendar month the annual sum of Thirteen Thousand Five Hundred Seventy Seven and 00/100 Dollars (\$13,577) for the first year of the Lease Term and according to the following schedule for the remaining four years of the Term.

<u>Year</u>	<u>Rental</u>
2	102.5% of Year 1
3	105.0% of Year 1
4	107.5% of Year 1
5	110.0% of Year 1

B. If Lessee exercises its option in Section 2(BD) to extend the Term of this Lease, the annual rent in the first year of the Extended Term shall be 102.5% of the annual rent in the fifth year of the initial Term, and the annual rent in subsequent years of the Extended Term shall be determined by the formula that is provided for determining the annual rent in the initial Term.

C. If a monthly installment is not paid by the fifth of the month in which it becomes due, a penalty of Thirty and 00/100 Dollars (\$30) will be added to the rental amount; and, in addition,

simple interest shall accrue and be added to the rental amount at the rate of twelve percent (12%) per annum from the due date until paid.

4. Conditions of Lease. The Site shall be used solely as a ~~communications~~ site for a ~~cellular telephone system~~ wireless communication facility. The Site will house a 100' self-supporting radio tower, a 10' x 20' communications equipment shelter, ~~and~~ propane powered backup generator, and related utilities, cables and ancillary equipment.

5. Improvements. Lessor shall have the right to make additions, alterations, or improvements to the Site ~~which~~ that will not impede Lessee's access to or use of the Site. Lessee shall have the right to erect or construct a suitable building and/or associated structures as provided in Section 4. Any improvements constructed by Lessee shall be consistent with the limited use of the Site authorized by this Lease and shall be constructed at Lessee's expense. Upon termination of this Lease, such improvements shall become the property of Lessor or, at Lessee's option, shall be removed by Lessee at its sole expense. Lessee shall permit Lessor, at Lessor's expense, to connect the equipment shelter for Lessor's public safety communications system to the backup power supply in ~~the communications~~ an equipment shelter ~~that~~ designated by the Lessee that Lessee has constructed on the Site. Notwithstanding anything in Section 6 to the contrary, Lessor shall be solely responsible for maintaining the connection, and Lessee shall provide Lessor with reasonable access to ~~Lessee's communications~~ the equipment shelter for that purpose.

6. Maintenance. Except as otherwise specifically provided herein, Lessee shall, at all times and at its sole expense, keep and maintain the Site and its improvements in good repair, and in neat, orderly, and slightly condition. Lessee shall not cause or permit any litter, debris, or refuse to be accumulated or stored upon the Site and shall promptly remove all such materials without cost to Lessor.

7. Indemnity. Lessee shall defend, indemnify, and hold Lessor, its officers, agents, and employees harmless against any and all actions, suits, proceedings, claims, loss, liens, costs, expense, and liability of every kind and nature whatsoever arising from injury to or death of persons or loss of or damage to property, including property owned by the Lessor, caused by or incurred as a result of Lessee's use and occupancy of the Site under this Lease, including, but not limited to, attorney's fees reasonably incurred for defense thereof. This provision shall not apply to claims, actions, damages, losses, or proceedings caused solely by the negligence of officers, agents, or employees of Lessor.

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, \$1,000,000 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 \$2,000,000.

(2) Commercial Automobile Liability Insurance, \$1,000,000 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. Employer's Liability shall be endorsed to the following minimum limits and contain USL&H coverage endorsement, if applicable: bodily injury by accident--\$1,000,000 each accident; and bodily injury by disease--\$1,000,000 each employee, \$1,000,000 policy limit.

B. Other Insurance Provisions. The policies shall contain, or be endorsed to contain, the following provisions:

(1) Commercial General Liability and Automobile Liability

(i) Lessor, 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 Lessor, its officers, officials, employees and volunteers.

(ii) Lessee's insurance coverage shall be primary insurance as respects Lessor, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by Lessor, 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 Lessor, its officers, officials, employees and volunteers for losses arising from work performed by Lessee or any sublessee for Lessor.

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

(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 for nonpayment of premium or fraud on the part of Lessee, ~~or 60 days prior written notice for any other reason,~~ has been given to by the insurer ~~to by~~ Lessor by certified mail, return receipt requested. This requirement shall not apply to cancellation of insurance due to non-payment of premium, in which event Lessee shall provide such notice to Lessor in accordance with the notice requirements of Section 15 of this Lease.

C. Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A-: VII.

D. Verification of Coverage. Lessee shall furnish Lessor 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. Lessor reserves the right to require complete, certified copies of all required insurance policies, at any time.

9. Environmental.

A. For purposes of this section:

(1) Environmental Requirement shall mean any law, regulation, or legal

requirement relating to health, safety, or the environment, now in effect or hereinafter enacted, including but not limited to the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), the Toxic Substances Control Act (TSCA), the Federal Insecticide Fungicide and Rodenticide Act (FIFRA), the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (CAA) and the Clean Water Act (CWA), the Occupational Safety and Health Act (OSHA) and all similar state and local laws, rules, regulations, and guidance, now in existence or hereinafter enacted, as each such law, rule, or regulation may be amended from time to time.

(2) Environmental Hazard shall mean Hazardous Materials (as defined hereinafter), or the storage, handling, production, disposal, treatment, or release thereof.

(3) Hazardous Material shall mean

(i) any hazardous waste, any extremely hazardous waste, or any restricted hazardous waste, or words of similar import, as defined in the Resource Conservation and Recovery Act (42 USC §6901 *et seq.*)

(ii) any hazardous substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 USC §9601 *et seq.*)

(iii) any toxic substances as defined in the Toxic Substances Control Act (15 USC §2601 *et seq.*)

(iv) any pollutant as defined in the Clean Water Act (33 USC §1251 *et seq.*)

(v) gasoline, petroleum, or other hydrocarbon products or by-products

(vi) asbestos

(vii) any other materials, substances, or wastes subject to environmental regulation under any applicable federal, state, or local law, regulation, or ordinance now or hereafter in effect

(4) Environmental Liabilities shall mean any liability, penalties, fines, forfeitures, demands, damages, losses, claims, causes of action, suits, judgments, and costs and expenses incidental thereto (including cost of defense, settlement, reasonable attorneys' fees, reasonable consultant fees, and reasonable expert fees), arising from or based on environmental contamination or the threat of environmental contamination, or noncompliance, or violation of, any Environmental Requirement and shall include, but not be limited to, liability arising from

(i) any governmental action, order, directive, administrative proceeding, or ruling

(ii) personal or bodily injuries (including death) or damages to any property (including loss of use) or natural resources

(iii) clean-up, remediation, investigation, monitoring, or other response action

(5) Environmental Release shall mean any release, spill, leak, discharge, injection, disposal, or emission of any Hazardous materials into the environment.

B. At all times during the term of the Lease, Lessee shall conduct its activities at the Site, and shall ensure that any invitee of Lessee conducts its activities at the Site in strict compliance with all applicable Environmental Requirements.

C. Notwithstanding any other provision of this Lease, Lessee agrees to indemnify and hold harmless Lessor, Lessor's successors and assigns, and Lessor's present and future officers, directors, employees, and agents, (collectively "Lessor Indemnitees") from and against any and all Environmental Liabilities which Lessor or any or all of the Lessor Indemnitees may hereafter suffer, incur, be responsible for, or disburse as a result of any Environmental Hazard at the Site to the extent caused by or attributable to Lessee or Lessee's activities, or by any invitee of Lessee or by the activities of any invitee of Lessee.

D. Notwithstanding any other provision of the Lease, Lessor agrees to indemnify and hold harmless Lessee, Lessee's successors and assigns, and Lessee's present and future officers, directors, employees and agents (collectively "Lessee Indemnitees") from and against any and all Environmental Liabilities which Lessee or any of the Lessee Indemnitees may hereafter suffer, incur, be responsible for, or disburse as a result of any Environmental Hazard at the Site to the extent caused by or attributable to Lessor or Lessor's activities, or by any invitee of Lessor or by the activities of any invitee of Lessor.

E. The provisions of this section shall survive termination of this Lease.

10. Utility Charges and Taxes. All utility charges shall be borne and paid for by Lessee, together with all personal or real property taxes or assessments that may be levied against the Lessee by reasons of its occupancy of the Site or its rights hereunder.

11. Operation of Equipment. In installing, operating, or maintaining any equipment on the Site and in its general management of the Site, Lessee will act in accordance with applicable laws and regulations and so as not to cause interference with any other radio or television transmitting or receiving equipment whether located on the Site or not. Lessee will at all times protect from interference all frequencies assigned to Lessor whether or not such frequencies are in use. Before altering, replacing or adding any transmission equipment at the Site, Lessee shall, at Lessee's sole expense, arrange for an inter-modulation analysis so as to verify that no unacceptable signal interference will result from the alteration, replacement or addition. Lessee shall provide Lessor with a copy of the inter-modulation analysis. Lessee will not do, attempt, or permit any acts in connection with this Lease, which could be construed as a violation of law.

12. Condition of Site. Lessee takes the Site in its present condition and Lessor shall have no responsibility for its condition, or for any damage suffered by Lessee or any other person due to such conditions.

13. Assignment and Subleasing.

A. Except as provided in this section, Lessee may not sublease the Site, either in whole or in any portion, without first obtaining the written approval of the City Council, [which consent shall not be unreasonably withheld, conditioned or delayed](#). Lessee may not assign, mortgage, pledge, or otherwise encumber all or any portion of this Lease or the Site without first obtaining the written approval of the City Council, [which consent shall not be unreasonably withheld](#).

conditioned or delayed. Any assignment, pledge, or encumbrance approved by the Council shall be subject to all terms and provisions of this Lease. Any assignment, pledge, or encumbrance executed without the proper approval of the Council shall be void and of no force and effect.

B. Notwithstanding the provisions of subsection A of this section, Lessor authorizes Lessee to sublease to ~~Port Graham Development Corporation a~~ The Alaska Wireless Network, LLC aka ACS Wireless, Inc. under the following conditions:

(1) Approval of the subleases does not release Lessee from any of its obligations under this Lease.

(2) The sublessees agree to comply with all terms of this Lease regarding the use of the Site, insurance, and environmental requirements.

(3) The insurance provided by Lessee must cover the activities of the sublessees.

(4) Lessee shall remit to Lessor 30% of any revenues collected monthly.

C. Notwithstanding the provisions of subsection A of this ~~section~~ Section 13, Lessee will have the right to assign, sell, or transfer its interest under this Lease without the approval or consent of Lessor, to Lessee's parent or member company or any affiliate or subsidiary of, or partner in, Lessee or its parent or member company or to any entity which acquires all or substantially all of Lessee's assets in the market defined by the Federal Communications Commission in which the Site is located by reason of a merger, acquisition, or other business reorganization. Upon notification to Lessor of such assignment, transfer, or sale, Lessee will be relieved of all future performance, liabilities, and obligations under this Lease.

14. Default and Re-Entry. If Lessee fails to cure any default of the conditions of this Lease within thirty (30) days after written notice thereof by Lessor, or in the event insolvency proceedings should be instituted by or against Lessee, then Lessor may terminate the Lease as of such date and re-enter the Site and remove all property therefrom and Lessee shall remain liable for the payment of rental to the extent provided by law. If Lessor fails to cure any default of the conditions of this Lease within thirty (30) days after written notice thereof by Lessee, then Lessee may terminate the Lease as of such date and remove all property therefrom, and Lessor shall remain liable to Lessee to extent provided by this Lease and applicable law.

15. Notices. All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to LESSOR:

City of Kodiak
Attn: City Clerk
710 Mill Bay Road
Kodiak, Alaska 99615

If to LESSEE:

NCWPCS MPL 31 – YEAR SITES
TOWER HOLDINGS LLC
c/o Crown Castle USA Inc.
E. Blake Hawk, General Counsel
Attn: Legal Department
2000 Corporate Drive
Canonsburg, PA 15317

16. Consideration. Lessee will pay to Lessor a one-time amount of Ten Thousand and 00/100 Dollars (\$10,000.00) for the full execution of this Lease (the “Conditional Signing Bonus”). Lessee will pay to Lessor the Conditional Signing Bonus within sixty (60) days of Lessor’s execution of this Lease. In the event that this Lease (and any applicable memorandum) is not fully executed by both Lessor and Lessee for any reason, Lessee shall have no obligation to pay the Conditional Signing Bonus to Lessor.

1617. Applicable Law. Lessee shall, at all times, in its use and occupancy of the Site and in the conduct of its operations thereon, comply with all applicable federal, state, and local laws, ordinances, and regulations.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date first written above.

CITY OF KODIAK
710 Mill Bay Road
Kodiak, Alaska 99615

NCWPCS MPL 31 – YEAR SITES
TOWER HOLDINGS, ~~LLC, by and~~
~~through~~ a Delaware limited liability company

Aimée Kniaziowski, City Manager

By: CCATT LLC, ~~its attorney in~~
~~fact,~~ a Delaware limited liability company
Its: Attorney-in-Fact.

By: _____
Print Name: _____
Title: _____

Attest:

Debra L. Marlar, City Clerk

Marlar, Debra

To: Marlar, Debra
Subject: Crown Castle's AT&T Site located on Pillar Mountain Road (Site 857449)

From: Erickson, Tamara [<mailto:Tamara.Erickson@crowncastle.com>]
Sent: Wednesday, October 01, 2014 10:38 AM
To: Marlar, Debra
Subject: RE: Crown Castle's AT&T Site located on Pillar Mountain Road (Site 857449)

Hi Debbie,

I attached our proposed redlines for your review. Below is a summary of some of our proposed changes. Please let me know if you have any questions. Thank you!

- 1) Section 2B and 2C - We clarified each party's ability to terminate the lease to protect our mutual interest in this site and the revenue.
- 2) Section 2D - We would like to add an additional renewal term to ensure that this site is secure for the long-term interests of our customers.
- 3) Section 13A - It is important that we add language stating that the City's consent shall not be unreasonably withheld, conditioned or delayed.
- 4) Section 13B - Port Graham Development Corporation is not currently a tenant on this site.
- 5) Section 16 - We added a one-time payment of \$10,000.00 as consideration for extending our agreement and agreeing to our proposed changes.

TAMARA ERICKSON
Government Site Specialist
T: (206) 336-7386 | M: (602) 692-9026

CROWN CASTLE
1100 Dexter Avenue North, Suite 250, Seattle, WA 98109
CrownCastle.com<<http://www.crowncastle.com/>>

**CITY OF KODIAK
ORDINANCE NUMBER 1323**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK
AUTHORIZING A LEASE OF A COMMUNICATION SITE IN U.S. SURVEY 3945 ON
PILLAR MOUNTAIN TO NCWPCS MPL 31 – YEAR SITES TOWER HOLDINGS, LLC**

WHEREAS, the City owns property on Pillar Mountain known as Pillar Mountain Communication Site No. 11 that it has leased to New Cingular Wireless PCS, LLC (“New Cingular”), for a communications site; and

WHEREAS, the City approved the assignment of the lease by New Cingular to CCATT, LLC (“CCATT”) by Resolution No. 2014–05 on January 16, 2014; and

WHEREAS, the lease to CCATT will expire on December 31, 2014; and

WHEREAS, NCWPCS MPL 31 – Year Sites Tower Holdings, LLC, a Delaware limited liability company (“NCWPCS”), is the successor to CCATT, and NCWPCS has requested that the City Council authorize the Lease Agreement – Pillar Mountain Communications Site No. 11 ("Lease") that now is before this meeting; and

WHEREAS, it is in the best interest of the City that the Lease be authorized.

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

Section 1: Notwithstanding anything to the contrary in Kodiak City Code Chapter 18.20, the Council of the City of Kodiak hereby authorizes the Lease with NCWPCS for a term commencing January 1, 2015, and ending December 31, 2019, of the communications site described in the Lease, located on U.S. Survey 3945 on Pillar Mountain in the City of Kodiak.

Section 2: The form and content of the Lease between the City and NCWPCS 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 to NCWPCS 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 she 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 as executed.

Section 3: The Lease authorized by this ordinance is subject to the requirements of City Charter Section V-17. Therefore, 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.



ATTEST:

Merelle Whimorell-Nelson

CITY CLERK

CITY OF KODIAK

Pat O'Neil

MAYOR

First Reading: August 28, 2014
Second Reading: September 11, 2014
Effective Date: October 17, 2014

July 2, 2014

Debra Marlar
City of Kodiak
710 Mill Bay Road, Room 216/217
Kodiak, AK 99615

RE: Business Unit #: 857449
Site Location: Pillar Mountain Road

Dear Ms. Marlar:

Thank you for taking the time to consider renewing our existing Lease Agreement. As a company, we desire to operate our towers well into the future and we are highly focused on managing our sites to their fullest potential. The proposals outlined below will allow the City of Kodiak to capitalize on the lucrative opportunities presently available.

Lease Extension (bonus payment)

- 1) Our lease agreement is expiring on 12/31/2014. We would like our new agreement to have an initial term of 5 years with 2 renewal terms of 5 years each, for a final lease expiration date of 2029. We can add language stating that prior to the commencement of each renewal term; the City has the option to obtain an independent valuation of the leased premises to determine an appropriate rental rate. The appraisal shall be made by a professional independent real estate appraiser selected by the City, at Crown Castle's sole cost and expense, not to exceed \$3,000.00. However, the rental rate increase shall not increase more than 5% of the rental rate for the previous year.
- 2) We have competitors active in your area who may approach you to purchase our Lease Agreement. We would like to add a provision stating that you need to let us know if you are approached by a competitor, and Crown Castle has the ability to match their offer.
- 3) Both the City and Crown Castle have the ability to terminate our agreement with 6 months' notice; however, it would take at least a year for us to find a relocation site. Therefore, we would like to modify our termination language to state that both parties can terminate with 1 year's notice.
- 4) As consideration for extending the agreement and agreeing to the terms outlined above, we would like to offer a \$5,000.00 bonus payment upon execution of our lease renewal document.

Lease Extension (pre-payment)

- 1) Same as 1-3 above.
- 2) We can offer pre-paid rent for up to 5 years. If we pre-pay the next 5 years up front, we can give you \$64,000.00, and then after the 5 years (2019) we will start to make the monthly rent payments at the same amount as if all of the scheduled rent escalations had occurred. During this time, we will continue to send you the separate monthly revenue share payments.

Perpetual Easement

- 1) We are proposing to acquire a perpetual easement for \$250,000.00. We can also give you part of that amount up front and then continue to send you monthly payments for the next 10 years.

There are several ways we can put together an agreement that will maximize the City's financial income, and ensure the continued success of the Site. Please let me know if you have any questions or concerns. I am confident that we can reach a mutually beneficial agreement that supports the City's interests and allows us to continue to serve the community.

Please contact me at (206) 336-7386. I look forward to hearing from you.

Sincerely,



Tamara Erickson
Government Site Specialist

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NEW BUSINESS

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Aimée Kniazowski, City Manager 

Thru: Karl Swanson, Interim Finance Director 

Date: January 22, 2015

Agenda Item: V. a. **First Reading, Ordinance No. 1331, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2014 and Ending On the Thirtieth Day of June 2015**

SUMMARY: The Supplemental Appropriation No. 1 to the budget for the fiscal year commencing on the first day of July 2014 and ending on the thirtieth day of June 2015 is in the amount of \$897,753. 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. This is the first budget amendment of FY2015. Staff recommends Council pass Ordinance No. 1331 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

PREVIOUS COUNCIL ACTION:

- June 13, 2014, Council adopted Ordinance No. 1319 for the FY2015 budget in the amount of \$46,466,781 commencing on the first day of July 2014 and ending on the thirtieth day of June 2015
- January 20, 2015, Council reviewed the budget amendment at the work session

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 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 an ordinance that amends the annual budget ordinance. An ordinance is required to move amounts between funds, departments and projects. An ordinance is required to move funds, to add permanent personnel, or to grant unscheduled salary increases. The Supplemental No. 1 Appropriation is requesting the addition of \$897,753 to the adopted budget bringing the total amended budget to \$47,364,534 for FY2015.

The Supplemental No. 1 Appropriation is requesting an increase in non-capital funds in the amount of \$326,498 and an increase in capital funds in the amount of \$571,255. Of the \$326,498 increase for non-capital funds, \$14,640 is a transfer to the Enhancement Fund from the General Fund based on KCC 3.28.020. KCC 3.28.020 states that fifty percent of the prior fiscal year's General Fund surplus shall be deposited in the City Enhancement Fund. The General Fund surplus is defined as the excess of revenues and other financing sources over expenditures and other financing uses, plus any residual equity transfers in, less any residual equity transfers out, as identified in the audited General Fund Statement of Revenues, Expenditures, and Changes in Fund Balance. The audited net change in fund balance for the year ending June 30, 2014, was \$29,280. The remaining \$311,858 in non-capital funds is for adjustments not anticipated due to grant funds received, overtime incurred from staff turnover, increases in supplies, and increases in professional fees. Additions to capital projects included the E-911 Upgrade, funded by a state grant in the amount of \$381,472, the New Fire Station Project in the amount of \$70,000 to be funded by the transfer of remaining funds from the police station parking lot, the required Spill Prevention Containment and Countermeasures (SPCC) project in the amount of \$52,000, the UV plant project in the amount of \$60,000, and additions to the General Fund Vehicle Replacement Fund for \$7,783.

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 FY2015 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.

STAFF RECOMMENDATION: Staff recommends that the City Council pass Ordinance No. 1331, Supplemental Appropriation No. 1 to the FY2015 budget, in the first reading and advance to second reading and public at the next regular or special Council meeting.

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 increased operating expenses. The ordinance and attachments detail the sections of the City's operating and capital budget that require changes. I recommend Council pass Ordinance No. 1331 in the first reading and advance to second reading and public hearing.

ATTACHMENTS:

Attachment A: Ordinance No. 1331

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

Attachment C: Backup line item detail to budget.

PROPOSED MOTION:

Move to pass Ordinance No. 1331 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

JANUARY 22, 2015
Agenda Item V. a. Memo Page 3 of 3

CITY OF KODIAK ORDINANCE NUMBER 1331

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 2014 AND ENDING ON THE THIRTIETH DAY OF JUNE 2015

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 objects of the City of Kodiak for fiscal year 2015.

FY 2015 Supplemental Budget No. 1 GENERAL FUND

	Budget	Supplemental #1	Revised Budget
Anticipated Revenues:			
Property Tax	\$ 853,500	\$ -	\$ 853,500
Sales Tax	11,630,000	-	11,630,000
Licenses and Permits	90,100	12,000	102,100
Intergovernmental	3,128,847	15,000	3,143,847
Charges for Services	1,774,115	55,000	1,829,115
Fines and Forfeitures	15,500	10,334	25,834
Interest Income	45,000	-	45,000
Rental Income	195,000	-	195,000
Other Revenues	22,000	-	22,000
Interfund Charges	858,692	-	858,692
Use of Fund Balance	1,132,088	36,213	1,168,301
Transfers In	-	-	-
Total Amended Revenues	\$ 19,744,842	\$ 128,547	\$ 19,873,389
Planned Expenditures:			
Legislative	\$ 320,259	\$ 5,000	\$ 325,259
Legal	50,000	-	50,000
Executive	586,262	6,000	592,262
Emergency Preparedness	56,500	-	56,500
City Clerk	473,165	5,000	478,165
Finance	1,401,481	1,500	1,402,981
Police	6,922,782	40,175	6,962,957
Fire	2,148,335	22,000	2,170,335
Public Works	2,485,224	27,232	2,512,456
Engineering	315,090	-	315,090
Parks & Recreation	1,411,860	-	1,411,860
Library	1,010,833	-	1,010,833
Non-Departmental	763,694	-	763,694
Transfers	1,799,357	21,640	1,820,997
Total Amended Expenditures	\$ 19,744,842	\$ 128,547	\$ 19,873,389

SPECIAL REVENUE FUNDS

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
Tourism Development	\$ 205,500	\$ -	\$	205,500
KFDA	60,050			60,050
City Enhancement	-	-		-
Total Amended Revenues	<u>\$ 265,550</u>	<u>\$ -</u>	<u>\$</u>	<u>265,550</u>
Planned Expenditures:				
Tourism Development	\$ 205,500	\$ -	\$	205,500
KFDA	60,050		\$	60,050
City Enhancement	-	-		-
Total Amended Expenditures	<u>\$ 265,550</u>	<u>\$ -</u>	<u>\$</u>	<u>265,550</u>

CAPITAL PROJECTS

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
300.00 General Capital Projects	\$ 276,684	\$ 381,472	\$	658,156
315.00 Vehicle Replacement Capital	85,357	7,783		93,140
301.00 Street Improvements	1,030,000	52,000		1,082,000
302.00 Building Improvements	40,000	70,000		110,000
305.00 Water Capital Fund	5,964,774	60,000		6,024,774
306.00 Sewer Capital Fund	-	-		-
307.00 Cargo Development Fund	-	-		-
308.00 Harbor Development	3,000,000	-		3,000,000
309.00 Parks & Recreation Fund	110,000	-		110,000
Total Amended Revenues	<u>\$ 10,506,815</u>	<u>\$ 571,255</u>	<u>\$</u>	<u>11,078,070</u>
Planned Expenditures:				
300.00 General Capital Projects	\$ 276,684	\$ 381,472	\$	658,156
315.00 Vehicle Replacement Capital	85,357	7,783		93,140
301.00 Street Improvements	1,030,000	52,000		1,082,000
302.00 Building Improvements	40,000	70,000		110,000
305.00 Water Capital Fund	5,964,774	60,000		6,024,774
306.00 Sewer Capital Fund	-	-		-
307.00 Cargo Development Fund	-	-		-
308.00 Harbor Development	3,000,000	-		3,000,000
309.00 Parks & Recreation Fund	110,000	-		110,000
Total Amended Expenditures	<u>\$ 10,506,815</u>	<u>\$ 571,255</u>	<u>\$</u>	<u>11,078,070</u>

ENTERPRISE FUNDS

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
Cargo Fund 500	\$ 1,104,301	\$ 20,000	\$	1,124,301
Harbor Fund 510	4,592,832	-		4,592,832
Boat Yard/Lift 512	1,252,103	5,000		1,257,103
Electric Fund 515	606,664	-		606,664
Water Fund 550	2,982,668	75,926		3,058,594
Sewer Fund 570	4,361,972	137,025		4,498,997
Trident Basin Fund 580	334,272	-		334,272
E-911 Services	78,462	(40,000)		38,462
Total Amended Revenues	<u>\$ 15,313,274</u>	<u>\$ 197,951</u>	<u>\$</u>	<u>15,511,225</u>

ENTERPRISE FUNDS CONTINUED

Planned Expenditures:

Cargo Fund 500	\$ 1,104,301	\$ 20,000	\$ 1,124,301
Harbor Fund 510	4,592,832	-	4,592,832
Boat Yard/Lift 512	1,252,103	5,000	1,257,103
Electric Fund 515	606,664	-	606,664
Water Fund 550	2,982,668	75,926	3,058,594
Sewer Fund 570	4,361,972	137,025	4,498,997
Trident Basin Fund 580	334,272	-	334,272
E-911 Services	78,462	(40,000)	38,462
Total Amended Expenditures	<u>\$ 15,313,274</u>	<u>\$ 197,951</u>	<u>\$ 15,511,225</u>

INTERNAL SERVICE FUND

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
Self Insurance Fund	\$ 636,300	\$ -	\$ 636,300	
Total Amended Revenues	<u>\$ 636,300</u>	<u>\$ -</u>	<u>\$ 636,300</u>	
Planned Expenditures:				
Self Insurance Fund	\$ 636,300	\$ -	\$ 636,300	
Total Amended Expenditures	<u>\$ 636,300</u>	<u>\$ -</u>	<u>\$ 636,300</u>	
Total Revenues	\$ 46,466,781	\$ 897,753	\$ 47,364,534	
Total Expenditures	\$ 46,466,781	\$ 897,753	\$ 47,364,534	

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:

CITY OF KODIAK
FY 2015 Supplemental

Attachment B

Fund 100 General Fund

REVENUES:

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
310.100 Property Taxes	850,000			850,000	468,145	381,855	55%
310.111 PILOT from KIHA	3,500			3,500	2,363	1,137	68%
310.200 Sales Taxes	11,600,000			11,600,000	3,373,262	8,226,738	29%
310.900 Penalty & Interest	30,000			30,000	6,304	23,696	21%
320.000 License & Permits	90,100		12,000	102,100	61,441	40,659	60%
330.100 PERS Relief	1,279,273			1,279,273	-	1,279,273	0%
330.105 State Revenue Sharing	394,074			394,074	397,792	(3,718)	101%
330.130 Fish Tax - Dept of Rev	1,283,000			1,283,000	1,164,404	118,597	91%
330.131 Fish Tax - DCED (Shared Fish Tax)	75,000			75,000	31,958	43,042	43%
330.140 Fuel Tax Sharing	7,500			7,500	5,404	2,096	72%
330.150 Alcohol Beverage Sharing	20,000			20,000	9,600	10,400	48%
330.160 Utility Revenue Sharing	45,000			45,000	44,685	315	99%
330.300 State Grant Capital	10,000			10,000	-	10,000	0%
330.305 State Grant - Operations	15,000			15,000	6,650	8,350	44%
330.325 Federal Grt - Operating	-	15,000		15,000	437	14,563	3%
340.100 Boarding of Prisoners	1,134,000			1,134,000	619,870	514,130	55%
340.110 State Trooper Comm Contract	120,000			120,000	39,375	80,625	33%
340.120 Other Police Services	15,000			15,000	430	14,570	3%
340.130 Police Protective Custody	2,000			2,000	150	1,850	8%
340.210 Borough Animal Control Services	109,415			109,415	109,415	-	100%
340.240 Borough Building Inspections	100,000			100,000	20,069	79,931	20%
340.300 Ambulance Services	145,000		55,000	200,000	117,744	82,256	59%
340.310 Fire Miscellaneous	5,000			5,000	1,230	3,770	25%
340.405 School Lifeguard Services	16,000			16,000	4,361	11,639	27%
340.405 Parks & Recreation Revenues	100,500			100,500	50,220	50,280	50%
340.520 Library Revenue	17,000			17,000	12,037	4,963	71%
340.545 Miscellaneous Service Charges	10,200			10,200	9,086	1,114	89%
350.100 Fines & Forfeits	15,500		10,334	25,834	1,357	24,477	5%
360.100 Interest on Investments	45,000			45,000	3,400	41,600	8%
363.100 Rents & Royalties	195,000			195,000	133,473	61,527	68%
375.600 Miscellaneous other	22,000			22,000	7,754	14,246	35%
380.100 Cargo Terminal Services	58,039			58,039	58,039	-	100%
380.110 Boat Harbor Services	183,554			183,554	183,554	-	100%
380.115 Boat Yard Service	49,585			49,585	49,585	-	100%
380.118 Electric	29,347			29,347	29,347	-	100%
380.120 Water Services	163,520			163,520	163,520	-	100%
380.121 Sewer Services	182,378			182,378	182,378	-	100%
380.125 Trident Basin	7,818			7,818	7,818	-	100%
380.130 Tourism Services	45,150			45,150	45,150	-	100%
380.150 Public Works	53,944			53,944	53,944	-	100%
380.400 Vehicle Replacement	85,357			85,357	48,012	37,345	56%
385.100 Approp. From Fund Balance	1,132,088		36,213	1,168,301		1,168,301	0%
390.780 Transfer In	-			-		-	
TOTAL REVENUES	19,744,842	-	128,547	19,873,389	7,523,762	12,349,627	38%

CITY OF KODIAK
FY 2015 Supplemental

Attachment B

EXPENDITURES:

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Legislative	320,259		5,000	325,259	96,429	228,830	30%
Legal	50,000			50,000	25,355	24,645	51%
Executive	586,262		6,000	592,262	148,278	443,984	25%
Emergency Preparedness	56,500			56,500	16,774	39,726	30%
City Clerk - Clerk	312,244		5,000	317,244	123,422	193,822	39%
City Clerk - Records	160,921			160,921	65,463	95,458	41%
Finance	1,401,481		1,500	1,402,981	600,831	802,150	43%
Police	6,922,782		40,175	6,962,957	2,598,309	4,364,648	37%
Fire	2,148,335		22,000	2,170,335	903,720	1,266,615	42%
Public Works	2,485,224		27,232	2,512,456	823,719	1,688,737	33%
Engineering	315,090			315,090	99,745	215,345	32%
Parks & Recreation	1,411,860			1,411,860	516,971	894,889	37%
Library	1,010,833			1,010,833	400,975	609,858	40%
Non-Departmental	763,694			763,694	572,341	191,353	75%
Transfers	1,799,357		21,640	1,820,997	1,762,012	58,985	97%
TOTAL EXPENDITURES	19,744,842	-	128,547	19,873,389	8,754,344	11,119,045	44%

Fund 251 Tourism Development

Revenues:	
Hotel/Motel Tax	170,500
Interest on Investments	-
Approp. From Fund Balance	35,000
Revenues:	205,500
Expenditures:	205,500

Fund 254 KFPA

Revenues:	
Rents	60,000
Interest on Investments	50
Approp. From Fund Balance	-
Revenues:	60,050
Expenditures:	60,050

Fund 299 City Enhancement

Revenues:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Interest on Investments	50,000			50,000	3,139	46,861	6%
Rentals from others	50,000			50,000	37,332	12,668	75%
Other Revenue - Land Sales	-			-	-	-	0%
Approp. From Fund Balance	(100,000)		(14,640)	(114,640)		(114,640)	0%
Transfer from General Fund	-		14,640	14,640	-	14,640	0%
Revenues:	-	-	-	-	40,471	(40,471)	0%

Transfer 1/2 of 6/30/14 surplus to Enhancement Fund Code 3,28,020

Expenditures:

Fund 300 General Capital Projects

Revenue:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Interest on Investments					288	(288)	0%
State Grants			381,472	1,142,332		1,142,332	0%
Federal Grants	77,684	760,860		438,657		438,657	0%
Approp. From Fund Balance	174,000	2,977,500		3,151,500	174,000	2,977,500	6%
Transfer from General Fund	25,000			25,000	25,000	-	100%
Transfer from Tourism Fund		100,000		100,000		100,000	0%
Transfer from Enhancement Fund		20,000		20,000		20,000	0%
Transfer from Harbor Fund		70,000		70,000		70,000	0%
Transfer from Land Development							
Revenues:	276,684	4,340,833	381,472	4,998,989	199,288	4,799,701	4%

0% E-911 State Grant

Expenditures:

4002 City Land Development	70,000			70,000	7,017	62,983	10%
4009 Compr Records Management Prog	275,000			275,000		275,000	0%
4013 Museum Building - Phase I	250,000			250,000		250,000	0%
4014 Municipal Airport Improvements	700,000			700,000		700,000	0%
4015 Fire Station Upgrades	550,000			550,000		550,000	0%
4027 Alaska Shield Hazmat Exercise/Anchorage	14,500			14,500		14,500	0%
4028 Financial Software Upgrade	530,000			530,000		530,000	0%
4029 E-911 Upgrade System	275,000		381,472	656,472	1,103	656,472	0%
4030 Classification & Compensation Study	100,000			100,000	5,340	98,897	1%
4032 Fire Department Engine Replacement	450,000			450,000		444,660	1%
4033 Fire Department Ambulance Replacement	201,000			201,000		201,000	0%
4034 Paving Police Station Parking Lot	248,500			248,500		248,500	0%
4035 Demolition of Old KPD & 1118 Mission	615,500		(110,000)	505,500		505,500	0%
4037 Home Land Security & Emergency Management	11,360			11,360		11,360	0%
4038 Home Land Security & Emergency Management FY 2014	49,973			49,973		49,973	0%
4039 Downtown Revitalization Project	175,000			175,000	70,525	175,000	0%
4040 Assistance to Firefighters Grant	81,684			81,684		11,159	86%
4041 City Website Development Project	20,000			20,000		20,000	0%
Transfer to Building Fund			110,000	110,000		110,000	0%
Expenditures:	276,684	4,340,833	381,472	4,998,989	83,985	4,915,004	99%

0% E-911 State Grant

0% Fire Station/Old Library Study

0% Fire Station/Old Library Study

Fund 315 Vehicle Replacement Capital Fund

Revenue:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Interest on Investments				-	48	(48)	0%
Transfer from General Fund	85,357	160,999	7,783	254,139	48,012	206,127	0%
Revenues:	85,357	160,999	7,783	254,139	48,012	206,127	19%

Expenditures:

4900 Vehicle Replacement Capital	85,357	160,999	7,783	254,139	-	254,139	0%
Expenditures:	85,357	160,999	7,783	254,139	-	254,139	0%

Fund 301 Street Improvement

Revenue:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Interest on Investments				-	(11)	11	0%
State Grants				-	-	-	0%
Federal Grants				-	-	-	0%
Interest on Investments		120,000		120,000		120,000	0%
Approp. From Fund Balance	12,000	641,000		653,000		653,000	0%
Transfer from General Fund	950,000	1,074,000	7,000	2,031,000	950,000	1,081,000	47%
Transfer from Street Assessment				-	474	(474)	0%
Transfer from Cargo Fund			5,000	5,000		5,000	0%
Transfer from Shipyard Fund			5,000	5,000		5,000	0%
Transfer from Water Fund 550	34,000	635,032	15,000	684,032	34,000	650,032	5%
Transfer from Sewer Fund 570	34,000	45,000	20,000	99,000	34,000	65,000	34%
Revenues:	1,030,000	2,515,032	52,000	3,597,032	1,018,463	2,578,569	28%

Expenditures:

5003 Annual Sidewalk/Curb	20,000	700,032		720,032	10,492	709,540	1%
5025 Pavement Repairs	450,000	1,150,000		1,600,000	453,246	1,146,754	0%
5030 Preliminary Design of Snow Dump Storage Yard	500,000	70,000		570,000	2,818	567,182	0%
5031 Storm Drainage Repair on Shellkoff		70,000		70,000		70,000	0%
5032 Storm Drainage Repair on Simeonof		465,000		465,000		465,000	0%
5033 Pillar-Mountain Waste Material Dump Site		60,000		60,000		60,000	0%
5034 Public Works Rock for Maintenance	60,000			60,000		60,000	0%
5035 SPCC Spill Prevention		52,000		52,000		52,000	0%
Expenditures:	1,030,000	2,515,032	52,000	3,597,032	466,556	3,130,476	13%

Fund 302 Building Improvement Fund

Revenue:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Interest on Investments		1,185		1,185	336	849	28%
State Grants		6,900,000		6,900,000		6,900,000	0%
Local Funding - Pledges		750,000		750,000		750,000	0%
Local Funding Grant		500,000		500,000		500,000	0%
Other Local Funding		46,763		46,763		46,763	0%
In-Kind City Owned Land		650,000		650,000		650,000	0%
In-Kind Pre Development		85,000		85,000		85,000	0%
Transfer from General Fund	40,000	1,000,000		1,040,000	40,000	1,000,000	4%
Transfer from New Library Fund 255		5,424		5,424		5,424	0%
Transfer from General Cap Proj Fund		70,000		70,000		70,000	0%
Transfer from Enhancement Fund		2,510,000		2,510,000		2,510,000	0%
Approp. From Fund Balance				-		-	0%
Revenues:	40,000	12,448,372	70,000	12,558,372	40,336	12,518,036	0%

6012 New Library	40,000	12,448,372	70,000	12,448,372	43,072	12,405,300	0%
6015 New Fire Station				110,000		110,000	0%
Expenditures:	40,000	12,448,372	70,000	12,558,372	43,072	12,515,300	0%

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Fund 305 Water Capital							
Revenues:							
Interest on Investments	5,451,244	8,774,163	-	14,225,407	1,691,330	1,978	12%
State Grants		768,000		768,000		(1,978)	0%
Federal Grants		649,140		649,140		768,000	0%
Approp. From Fund Balance	101,106	7,284,890		7,386,000		750,246	0%
ADEC Drinking Loans						7,284,890	0%
Water Sales Fee						(219,694)	5%
Transfer from Water Fund 550	206,212	4,161,500	60,000	4,427,712	206,212	4,221,500	0%
ADEC Clean Water Loans						341,930	0%
Transfer from Sewer Fund 570	206,212	2,241,500		2,447,712	206,212	2,241,500	8%
Transfer from Street Improvement Fund		78,000		78,000		78,000	0%
Revenues:	5,964,774	24,299,123	60,000	30,323,897	2,325,426	27,998,471	8%
Expenditures:							
7021 Phase II Downtown Comprehensive Water, Sewer, & Storm Drain		850,000		850,000	41,461	808,539	0%
7023 UV Water Treatment Facility Construction		6,799,589	60,000	6,859,589	10,246	6,849,343	0%
7024 Utility Rate Study	48,000	48,000		96,000	332	95,668	0%
7026 Aleutian Homes Water & Sewer Replacement Proj Phase V	2,955,792	7,046,000		10,001,792	1,981,440	8,020,352	0%
7029 Monashka Pump House Feasibility Study	2,495,452	9,035,534		11,530,986	1,501,446	10,029,540	0%
7030 Replace Chlorine Solution Storage Tank WWTP		120,000		120,000	3,521	116,479	0%
7031 Monashka Watershed Survey		250,000		250,000	350	249,650	0%
7033 Pillar Creek Dam Spillway Repair Work		100,000		100,000		100,000	0%
7036 Annual Electric Maintenance		50,000		50,000		50,000	0%
7037 Aleutian Homes Water & Sewer Replacement Project, Phase VI	465,530			465,530	69,073	396,457	0%
Expenditures:	5,964,774	24,299,123	60,000	30,323,897	3,607,869	26,716,028	12%
Fund 306 Sewer Capital Fund							
Revenues:							
Interest on Investments		26,000		26,000	1,747	24,253	7%
Charges for Sewer Sales (10%)		1,610,000		1,610,000		1,610,000	0%
Approp. From Fund Balance							0%
Alaska Clean Water Loan							0%
Sewer Sales Fee							0%
Transfer from Sewer fund 570		3,000,000		3,000,000	186,210	(186,210)	0%
Transfer from Water fund 550		1,200,000		1,200,000		3,000,000	0%
Transfer from Street Improvement Fund 301		15,000		15,000		1,200,000	0%
Revenues:	-	5,851,000	-	5,851,000	187,957	5,663,043	3%
Expenditures:							
7508 Lift Station Electric (5)		26,000		26,000		26,000	0%
7509 Upgrade Lift Station #1	900,000	150,000		1,050,000		1,050,000	0%
7512 Aeration Basin Air Control System		150,000		150,000		150,000	0%
7513 Inflow & Infiltration Repair materials		25,000		25,000		25,000	0%
7514 Rehabilitate Press pump Station		400,000		400,000		400,000	0%
7516 Replace Lift Station #1 & #2	(900,000)	900,000					0%
7517 Bio Solid Management Project		4,200,000		4,200,000		4,200,000	0%
7599 Transfer							
Expenditures:	-	5,851,000	-	5,851,000	-	5,851,000	0%

Fund 307 Cargo Development Fund

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Revenues:							
State Grants		20,784,000		20,784,000	11,200,920	9,583,080	54%
State Bond Issue		15,000,000		15,000,000		15,000,000	0%
Transfer from General Fund		100,000		100,000		100,000	0%
Approp. From Fund Balance		1,159,700		1,159,700		1,159,700	0%
Revenues:	-	37,043,700	-	37,043,700	11,200,920	25,842,780	30%
Expenditures:							
8016 Pedestrian Access from Pier II		2,400,000		2,400,000		2,400,000	0%
8017 Inspection Pier II and Inner Harbor Docks		85,700		85,700		85,700	0%
8018 Security Improvements		50,000		50,000		50,000	0%
8019 Oscar's Dock Electric		150,000		150,000		150,000	0%
8020 Decking for Dock I		100,000		100,000		100,000	0%
8021 Zinc Replacement		50,000		50,000		50,000	0%
8022 Data Weather Station		12,000		12,000		12,000	0%
8023 Pedestrian Pathway		384,000		384,000		384,000	0%
8024 Pier III Replacement		33,812,000		33,812,000		33,812,000	0%
Expenditures:	-	37,043,700	-	37,043,700	-	37,043,700	0%

Fund 308 Harbor Development

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Revenues:							
Interest on Investments					227	(227)	0%
Slate Grant	1,500,000			1,500,000		1,500,000	0%
Approp. From Fund Balance		905,000		905,000		905,000	0%
Transfer from General Fund	500,000	280,000		780,000	500,000	280,000	64%
Transfer from Boat Harbor	1,000,000			1,000,000	1,000,000	-	100%
Revenues:	3,000,000	1,185,000	-	4,185,000	1,500,000	2,685,000	36%
Expenditures:							
8516 Float, Boat Launch, SPH		150,000		150,000		150,000	0%
8517 Restrooms, Fisherman's Hall		200,000		200,000		200,000	0%
8519 SPH Ladders		20,000		20,000		20,000	0%
8520 SHH Repairs		745,000		745,000		745,000	0%
8521 Channel Transient Float/ Bull Rails		25,000		25,000		25,000	0%
8523 Oscar's Dock Fender Piling Replacement		45,000		45,000		45,000	0%
8525 Channel Transient Float Replacement	3,000,000			3,000,000		3,000,000	0%
Expenditures:	3,000,000	1,185,000	-	4,185,000	-	4,185,000	0%

Fund 309 Parks & Rec Capital

Revenue:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Interest on Investments					155	(155)	0%
Slate Grants		5,850,000		5,850,000		5,850,000	0%
Local Grants		500,000		500,000		500,000	0%
Approp. From Fund Balance	60,000	320,629		380,629		380,629	0%
Transfer from Enhancement Fund		500,000		500,000		500,000	0%
Transfer from General Fund	50,000	251,465		301,465	50,000	251,465	17%
Revenues:	110,000	7,422,094	-	7,532,094	50,155	7,481,939	1%

Expenditures:

9001 Baranof Park Improvements (E&D)		7,015,000		7,015,000	131	7,014,869	0%
9004 Playground Equipment & Improve		73,000		73,000		73,000	0%
9007 Storage Building - Baranof Park		115,000		115,000	5,130	109,870	4%
9012 Baranof Baseball Field Improvements		48,094		48,094		48,094	0%
9013 Major Park Maintenance		121,000		121,000		121,000	0%
9014 Building Improvement (Weatherization)		50,000		50,000		50,000	0%
9015 Skate Park Improvements	110,000			110,000	1,661	108,339	2%

Expenditures:

110,000	7,422,094	-	7,532,094	6,922	7,525,172	0%
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Fund 500 Cargo Terminal

Revenue:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
PERS Relief	30,684			30,684		30,684	0%
Dockage Pier III	130,000			130,000	52,909	77,091	41%
Cruise Ship Revenues	70,000			70,000	47,507	22,493	68%
Pier III Lease	300,000			300,000	151,889	148,111	51%
Wharf	475,000			475,000	250,787	224,213	53%
Interest on Investments	7,000			7,000	2,709	4,291	39%
Warehouse Rental	205,000		(2,580)	202,420	101,187	101,233	50%
Van Storage Rental	12,000			12,000	12,268	(268)	102%
Approp. From Retained Earnings	(125,383)		22,580	(102,803)		(102,803)	0%
Revenues:	1,104,301	-	20,000	1,124,301	619,256	505,045	55%

Expenditures:

Cargo Terminal Administration	379,113		15,000	394,113	192,166	201,947	49%
Cargo Terminal Interfund Charges	93,298			93,298	93,298	-	100%
Cargo Terminal Warehouse	127,000			127,000	6,920	120,080	5%
Cargo Terminal Pier II	485,890			485,890	228,295	257,595	47%
Cargo Terminal Pier III	19,000			19,000	1,389	17,611	7%
Transfer	-		5,000	5,000		5,000	0%
Expenditures:	1,104,301	-	20,000	1,124,301	522,068	602,233	46%

Fund 510 Boat Harbor Fund

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Revenue:							
PERS Relief	145,647			145,647		145,647	0%
Dockage AMHS	65,000			65,000	36,386	28,614	56%
Exclusive Moorage	1,240,000			1,240,000	1,201,418	38,582	97%
Transient Moorage	525,000			525,000	349,055	175,945	66%
Harbormaster Service	10,000			10,000	3,250	6,750	33%
Gridiron Fees	15,000			15,000	6,736	8,264	45%
Pier/Dock Fees	175,000			175,000	118,400	56,600	68%
Used Oil Fees	10,000			10,000	7,016	2,984	70%
Waiting List Fees	3,000			3,000	1,500	1,500	50%
Trailer Parking Fees	35,000			35,000	14,382	20,618	41%
Bulk Oil Sales/Charges	20,000			20,000	31,810	(11,810)	159%
Gear Storage	45,000			45,000	39,903	5,097	89%
Parking Meters	10,000			10,000	2,983	7,017	30%
Launch Ramp Fees	19,000			19,000	5,122	13,878	27%
Interest on Investments	14,000			14,000	6,089	7,911	43%
Office Rent AMHS	16,500			16,500	6,569	9,931	40%
Other Revenues	7,300			7,300	19,040	(11,740)	261%
Harbor Services to Cargo	71,290			71,290	57,032	14,258	80%
Harbor Services to Electric					14,258	(14,258)	
Approp from Retained Earnings Transfer	2,166,095			2,166,095		2,166,095	0%
Revenues:	4,592,832	-	-	4,592,832	1,920,948	2,671,884	42%

Expenditures:
Boat Harbor Administration
Boat Harbor Interfund
Transfer to Harbor Capital
Expenditures:

	3,402,535			3,402,535	1,524,000	1,878,535	45%
	190,297			190,297	190,297	-	100%
	1,000,000			1,000,000	1,000,000	-	
Expenditures:	4,592,832	-	-	4,592,832	2,714,297	1,878,535	59%

Fund 512 Shipyard

	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Revenue:							
PERS Relief	21,625			21,625		21,625	0%
Customer Fees	693,000			693,000	217,697	475,303	31%
Interest on Investments	1,000			1,000	40	960	4%
Other Revenue	2,000			2,000	1,143	857	57%
Approp from Retained Earnings Transfer	534,478		5,000	539,478		539,478	0%
Revenues:	1,252,103	-	5,000	1,257,103	218,880	1,038,223	17%
Expenditures:							
Yard Administration	1,167,259			1,167,259	508,610	658,649	44%
Boat Yard Interfund	84,844			84,844	84,844	-	100%
Transfer	-	5,000		5,000		5,000	0%
Expenditures:	1,252,103	-	5,000	1,257,103	593,454	663,649	47%

Fund 515 Harbor Electrical

Revenues:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Non-Meter Charge	15,000			15,000	7,560	7,440	50%
Customer Charge recurring	115,000			115,000	45,645	69,355	40%
Connect/Disconnect fee	7,000			7,000	4,040	2,960	58%
Energy Charge	530,000			530,000	127,655	402,345	24%
Record Fee	1,000			1,000	150	850	15%
HM Service	5,000			5,000	1,629	3,371	33%
Interest on Investments	1,000			1,000	317	683	32%
Approp from Retained Earnings Transfer	(67,336)			(67,336)		(67,336)	0%
Revenues:	606,664	-	-	606,664	186,996	419,668	31%

Fund 550 Water Utility

Expenditures:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Electric Utility Administration	563,059			563,059	162,197	400,862	29%
Electric Utility Interfund	43,605			43,605	43,605	-	100%
Expenditures:	606,664	-	-	606,664	205,802	400,862	34%

Fund 550 Water Utility

Revenues:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
PERS Relief	77,729			77,729		77,729	0%
Water Sales Metered	1,681,344			1,681,344	969,231	712,113	58%
Water Sales City	1,378,823			1,378,823	731,108	647,715	53%
Water Sales Borough	896,518			896,518	496,602	399,916	55%
Water Service Connections	12,796			12,796	11,665	1,131	91%
Interest on Investments	10,000			10,000	2,092	7,908	21%
Other Revenues	24,500			24,500	16,819	7,681	69%
Approp From Retained Earnings	(1,099,042)		75,926	(1,023,116)	-	(1,023,116)	0%
Revenues:	2,982,668	-	75,926	3,058,594	2,227,517	831,077	73%

Fund 570 Sewer Utility

Expenditures:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Water Utility Transfers	240,212			240,212	240,212	-	100%
Water Utility	2,460,764		926	2,461,690	1,211,809	1,249,881	49%
Water Treatment Plant	281,692			281,692	166,256	115,436	59%
Transfer	-		75,000	75,000		75,000	0%
Expenditures:	2,982,668	-	75,926	3,058,594	1,618,277	1,440,317	53%

Fund 570 Sewer Utility

Revenues:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
PERS Relief	127,163			127,163	127,163		0%
Sewer Service Charges - City	2,229,260		111,463	2,340,723	1,195,629	1,145,094	51%
Sewer Service Charges - Outside	1,157,630		57,882	1,215,512	666,474	549,038	55%
Sewer Connections	6,300			6,300	2,906	3,394	46%
Septic Truck Discharge	42,800			42,800	26,169	16,631	61%
Lab Testing Fee	25,000			25,000	11,100	13,900	44%
Interest on Investments	10,000			10,000	10,000		0%
Other Revenues					734	(734)	
Approp From Retained Earnings	763,819		(32,320)	731,499		731,499	0%
Revenues:	4,361,972	-	137,025	4,498,997	1,903,012	2,595,985	42%

Fund 570 Sewer Utility

Expenditures:	Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
Sewer Utility Transfers	240,212			240,212	240,212	-	100%
Sewer Utility	704,348			704,348	372,703	331,645	53%
Wastewater Treatment Plant	3,417,412		137,025	3,554,437	1,679,476	1,874,961	47%
Transfer	-		20,000	20,000		20,000	0%
Expenditures:	4,361,972	-	137,025	4,498,997	2,292,391	2,206,606	51%

CITY OF KODIAK
FY 2015 Supplemental

Attachment B

Fund 580 Trident Basin

Revenues:
Trident Basin - Charges
Interest on Investments
Rentals from Others
Approp From Retained Earnings
Transfer from Trident Basin Capital Fund
Revenues:

Adopted Budget 2015	Capital Project Rollover 2014	Supplemental #1 2015	Total Budget 2015	Revenues & Expenses As of 12/31/14	Difference	%
11,600	-	-	11,600	13,309	(1,709)	115%
1,000	-	-	1,000	1,000	0	0%
33,300	-	-	33,300	19,123	14,177	57%
288,372	-	-	288,372	288,372	0	0%
334,272	-	-	334,272	32,431	301,841	10%

Expenditures:

334,272	-	-	334,272	17,547	316,725	5%
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Fund 585 E-911 Services

Revenues:
PERS Relief
Customer Charges
Interest on Investments
Approp From Retained Earnings
Revenues:

1,864	-	-	1,864	-	1,864	0%
76,598	(40,000)	-	36,598	76,598	(40,000)	209%
-	-	-	-	(4)	4	-
78,462	(40,000)	-	38,462	76,594	(38,132)	199%
78,462	-	(40,000)	38,462	3,792	34,670	10%

Expenditures:

78,462	-	-	78,462	3,792	34,670	10%
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Fund 780 Self-Insurance

Revenue:
Interest on Investments
Insurance Refund/Reserve
Charges to General Fund
Charges to Trident Basin
Charges to Cargo Terminal
Charges to Boat Harbor
Charges to Boat Yard
Charges to Boat Electric
Charges to Water Utility
Charges to Sewer Utility
Charges to E-911
Transfer In
Approp Fund
Revenues:

1,000	-	-	1,000	-	1,000	0%
40,000	-	-	40,000	-	40,000	0%
320,494	-	-	320,494	-	320,494	0%
11,731	-	-	11,731	-	11,731	0%
27,832	-	-	27,832	-	27,832	0%
101,657	-	-	101,657	-	101,657	0%
22,084	-	-	22,084	-	22,084	0%
149	-	-	149	-	149	0%
53,962	-	-	53,962	-	53,962	0%
57,281	-	-	57,281	-	57,281	0%
110	-	-	110	-	110	0%
636,300	-	-	636,300	-	636,300	0%

Expenditures:

636,300	-	-	636,300	636,300	-	0%
636,300	-	-	636,300	636,300	-	0%

Totals

Non Capital Projects Revenue
Non Capital projects Expenses

35,959,966	-	326,498	36,226,414	14,834,640	21,391,774	41%
35,959,966	-	326,498	36,226,414	16,853,122	19,373,292	47%
-	-	-	-	(2,018,482)	2,018,482	-

Capital Projects Revenue
Capital Projects Expenses

10,506,815	95,266,153	571,255	106,344,223	16,570,557	89,773,666	16%
10,506,815	95,266,153	571,255	106,344,223	4,208,404	102,135,819	4%
-	-	-	-	12,362,153	(12,362,153)	-

Total Revenues
Total Expenses

46,466,781	95,266,153	897,753	142,630,687	31,405,197	111,165,440	22%
46,466,781	95,266,153	897,753	142,630,687	21,061,526	121,509,111	15%
-	-	-	-	10,343,671	(10,343,671)	-

Total Non-Capital Projects for FY
Total Capital Projects for FY

35,959,966	-	326,498	36,286,464	-	-	-
10,506,815	-	571,255	11,078,070	-	-	-
\$ 46,466,781	\$ -	\$ 897,753	\$ 47,364,534	\$ -	\$ -	\$ -

	Detail Description	Account Number	Total Debit Adjustment	Total Credit Adjustment
100	General Fund			
	Building Permits	100.001.320.300		12,000
	Federal Grant EMPG	100.001.330.325		15,000
	Ambulance Services	100.001.340.300		55,000
	Police Forfeits	100.001.350.110		10,334
	Vehicle Replacement Gen Fund	100.001.380.400		7,783
	Use of Fund Balance	100.001.385.100		36,213
100.100.105	Legislative - Legislative			
	Community Promotions	100.100.105.440.110	5,000	
100.110.100	Executive - Administration			
	Mach&Equip Less \$5000	100.110.100.470.125	6,000	
100.120.100	City Clerks - Administration			
	Mach&Equip Less \$5000	100.120.100.470.125	5,000	
100.130.100	Finance-Administration			
	Salaries & Wages	100.130.100.410.100		77,521
	Health Insurance	100.130.100.420.110		24,089
	Social Security	100.130.100.420.130		5,930
	Retirement	100.130.100.420.130		17,055
	PERS On-Behalf	100.130.100.420.131		17,078
	Workers Comp	100.130.100.420.200		364
	Professional Services	100.130.100.430.110	137,037	
	Advertising	100.130.100.450.120	5,000	
100.130.135	Finance - Information Systems			
	Mach&Equip Less \$5000	100.130.135.470.125	1,500	
100.140.141	Uniformed Patrol			
	Overtime	100.140.141.410.140	20,000	
	Supplies	100.140.141.450.310	6,000	
100.140.145	Police - Animal Control			
	Vehicle Replacement 100	100.140.145.470.130	2,551	
100.140.146	Police - Drug Enforcement			
	Training & Travel	100.140.146.450.135	4,324	
100.140.149	School Resource			
	Overtime	10.140.149.410.140	7,300	
100.150.100	Fire			
	Professional Services	100.150.100.430.110	22,000	
100.160.162	Public Works - Streets			
	Mach&Equip Greater \$5000	100.160.162.470.126	10,000	
	Vehicle Replacement 100	100.160.162.470.130	5,232	
100.160.164	Public Works - Building			
	Professional Services	100.160.164.430.110	12,000	
100.190.198	Transfers			
	Transfer to Enhancement Fund 299	100.190.198.490.299	14,640	
	Transfer to Street Cap Project	100.190.198.490.301	7,000	
	Transfer to Vehicle Replacement	100.190.198.490.315	7,783	
299	Enhancement Fund			
	Use of Fund Balance	299.001.385.100	14,640	
	Transfer from General Fund	299.001.390.100		14,640

Detail Description			Account Number		Total Debit Adjustment	Total Credit Adjustment
300	General Capital Project Fund					
	State Grant	4029	300.001.330.300	4029.2		381,472
	Transfer to Building Fund	4035	300.300.198.490.302	4098.6	110,000	
300.300.429	E-911 Upgrade	4029	300.300.429.470.126	4029.53	381,472	
300.300.435	Construction	4035	300.300.435.470.726	4035.55		110,000
301	Street Improvement Fund					
	General Fund Transfer	5035	302.001.390.100	5035.6		7,000
	Cargo Fund Transfer	5035	302.001.390.500	5035.10		5,000
	Shipyards Fund Transfer	5035	302.001.390.512	5035.18		5,000
	Water Fund Transfer	5035	302.001.390.550	5035.12		15,000
	Sewer Fund Transfer	5035	302.001.390.570	5035.13		20,000
301.320.535	Professional Services	5035	301.320.535.430.110	5035.51	52,000	
302	Building Improvement Fund					
	General Capital Proj Transfer	6015	302.001.390.301	6015.6		70,000
302.330.615	Engineering and Design	6015	302.330.615.470.710	6015.54	70,000	
305	Water Capital Fund					
	Water Fund Transfer	7023	305.001.390.550			60,000
304.340.723	Professional Services	7023	305.340.723.430.110	7023.51	60,000	
315	Vehicle Replacement Fund					
	General Fund Transfer	4900	315.001.390.100	4900.14		2,551
	General Fund Transfer	4900	315.001.390.100	4900.16		5,232
315.315.490	Vehicle Purchase Police	4900	315.315.490.470.130	4900.14	2,551	
315.315.490	Vehicle Purchase Public Works	4900	315.315.490.470.130	4900.16	5,232	
	Cargo Fund					
500	Warehouse Rental		500.001.363.310		2,580	
	Use of Fund Balance		500.001.385.100			22,580
	Professional Services		500.510.100.430.110		15,000	
	Transfer to Street Fund		500.510.198.490.301		5,000	
512	Kodiak Shipyards					
	Use of Fund Balance		512.001.385.100			5,000
	Transfer to Street Fund		512.530.198.490.301		5,000	
550	Water Fund					
	Use of Fund Balance		550.001.385.100			75,926
	Vehicle Replacement 100		550.560.360.470.135		926	
	Transfer to Street Fund		550.560.198.490.301		15,000	
	Transfer to Water Capital		550.560.198.490.305		60,000	
570	Sewer Fund					
	Sewer Service Chg-City		570.001.340.851			111,463
	Sewer Service Chg-Boro		570.001.340.852			57,882
	Biosolid Disposal		570.580.385.455.135		137,025	
	Use of Fund Balance		570.001.385.100		12,320	
	Transfer to Street Fund		570.580.198.490.301		20,000	
585	E-911 Fund					
	KIB E911		585.001.340.230		40,000	
	Professional Services		585.595.100.430.110			20,000
	Telephone		585.595.100.450.115			20,000
					1,287,113	1,287,113

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager
Debra Marlar, City Clerk *DM*

Date: January 22, 2015

Agenda Item: V. b. **Resolution No. 2015–02, Rescinding Resolution No. 2013–03 and Adopting a Revised Travel Policy for the Mayor and Councilmembers**

SUMMARY: The Council adopted a travel policy in September 2011, which established policies and procedures for requesting, approving, and reporting on travel for the Mayor and Councilmembers. The Council reviewed the policy at its October 21, 2014, and January 6, 2015, work sessions and requested revisions. The revisions will allow the Deputy Mayor, instead of the Mayor, to authorize more than three Councilmembers to travel to the same event. The policy revision will also permit the Deputy Mayor to authorize unbudgeted Council travel, if necessary.

PREVIOUS COUNCIL ACTION:

- September 2011, adopted Resolution No. 2011–30, which established a travel policy for the Mayor and Council
- February 2013, adopted Resolution No. 2013–03, which revised the travel policy
- October 2014 and January 2015, discussed changes to the policy to allow the Deputy Mayor to authorize Council travel in some situations

DISCUSSION: The Council established a travel policy for the Mayor and Council in 2011. The policy includes a code of conduct, travel criteria, travel procedures, reporting, and exceptions to the policy, if needed. The policy was amended in 2013. The Council reviewed its travel policy October 21, 2014, and January 6, 2015, and directed additional amendments to shift authority to the Deputy Mayor to approve travel for more than three Councilmembers to the same event and authorize the Deputy Mayor to authorize unbudgeted Council travel, if necessary.

ALTERNATIVES:

- 1) Adopt Resolution No. 2015–02, which is recommended, because it reflects the Council’s direction at previous work sessions.
- 2) Further amend Resolution No. 2015–02, if desired.
- 3) Do not adopt Resolution No. 2015–02. This is not recommended, because it is contrary to the Council’s direction.

FINANCIAL IMPLICATIONS: Based on the Council’s travel history, the overall travel budget should remain consistent with previous years.

CITY CLERK’S COMMENTS: The City Clerk revised the Mayor and Council Travel Policy as directed by the Council.

CITY MANAGER’S COMMENTS: I support the fact that the Mayor and Council use their policy and review it on a regular basis. Therefore, I support the proposed changes outlined in the resolution.

ATTACHMENTS:

Attachment A: Resolution No. 2015–02 and revised travel policy

Attachment B: Resolution No. 2013–03

PROPOSED MOTION:

Move to adopt Resolution No. 2015–02.

**CITY OF KODIAK
RESOLUTION NUMBER 2015-02**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK RESCINDING RESOLUTION NO. 2013-03 AND ADOPTING A REVISED TRAVEL POLICY FOR THE MAYOR AND COUNCIL

WHEREAS, the City Council adopted Resolution No. 2013-03 in February 2013, which amended the policies and procedures for requesting and approving travel for the Mayor and Councilmembers; and

WHEREAS, at the October 21, 2014, and January 6, 2015, work sessions, the Council reviewed and directed revisions to the travel policy; and

WHEREAS, the travel policy identifies the purpose, policy, code of conduct, and procedures related to Mayor and Councilmember travel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that Resolution No. 2013-03 is rescinded and the revised travel policy for the Mayor and Council that is dated January 22, 2015, which is attached and incorporated by reference, is hereby adopted.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

City of Kodiak Mayor and Council Travel Policy

POLICY: Mayor and City Council Travel Policy

PURPOSE: To establish policies and procedures for requesting and approving travel for the Mayor and Councilmembers.

STATEMENT OF POLICY: It is the policy of the City of Kodiak that Mayor and Councilmember travel for official City business outside the City of Kodiak be conducted during reasonable hours in the most direct and economic means necessary to accomplish City business.

CODE OF CONDUCT: While traveling on City business, elected/appointed officials are expected to attend all scheduled events and meetings. Officials shall not conduct personal business or lobby on behalf of an employer, agency, or organization from which the official derives non-City financial benefit. Councilmembers shall attend scheduled meetings with state and federal elected officials and/or staff as a group and shall not represent the City or seek meetings as a single entity, unless directed by the Council as a whole.

Failure to follow the established policy and code of conduct may, at the discretion of the City Council, result in the City's refusal to pay or reimburse travel expenses.

Travel Criteria

Travel shall only be approved when the following criteria are met:

- The travel expense has been budgeted.
- Not more than three Councilmembers shall travel to the same meeting or conference, unless approved by the [Deputy](#) Mayor.
- The Mayor or any Councilmember who travels outside the City at City expense will be required to submit at the next regular Council meeting, either orally or in writing, a report of their activities and their opinion of the benefit to the City.
- Travel will support state or federal efforts that are beneficial to the City of Kodiak, or travel is for specific training or attendance at a national or state board/committee meeting or conference as a municipal representative, and the exchange of information could reasonably be expected to result in a benefit to the City of Kodiak or its residents.

PROCEDURES:

1. The Clerk shall prepare an annual travel calendar to be reviewed during the annual budget presentation. The purpose of the calendar will be to estimate Mayor and Council travel expenses for the upcoming year. The Council shall endorse or

amend the travel calendar and related expenses, which will be included in the budget.

2. At a Council work session prior to an upcoming travel event, the Council will discuss the travel event, voice a consensus identifying the officials to travel, and direct staff to arrange for travel. Staff is authorized to add elected official travel to work session agendas as needed.
3. The Clerk's Office shall arrange approved travel. Receipts must be provided to the City Clerk within fifteen days following travel. The City will prepay airline tickets and registration fees. Hotel rooms will be guaranteed with a City credit card or purchase order. Officials may use their individual City credit card to pay hotel room costs or may use their private credit card and will be reimbursed by the City upon producing receipts to the City Clerk within fifteen days following the travel. City credit cards shall be returned to the Clerk's Office within fifteen days following travel. Any charges to the hotel bill that include food, phone calls, movies, or any other expense not related to City business shall be reimbursed to the City within fifteen days following travel. Officials shall use free hotel shuttles when available. If free shuttle service is unavailable, officials may use their City credit card to pay for taxi expenses to and from the airport or may pay the expense and produce receipts for reimbursement. Rental cars are not authorized unless the event is a significant distance from the airport and other transportation is unavailable. The City shall not pay taxi expenses to shopping areas, tourist attractions or similar events, or to restaurants unrelated to the travel event, unless there is no restaurant close to the approved event or hotel.
4. Any travel upgrades and/or deviations from direct routing shall be paid by the official traveling. All change fees or additional costs incurred as a result of altering airline reservations for personal reasons, excluding unanticipated illness or unanticipated changes to an elected official's work schedule, are the responsibility of the Mayor or Councilmember for which the travel applies. The Clerk shall be consulted prior to any unanticipated travel changes being made.
5. Per diem for elected/appointed officials will be the same rate as city employees receive. (KCC 2.08.037). Per diem rates are authorized via separate resolution of the Council.

EXCEPTIONS: Every effort will be made by the Mayor and Council to follow the policy and procedures. If unanticipated Council travel becomes necessary that is not budgeted and the procedures outlined above cannot be followed, the Deputy Mayor may authorize Council travel and shall instruct the Clerk to notify the Mayor, Council and Manager of the authorized travel. ~~In the event the Mayor is out of town or is otherwise unavailable, the Deputy Mayor will follow this procedure.~~

**CITY OF KODIAK
RESOLUTION NUMBER 2013-03**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK RESCINDING RESOLUTION NO. 2011-30 AND ADOPTING A REVISED TRAVEL POLICY FOR THE MAYOR AND COUNCIL

WHEREAS, the City Council adopted Resolution No. 2011-30 in September 2011, which established policies and procedures for requesting and approving travel for the Mayor and Councilmembers; and

WHEREAS, at the January 19, 2013, planning work session the Council directed revisions to the travel policy; and

WHEREAS, the travel policy identifies the purpose, policy, code of conduct, and procedures related to Mayor and Councilmember travel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that Resolution No. 2011-30 is rescinded and the revised travel policy for the Mayor and Council that is dated February 28, 2013, which is attached and incorporated by reference, is hereby adopted.

CITY OF KODIAK

Pat Manson
MAYOR

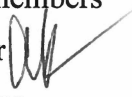
ATTEST:

Delna Martin
CITY CLERK

Adopted: February 28, 2013



MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniaziowski, City Manager 
Thru: Mark Kozak, Public Works Director
Date: January 22, 2015

Agenda Item: V. c. Authorization to Purchase Street Sweeper

SUMMARY: Council approved funding to replace the City's 1999 Elgin Geo-Vac street sweeper in the FY2015 Public Works budget. Staff requested information from Yukon Equipment, the Elgin Sweeper distributor in the State of Alaska, for the purpose of putting together bid specifications for a sweeper similar to the Elgin Whirlwind Sweeper. The bid was publicly advertised beginning on November 19, 2014, and bids were opened on December 23, 2014. Staff recommends Council authorize the bid award to Yukon Equipment for an Elgin Whirlwind Sweeper (Attachment A) in an amount not to exceed \$289,220.

PREVIOUS COUNCIL ACTION: Funds were approved in Public Works' FY2015 budget for the purchase of a replacement street sweeper. At the January 20 Council work session, staff discussed the recommended replacement of the sweeper and bid results.

DISCUSSION: The street sweeper is a critical piece of equipment in order to keep the community cleaned up. The sweeper broke down for an extended period of time when the crank shaft broke in the auxiliary engine in the spring of 2014. This significantly affected getting the community cleaned up in a timely manner from winter.

The City has gotten good service life out of its Elgin Sweepers. The Elgin Pelican sweeper was replaced in 1999 with the current Elgin Geo-vac sweeper. These sweepers have proven to be reliable and cost effective machines to own and operate.

The City's vehicle replacement policy is based on 12 years of service for a street sweeper. Staff has been doing annual evaluations since the sweeper's replacement date and managed to get an additional three years of service out of the sweeper. The condition assessment of the sweeper is showing major wear on all the sweeper components. The debris tank has been repaired in several places, both from abrasion and rust through. The truck chassis shows wear, but it was evaluated to replace the sweeper using the same chassis two years ago. Based on the condition of the chassis, staff did not feel it was usable for more than two to three years of additional service.

Staff modified the sweeper specifications from previous sweeper bids. The primary change was going with a stainless steel hopper. The City's other sweeper hoppers rusted through from abrasion and corrosion. Other changes were bid as options. One option was a catch basin vacuum tube, which will provide additional use of the sweeper when not needed for sweeping, so the crews can clean out catch basin inlets. The other options were the safety lighting systems on the back – a flashing light system to draw attention to the sweeper and a directional arrow board to again improve safety to help vehicles go around the sweeper.

The age and condition of the existing sweeper is such that maintenance costs have increased dramatically over the last few years. Since May 2010 we have spent \$38,000 on maintenance parts alone. The shop evaluation shows this piece of equipment is well past its dependable service and is now costing a significant amount of funds to operate it 400 hours per year of average use.

ALTERNATIVES: The following are Council alternatives:

- 1) Authorize the bid award to Yukon to replace the existing Elgin Geo-Vac with a new Elgin Whirlwind sweeper, including all three options listed in the bid, which is staff's recommendation.
- 2) Do not award the bid and direct staff to continue to look for other bids for a sweeper within the state and attach to a state bid. Staff does not recommend this option, because they investigated this option before putting the bid specifications together and did not find any options available, and the City must have a serviceable sweeper by spring.

FINANCIAL IMPLICATIONS: The FY2015 budget contains \$280,000 for the replacement of the Sweeper. Additional funds will be transferred from another line item in the Street equipment account to cover the full cost of the sweeper and options. Because this is a general fund piece of equipment, it is part of the vehicle replacement fund and will have a lasting impact on the Public Works budget. Finance Department estimated the annual fee to the replacement fund for this machine based on a \$280,000 purchase price at \$27,871.24 annually.

LEGAL: Staff followed the City's purchasing code requirements for this bid. The City also must maintain a fleet of specialty rolling stock that is safe for employees to operate and that does not pose an undue risk to the public.

STAFF RECOMMENDATION: Staff recommends Council authorize the purchase of an Elgin Whirlwind street sweeper to Yukon Equipment with funds coming from the Street Department Machinery and Equipment line in an amount not to exceed \$289,220.

CITY MANAGER'S COMMENTS: This is a needed piece of equipment to ensure streets are maintained. The existing street sweeper is 16 years old and is in poor condition. Staff did a good job of

researching options and bid specifications and I support their recommendation. I recommend Council authorize this bid, including the options as identified by Public Works.

ATTACHMENTS:

Attachment A: Sweeper Equipment Nomination Form Dated 4-14

Attachment B: Yukon Equipment Bid Packet

PROPOSED MOTION:

Move to authorize the bid award for an Elgin Whirlwind street sweeper to Yukon Equipment with funds coming from the General Fund, Public Works, Street Department Machinery and Equipment line item in an amount not to exceed \$289,220.

CITY OF KODIAK
FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM
VEHICLE / EQUIPMENT REPLACEMENT NOMINATION

Attachment A

1 of 2 pages

Costs are estimated at (check one)

Less than \$10,000
 Greater than \$10,000

The Following Signatures are required:

Vehicle Maint. Supervisor Gerald Pherson
 Department Head: Mark Kozak
 City Manger: _____

This purchase is requested to be funded in Fiscal Year	Fiscal Year : FY 2015
Prepared by: Mark Kozak and Gerald Pherson	Date: April 11, 2014
Department: Public Works Streets	
Nomination Name: Street Sweeper	

REQUEST NEW UNIT DESCRIPTION (ATTACH PRICE QUOTES, DESCRIPTIONS, AND PHOTOS FROM THREE VENDORS)	
Unit ID Number	24
Year – Make - Model	1999, Elgin Geo-Vac
Engine Size – Fuel Type	5.9 L diesel
Current Mileage	29,672
Body Condition	Poor
License Plate No.	XXY 702
VIN or Serial Number	49H6WFAA5XHA71176

FUNCTION: WRITE A BRIEF SUMMARY OF HOW THIS UNIT HAS BEEN USED AND HOW OFTEN.

The sweeper is used heavily each spring sweeping all City streets and parking lots. Through the summer it is used randomly as needed to try and keep the streets clean and gutters clear. Over the last 15 years we average about 400 hours per year on the sweeper. Most of those come in the spring.

JUSTIFICATION: WRITE A BRIEF SUMMARY OF WHY THIS UNTI IS BEING REPLACED. INCLUDE ITEMS SUCH AS HISTORY, CONDITION ASSESSMENT, COSTS, USES, PUBLIC WORKS EVALUATION REPORT, ETC.

The City vehicle replacement policy is based on 12 years for a sweeper. We have done annual evaluations on extending this machine as long as we can. We were able to extend 3 years beyond the expected replacement schedule. However since May of 2010 we have spent over \$38,000 on maintenance parts, not including wear items such as brooms, curtains and vacuum tubes. We also had an additional \$11,000 in labor cost in the shop as well. The debris tank has been patched in several places where it has worn through from the abrasive material as well as rusted through. We overhauled the main truck engine 4 years ago and this spring had to replace the auxiliary engine which operates the sweeping systems, both vacuum and hydraulics. We evaluated the options of replacing the sweeping system on the existing chassis but we do not feel like it would be possible to extend the truck another 2 to 3 years. So this option was ruled out as not being cost effective.

**CITY OF KODIAK
 FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM
 VEHICLE / EQUIPMENT REPLACEMENT NOMINATION
 2 of 2 pages**

Proposed Dispositions of Replaced Unit as Determined by Vehicle Maintenance Division (check one):

- To General Fleet
- To Surplus Sale

REQUEST NEW UNIT DESCRIPTION (ATTACH PRICE QUOTES, DESCRIPTIONS, AND PHOTOS FROM THREE VENDORS)	
Year – Make - Model	2013 or 2014 Elgin
Engine Size – Fuel Type	Diesel
Number of Doors	2 doors and two steering systems
Seating Capacity	2
Specialty Items	Right hand side gutter brooms and stainless debris box with rear vacuum system for cleaning catch basins.
Color , Police Package, Tires, Transmission, Etc.	White with automatic transmission

REQUESTED NEW UNIT COSTS	
Basic Equipment Costs	\$293,760
Specialty Equipment Cost	\$
Shipping Costs	\$9,500
Total Costs	\$303,260

Quote Provided by Yukon Equipment for a similar sweeper that we currently have.

OPERATIONAL COSTS:

Attach a detailed spreadsheet describing the last five years' annual costs to operate this unit, including fuel consumption, maintenance materials, AND maintenance labor.

Kozak, Mark

From: Richard Kimball [richk@yukoneq.com]
Sent: Wednesday, April 16, 2014 2:19 PM
To: Kozak, Mark
Subject: FW: City of Kodiak Sweeper
Attachments: Copy of 2014 WHIRLWIND T3.xls

Hi Mark

Here is a budget price on the New 2014 Whirlwind of \$293,760.00 and frt cost are about \$9,500.00 for a total \$303,260.00. I am sure we can do less on this pricing but it will be a good budget on new. Please call with any questions.

Thanks

Rich

From: Abramowski, John
Sent: Tuesday, January 21, 2014 1:56 PM
To: 'Richard Kimball'
Subject: RE: City of Kodiak Sweeper

Richard,

I chose the cab-over chassis for budget purposes. The list price for this build (well equipped including 304 stainless steel hopper) is: \$ 293,760 that's full list (including chassis mark up). You could reduce the list price by \$25,375 by using the 2013 IH M7 chassis instead of the Autocar. Let me know if you have questions.

Thank You,
John Abramowski
Northwest Regional Manager
Elgin & Vactor Products
847-682-8918 phone
847-742-3035 fax

Let's create a cleaner world! Reduce, reuse, recycle!



Please consider the environment and do not print this email unless absolutely necessary. FS ESG encourages environmental responsibility.

From: Richard Kimball [<mailto:richk@yukoneq.com>]
Sent: Friday, January 17, 2014 1:43 PM
To: Abramowski, John
Subject: City of Kodiak Sweeper

Hi John

The City of Kodiak is budgeting for a sweeper this summer. They have an old Geovac now and would like one like it. I quoted the whirlwind last year with the stainless Body and they liked it. Can you send me a quote on a new Whirlwind with stainless tank. They normally get funding in July. So they want me to quote a new one now.

Below is some correspondence we have had. Call if you can't follow my rambling. We might have to do training again???

Thanks

Rich

Good afternoon Rich,

Lots of things at work to get in order for my absence and one is the quote for a new sweeper. Jerry will be doing the evaluation of the existing sweeper and Craig and he will prepare all the documents on our end. I just need a budget quote of a new one. Plan for stainless steel box and the other items will be pretty much like we have now. We definitely would consider a rental used purchase if one is available after the budget is approved. Since that won't be until July seems kind of unlikely you will have one at that time but perhaps something would come in later in the fall that would save us some money.

Richard "Doc" Kimball
Yukon Equipment
2020 E 3rd
Anchorage, Ak 99501
Cell 907-227-3107
Dir 907-677-5714
Off 907-277-1541
Free 800-478-1541
richk@yukoneq.com



2020 E Third Ave., Anchorage, AK 99501

City of Kodiak Equipment Evaluation

- Evaluation Date April 11, 2014
- City vehicle ID number 24
- Equipment hour meter reading and mileage 6591 hours 5540 hours aux 29672 miles
- Equipment history _____
- Equipment test drive notes slight pulling when brakes applied
- park brake seems light for vehicle
- Assess engine and transmission performance engine and transmission
- better than fair

Under equipment inspection

- Front end, draw bar, mold board and circle turn (inspect for cracks and multiple repair spots) NA
- Rear tandem and differential good
- Brake hoses, lines and cables Some cracks in hoses
- _____
- Suspension and steering components, including tie rods, drag link, ball joints, springs shackles slight movement in drag link
- _____
- Condition of frame, frame hangers and body mounts good condition
- _____
- Transmission fluid level, color, engagement level is good color is turning brown and smells burnt
- Underside of engine and engine compartment slight leakage from gaskets
- Check hydraulic cylinders/ rams (check ends for excessive wear, check to see if rams are bent, leaking) sweeper motor leaks from seal (shaft worn)

Under hood inspection

- Check all fluid levels and record good
- Check battery and charging system good
- Inspect engine for leaks, exhaust, oil, coolant exhaust leaks a little behind cab
- Inspect hoses, belts and accessories good
- _____
- Inspect electrical components and wiring good
- Check cylinder power balance or compression feels good
- _____
- Check for abnormal engine, clutch noises OK
- Inspect hydraulic pumps and drive OK

Equipment exterior

- Check for body damage/ rust Hopper patched in several areas
- Check glass—windows, windshield LH window regulator not working
- Check lights and strobes for proper operation OK

Equipment interior

- Check interior—seats, steering wheel, pedals and panels Rt seat has been repaired
- Check equipment comfort controls and accessories (heater, wipers and fans) _____
- heater fans & wipers work, AC compressor leaking
- Use all controls to check function _____
- _____

Added notes:

inside hopper rusted through
Aux engine currently out for replacement
Rh seat is blocked to hold

#24 Elgin Geovac



Patching where the hopper roof is worn and rusted through.



Inside hopper where debris have worn through



Auxiliary engine with broken crankshaft and block



LINE	Date Acquired	Quantity	Unit Cost	Total Cost
24	5/21/2010	2	88	0.45
24	7/2/2010	42	1848	4438.46
24	8/4/2010	4	176	33.9
24	9/9/2010	8	352	650
24	4/18/2011	4	176	1288.72
24	8/3/2011	4	176	0
24	1/10/2011	2	88	177.9
24	4/8/2011	7	308	1418.28
24	6/7/2011	2	88	426
24	11/18/2010	3	132	117.44
24	2/28/2010	7	308	262.27
24	3/21/2010	6.5	286	349.36
24	6/30/2010	11	484	3087.27
24	6/23/2010	3.5	154	72.73
24	1/9/2012	32	1408	6673
24	3/28/2012	1.5	66	659.13
24	4/24/2012	28	1232	5780
24	6/18/2012	7	308	148.84
24	7/6/2012	3.5	154	350.37
24	9/4/2012	2	88	25.26
24	2/20/2013	4	176	1049.34
24	4/5/2013	4	176	400.2
24	5/15/2013	3.5	154	234.81
24	5/29/2013	0	0	1114
24	6/3/2013	1.5	66	104
24	7/1/2013	2.5	110	304
24	9/3/2013	1.5	66	236.42
24	11/7/2013	4	176	221.65
24	2/25/2014	43	1892	8553.55

10912

38243

And of course this



Invitation to Bid-529

November 19, 2014

BID FORM

TO: Aimee Kniazowski, City Manager
 City of Kodiak
 710 Mill Bay Road, Room #219
 PO Box 1397
 Kodiak AK 99615

OPTIONAL ITEMS

The City of Kodiak may choose, at its sole discretion, to add any or all of the optional items to this purchase. Bidder shall state the amount to be added to the Bidder's Proposal, should each item be selected.

1. An 8 in. (203 mm) inside diameter, 9.5 ft. (2896 mm) long hydraulic wandering hose located at the rear of the machine and capable of deep cleaning catch basins shall be provided. This system is approved for the addition of (2) 4 ft. aluminum wandering hose extensions.

It shall have an 8-in diameter x 4-ft. long catch basin nozzle with water injection system for dust control.

It shall be equipped with dual push button fingertip hydraulic control on the nozzle handles to raise and lower movement of the nozzle.

It shall be equipped with a rear auxiliary engine throttle control.

The hose shall be constructed of heavy-duty rubber. Plastic hoses will not be acceptable.

ADDITIONAL COST: \$ 6,095.00 List

2. Sweeper shall be equipped with (2) Federal Signal Ultra Star US5, LED amber strobe type safety lighting, controlled in-cab, and mounted at rear of hopper for pedestrian visibility.

ADDITIONAL COST: \$ 3,090.00 List

3. Sweeper shall be equipped with (1) amber arrow board, includes in-cab electrical controller, 10 bulbs with 52 LED light in each bulb, mounted at rear of hopper for pedestrian visibility.

ADDITIONAL COST: \$ 2,555.00 List

OPTIONAL TRADE-IN

The City of Kodiak may choose, at its sole discretion, to trade in the City's street sweeper, Vin Number 49H6WFAA5XHA71176, in "AS-IS" condition at the time of bid opening. This vehicle is available for inspection at the City Garage. Bidder shall state the amount of allowance to be deducted from the Bidder's Proposal, should this option be selected. Delivery of the trade could take place once the new sweeper is delivered to Kodiak.

TRADE-IN ALLOWANCE: \$ 5,000.00

EXCEPTIONS AND DEVIATIONS

Bidder shall fully describe every variance, exception and/or deviation. Additional sheets may be used if required.

Meets all specs with 2015 Elgin Whirlwind on 2015
Auto Car Chassis.

In compliance with your Invitation to bid for Bid No. 529 dated November 19, 2014, the undersigned hereby proposes to provide the following:

Bid amount

- 1. (1) New and Unused, Six Wheel Pure Vacuum Street Sweeper with Broom Assist, less options.**

\$277,480.00

Optional: If available 2014 auto car Chasis
all other specs the same.

\$273,580.00

Invitation to Bid-529

November 19, 2014

Liability Copies of Business License and City Sales Tax Registration enclosed.

Bid price valid for 30 days.

Submitted by:

Dated: 12/19/2014


Signature

Yukon Equipment
Business Name

Sales
Title


2020 East 3rd Avenue
Address

907-277-1541
Telephone

Anchorage AK 99501
City, State, Zip

(RETURN ENTIRE COMPLETED PACKET AS PART OF YOUR BID)

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniaziowski, City Manager 
Thru: Glenn Melvin, City Engineer and Lon White, Harbormaster
Date: January 22, 2015

Agenda Item: V. d. **Authorization of Amendment No. 6 to the Professional Services Contract for Construction Administration Services for Pier III Replacement, Project No. 11-07/8024**

SUMMARY: This memo is to recommend award of Amendment No. 6 to PND Engineers Inc. for additional construction phase services associated with the Pier III Replacement, Project No. 11-07/8024. PND Engineers Inc. submitted a proposal for continued services during construction. The third party project manager and City staff recommend Council authorize Amendment No. 6 to the professional services contract to provide additional construction phase services associated with the Pier III Replacement project to PND Engineers on a Time and Expense (T & E) basis with services not to exceed \$580,000.

PREVIOUS COUNCIL ACTION:

- December 13, 2012, Council approved a professional services contract for geotechnical work
- January 24, 2013, Council approved Amendment No. 1 to professional services contract for survey and preliminary engineering
- May 23, 2013, Council approved Amendment No. 2 to professional services contract for additional geotechnical work
- June 11, 2013, the project manager and PND made a presentation to Council on the project in preparation for the design and permitting work
- June 27, 2013, Council approved Amendment No. 3 to the professional services contract for full design and permitting work
- September 13, 2013, approved no cost Amendment No. 4 to the professional services contract that did not require Council action
- December 12, 2013, Council authorized Amendment No. 5 to the professional services contract for construction phase services associated with the Pier III Replacement project
- January 20, 2015, work session Council reviewed the contract amendment and discussed it with staff and the project manager

DISCUSSION: Amendment No. 5 incorporated Construction Administration services into the PND contract on a time and materials basis. The amendment was authorized prior to the start of the contractor procurement phase, and the level of PND services required to meet the needs of the project has proven to be more significant than originally envisioned.

A two-step process was used to select the general contractor. Based on discussions with the contracting community, and in an effort to lower the total project costs, the construction completion milestone specified in the bidding documents increased six months from what was contemplated at the time of the PND proposal. This has increased the amount of time required for both the on-site PND inspectors and other general management requirements. The impact was partially mitigated by the contractor starting on-site efforts later than anticipated.

While the extended duration is a significant factor in the need for additional funding, there are a number of other elements that have also contributed to the issue. The original PND proposal was based on the on-site inspector working 6-10s. The Contractor has elected to work 12 hour shifts and has been working some seven-day work weeks, weather permitting. In addition, all the initial bids for the general construction contract came in over budget, requiring extensive value engineering and redesign. Through negotiation, these latter services were performed by PND at a reduced hourly rate.

In addition, the level of services required to help administer the general construction contract has proven to be more than anticipated. A large amount of support has been provided to the contractor to facilitate progression of the work. This has included more submittal reviews than originally anticipated, analyzing structural capacity of the old and new structures, field modifications related to construction problems, and other redesign elements.

Additionally, the contractor has raised contract interpretation issues requiring evaluation, documentation, and response. One of these items relates to roundness issues associated with owner furnished piling. In order to clearly understand the merits of the issue and document the root cause of the Contractor's installation problems, PND employed a third party subcontractor to provide roundness and thickness testing of the pipe piling, which was not contemplated in their original proposal. PND has volunteered to not charge a markup on these direct subcontractor expenses. Resolution of this issue is a work in progress and will directly relate to the level of effort required for PND to complete their project obligations.

The PND proposal includes a 10 percent contingency to address uncertainties on the level of effort required to complete the project and is in the mid-range of what is anticipated to be needed. It is based on providing full time inspection into August with a status quo level of general management effort required to complete the project. The services are being performed on a time and materials basis, which allows the level of service to be adjusted as required to meet the needs of the project.

ALTERNATIVES:

- 1) Authorize the Amendment No. 6 to the professional services contract with PND. Staff and the Project Manager recommend this alternative as a necessary component to successfully complete the project and help to ensure that the City gets quality construction.
- 2) Do not authorize the amendment. This is not recommended, as it will greatly increase the risk of construction problems not being addressed and will likely cause delays in work.

FINANCIAL IMPLICATIONS: The funds to compensate PND for Amendment No. 6 fall within the project budget and within the unallocated project contingency, which is estimated at about \$1.9M.

LEGAL: N/A

STAFF RECOMMENDATION: Staff recommends Council authorize Amendment No. 6 to the professional services contract with PND for construction phase services associated with Pier III Replacement in an amount not to exceed \$580,000 with funds coming from the Cargo Development Fund, Pier III project, Project No. 11-07/8024.

CITY MANAGER'S COMMENTS: This is a necessary contract amendment to ensure the Pier III project gets the services of the design engineers for the remainder of the project. I support the recommendations of staff and the project manager and recommend Council authorize this contract amendment.

ATTACHMENTS:

- Attachment A: Memo from ARCADIS dated January 13, 2015 Re: Kodiak Pier III-PND Engineers Amendment 6 Recommendation for Approval
- Attachment B: PND Proposal letter dated January 13, 2015

PROPOSED MOTION:

Move to authorize Amendment No. 6 to the professional services contract with PND for additional construction phase services related to the Pier III replacement project on a time and expense basis in an amount not to exceed \$580,000 with funds coming from the Cargo Development Fund, Pier III project, Project No. 11-07/8024 and authorize the City Manager to execute the documents for the City.



Memorandum

TO: Aimee Kniazowski
FROM: Roe Sturgulewski
DATE: January 13, 2015
RE: Kodiak Pier III – PND Engineers Inc. Amendment 6 Recommendation for Approval

This recommends approval of PND Amendment 6 to provide additional funding for Construction Administration services for the Pier III project in the time and materials amount of \$580,000.

Amendment No. 5 incorporated Construction Administration services into the PND contract on a time and materials basis. The Amendment was authorized prior to the start of the contractor procurement phase and the level of PND services required to meet the needs of the project has proven to be more significant than originally envisioned.

A two-step process was used to select the General Contractor. Based on discussions with the contracting community, and in an effort to lower the total project costs, the construction completion milestone specified in the bidding documents increased six months from what was contemplated at the time of the PND proposal. This has increased the amount of time required for both the on-site PND inspectors and other general management requirements. The impact was partially mitigated by the Contractor starting on-site efforts later than anticipated.

While the extended duration is a significant factor in the need for additional funding, there are a number of other elements that have also contributed to the issue. The original PND proposal was based on the on-site inspector working 6-10's. The Contractor has elected to work 12 hour shifts and has been working some 7 day work weeks, weather permitting. In addition, all the initial bids for the general construction contract came in over budget, requiring extensive value engineering and redesign. Through negotiation, these latter services were performed by PND at a reduced hourly rate.

In addition, the level of services required to help administer the general construction contract has proven to be more than anticipated. A large amount of support has been provided to the Contractor to facilitate progression of the Work. This has included more submittal reviews than the originally anticipated, analyzing structural capacity of the old and new structures, field modifications related to construction problems, and other redesign elements.

Additionally, the Contractor has raised contract interpretation issues requiring evaluation, documentation, and response. One of these items relates to roundness issues associated with Owner furnished piling. In order to clearly understand the merits of the issue, and document the root cause of the Contractor's installation problems, PND employed a third party subcontractor to provide roundness and thickness testing of the pipe piling which was not contemplated in their original proposal. PND has volunteered to not charge a markup on these direct subcontractor expenses. Resolution of this issue is a

work in progress and will directly relate to the level of effort required for PND to complete their project obligations.

The PND proposal includes a 10% contingency to address uncertainties on the level of effort required to complete the project and is in the mid-range of what is anticipated to be needed. It is based on providing full time inspection into August with a status quo level of general management effort required to complete the project. The services are being performed on a time and materials basis which allows the level of service to be adjusted as required to meet the needs of the project.

Please contact me at 907.343.3013 if you have any questions.



January 13, 2015

111012

Mr. Roe Sturgulewski
Alaska Operations Leader
ARCADIS U.S., Inc.
880 H Street Suite 101
Anchorage, AK 99501

Subject: Additional Construction Admin Fees – Kodiak Pier 3 Construction

Dear Mr. Sturgulewski:

As you are aware PND Engineers, Inc. (PND) is currently providing construction administration services during construction of the new Kodiak Pier 3 facility. At the time of our original proposal for construction administration services, the construction schedule was unknown and the administration fee assumed only 8 months of six day a week field work would be required. Modifications to these costs were expected once the project schedule was better developed. Design costs associated with the shortening of the pier following bid submittals have also been charged against the contract for construction administration. Additionally, PPM has consistently worked 7 days a week since the project began and PND has spent more time than anticipated responding to multiple contractor related issues.


As of January 12, 2015, there is approximately \$140,000 remaining in PND’s Construction Administration and Pre-Procurement budget. Based on current construction administration spending to date and considering our remaining budget, it is estimated that to continue construction administration into August of 2015, it will require an extension of \$467,000.


Additionally, PND, at the direction of ARCADIS, subcontracted Team Industrial Services, Inc. (Team) to perform measurements of project pile relating to a potential contractor dispute against the project. Final billings for this work are not available at this time; however an estimate of these services, including PND oversight is \$60,000.

Considering all of the above items PND is requesting an additional \$580,000 to cover expenses into August. This extension includes an approximate 10% contingency to cover unknowns in the current effort.

We appreciate this opportunity to continue moving this project forward and look forward to working further with the City.

Sincerely,
PND Engineers, Inc. | Anchorage Office


Kenton W. Braun, P.E.
Vice President


Bryan Hudson, P.E.
Senior Engineer

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Council Members

From: Aimée Kniaziowski, City Manager 

Thru: Glenn Melvin, City Engineer and Lon White, Harbormaster

Date: January 22, 2015

Agenda Item: V. e. **Authorization of Change Order No. 7 to Pacific Pile and Marine for Pier III Replacement, Project No. 11-07/8024**

SUMMARY: This memo recommends authorization of Change Order No. 7 to Pacific Pile and Marine LP (PPM) in the amount of \$747,096. This Change Order addresses two cost items. The first item is cost reconciliation due to design changes that occurred between the Issued For Bid (IFB) and the Issued For Construction (IFC) drawings and specifications. The second item is cost reconciliation due to actual and bid quantities for five unit cost types of rock fill placed in-water.

PREVIOUS COUNCIL ACTION: Change Orders one through six were executed by the City Manager as authorized by KCC 2.08.060 (f) and 3.12.020.

DISCUSSION: The first general item provides a cost reconciliation of design changes that occurred between the Issued For Bid (IFB) and Issued For Construction (IFC) drawings. A recap of the history of these changes follows. There were two general contractor bid openings. All the initial bids on the project came in over budget. A value engineering process was employed to align the scope and budget. Changes to the bidding documents between the first and second bid opening were issued in two addendums. Because of schedule considerations, these addendums were issued in a redline markup format and did not receive the level of refinement that would normally be provided in a set of bidding documents for this class of project. Some of these addendum changes required additional engineering analysis after bidding. Both of these factors led to modifications to the drawings that were not foreseeable at bid time. These changes also included a modification to the mooring solution at the old pier that was in flux during the bid phase. These changes were included in the IFC drawings that were issued after contractor Notice to Proceed. After drawing issuance it was determined that there were twenty-one changes from the bidding document that had potential cost ramifications. These changes are documented in the attached Work Change Directive (WCD) 1. The lump sum negotiated amount for these changes is \$106,206. As part of the WCD negotiations, the asphalt quantity will remain at 627 tons, as shown on the IFC documents.

The second general item reconciles actual and bid quantities of five types of in water fill materials used on the project: Classified Material Type C, Rip Rap Class I, Rip Rap Class II, Armor Rock Type I and Armor Rock Type II. Payment for these materials in the bid schedule was on a modified tonnage basis. Essentially, all of these materials were placed below the High Tide Line downslope and adjacent to the

sheet pile. The quantities for all of these material types have increased due to a number of factors. A portion of the increase includes redesign of the north end of the fill section where additional material was required to tie into the actual existing underwater slope. Other factors contributing to the increase include settlement and horizontal movement of the fine grained native soils, variances in the actual versus anticipated conversion rates from neat line cubic yards to tons as well as other factors. The work for these five materials types is essentially complete with minimal future quantity changes anticipated, with one exception. The final survey quantities for the Riprap Class I materials remain under discussion and may be revised downward slightly prior to execution of the Change Order. The attached table shows both bid and revised quantities and increased costs. The Unit Price quantity changes for these five material types will increase the contract amount by \$640,890.

This proposed Change Order does not reconcile Classified Materials Types A and B, which are still being placed on the land side of the sheet pile structure. These quantities will be reconciled in a separate change order. Payment for these materials are primarily based on surveyed in place cubic yard measurements. Final survey quantities will not be developed until after the sheet pile backfill is completed. Preliminary information indicates these quantities may also overrun, but this has not been validated by the engineer.

ALTERNATIVES:

- 1) Authorize Change Order No 7 as recommended by staff and the project manager. This is the recommendation of staff, because reconciliation of costs for project items is a standard contractual obligation.
- 2) Delay or do not authorize the change order, which is not recommended. Delay would likely result in contract litigation that would adversely impact project success. Nonauthorization would likely halt the project and result in legal challenge by the contractor.

FINANCIAL IMPLICATIONS: The cost of this change order falls within the limits of the unallocated project contingency for this project, estimated at about \$1.9M.

LEGAL: N/A

STAFF RECOMMENDATION: Staff and the project manager recommend authorization of Change Order No. 7 to Pacific Pile and Marine in the amount of \$747,096, with funds coming from the Cargo Development Fund Pier III Replacement Project No. 11-07/8024.

CITY MANAGER'S RECOMMENDATION AND COMMENTS: This is a high cost reconciliation outlined in the attached change order documents. This change order contains a lot of information which Glenn Melvin and Roe Sturgulewski explained at the work session earlier in the week. I support the

recommendations from staff and the project manager to pay these items from the project contingency fund and recommend Council to approve the change order.

ATTACHMENTS:

Attachment A: Arcadis Memorandum dated January 13, 2015

Attachment B: Work Change Directive No. 001

Attachment C: PPM Material Quantity Change, January 13, 2015

PROPOSED MOTION:

Move to approve Change Order No. 7 to Pacific Pile and Marine in the amount of \$747,096 for the Pier III replacement project, with funds coming from the Cargo Development Fund, Pier III project, Project No. 11-07/8024 and authorize the City Manager to execute the documents on behalf of the City.



Memorandum

TO: Aimee Kniazowski
FROM: Roe Sturgulewski
DATE: January 13, 2015
RE: Kodiak Pier III – Pacific Pile and Marine (PPM) Change Order 7 Recommendation for Approval

This recommends approval of Change Order 7 to Pacific Pile and Marine (PPM) in the amount of \$747,096 for the Pier III project. The Change Order addresses two general classes of items.

The first general item provides a cost reconciliation of design changes that occurred between the Issued For Bid (IFB) and Issued For Construction (IFC) drawings. A recap of the history of these changes follows. There were two General Contractor bid openings. All the initial bids on the project came in over budget. A value engineering process was employed to align the scope and budget. Changes to the bidding documents between the first and second bid opening were issued in two addendums. Because of schedule considerations these addendums were issued in a redline markup format and did not receive the level of refinement that would normally be provided in a set of bidding documents for this class of project. Some of these addendum changes required additional engineering analysis after bidding. Both of these factors led to modifications to the drawings that were not foreseeable at bid time. These changes also included a modification to the mooring solution at the old pier that was in flux during the bid phase. These changes were included in the IFC drawings that were issued after contractor Notice to Proceed. After drawing issuance it was determined that there were twenty-one changes from the bidding document that had potential cost ramifications. These changes are documented in the attached Work Change Directive (WCD) 1. The lump sum negotiated amount for these changes is \$106,206. As part of the WCD negotiations the asphalt quantity will remain at 627 tons as shown on the IFC documents.

The second general item reconciles actual and bid quantities of 5 types of in water fill materials used on the project: Classified Material Type C, Rip Rap Class I, Rip Rap Class II, Armor Rock Type I and Armor Rock Type II. Payment for these materials in the bid schedule was on a modified tonnage basis. Essentially all of these materials were placed below the High Tide Line downslope and adjacent to the sheet pile. The quantities for all of these material types have increased due to a number of factors. A portion of the increase includes redesign of the north end of the fill section where additional material was required to tie into the actual existing underwater slope. Other factors contributing to the increase include settlement and horizontal movement of the fine grained native soils, variances in the actual versus anticipated conversion rates from neat line cubic yards to tons as well as other factors. The Work for these 5 materials types is essentially complete with minimal future quantity changes anticipated, with one exception. The final survey quantities for the Riprap Class I materials remain

under discussion and may be revised downward slightly prior to execution of the Change Order. The attached table shows both bid and revised quantities and increased costs. The Unit Price quantity changes for these 5 material types will increase the Contract amount by \$640,890.

This proposed Change Order does not reconcile Classified Materials Types A and B which are still being placed on the land side of the sheet pile structure. These quantities will be reconciled in a separate change order. Payment for these materials are primarily based on surveyed in place cubic yard measurements. Final survey quantities will not be developed until after the sheet pile backfill is completed. Preliminary information indicates these quantities may also overrun but this has not been validated by the Engineer.

Please contact me at 907.343.3013 if you have any questions.

WORK CHANGE DIRECTIVE

No.:001

DATE OF ISSUANCE: 05/06/14

EFFECTIVE DATE: 04/29/14

OWNER: City of Kodiak

CONTRACTOR: Pacific Pile & Marine

CONTRACT: COK PN 11-07/8024

PROJECT: Kodiak Pier III

You are directed to proceed promptly with the following change(s):

Design changes included in the conformed Construction Documents/Drawings issued 04/08/14.
Direction was previously provided to proceed with these changes on 4/29/14.

Purpose of Work Change Directive:

Conformed drawings were issued that included modifications that were not related to or foreseeable from Addenda 1-4. This document is being issued to provide a mechanism for equitable costing adjustment. After finalization, costs will be included in a Change Order.

Attachments (list documents supporting change):

WCD-001 Attachment A. List of Drawing Revisions per IFC 4-8-14 dated 5-6-14.

If OWNER or CONTRACTOR believe that the above change has affected Contract Price any Claim for a Change Order based thereon will involve one or more of the following methods as defined in the Contract Documents.

Method of determining change in Contract Price:

Unit Prices

Lump Sum

Cost of the Work \$

Estimated increase (decrease) in Contract Price: \$ To be determined.

Estimated increase (decrease) in Contract Times: No change.

When signed by the Engineer/Owner's Representative and received by the Contractor, this document becomes effective IMMEDIATELY as a Work Change Directive (WCD), and the Contractor shall proceed with the change(s) described above.

ISSUED:

ARCADIS-US, INC.

ENGINEER/OWNER'S REPRESENTATIVE

By:



Roe Sturgulewski

WCD-001 Attachment A

Drawing Revisions per IFC 4-8-14

Number	Revision Description	Impacted Sheets	Notes
1	Delete removable bollard, add new bollards on existing pier	1.1.2, 1.3.2, 1.4, 4.4.3, 4.4.4	PND initiated change.
2	Revise qty, Classified Type A	1.3.2, 8.8.1	Change related to Asphalt concrete thickness revision - reduced Asphalt therefore increase Classified Type A; NOTE: current value = 3750 CY vs. Bid Form = 3535 CY.
3	Revise qty, Remove fence	1.3.2, 1.6	Clarification - existing fence length revised; NOTE: Current value = 70 LF; Previous value = 103 LF (1.3.2), 27 LF (1.6).
4	Retain soldier pile wall	1.6	Soldier pile wall removal is no longer required with the shortened pier.
5	Revise qty, Curb and Gutter	1.3.2, 8.2.1	Curb was shortened; NOTE: Current value = 656 LF; Previous value = 696 LF.
6	Delete qty (3), Precast concrete barrier	1.3.2	These barriers are no longer needed; NOTE: Bid Form = 1 LS.
7	Revise qty, Asphalt concrete pavement to 648 tons per Bid Schedule	1.3.2, 8.1, 8.2.1	Change quantity back to Bid Form. Current value = 627 Ton, Bid Form = 648 Ton; Previous value = 1037 Ton.
8	Revise qty, 8" DIP water main (1.3.2); "Demo existing water main approx 90 LF" added (1.6); strikethrough "Demo existing water..." (1.6); water profile revised (8.4.1). Change quantity on Sheet 1.3.2 dated 4/8/14 from 443 LF to 234 LF.	1.3.2, 1.6, 8.4.1	Reduce total new water main length from 498 LF on Sheet 1.3.2 at bid time to a nominal 234 LF.; NOTE: Current value of 443 LF on Sheet 1.3.2 is incorrect.
9	Revise qty, Fire hydrant assembly (1.3.2); guard posts reqd for existing fire hydrant (1.4); strike through "Remove" fire hydrant (1.6)	1.3.2, 1.4, 1.6	Fire hydrant just plan north of existing pier 3 can remain; guard posts supplant barriers no longer reqd; NOTE: Current value = 1; Previous value = 2.
10	Revise qty, Chain link fence	1.3.2, 1.4	Add back fence around electrical equipment. NOTE: Current value = 108 ft. vs. Bid Form removed this line entirely; Previous value = 467 ft.
11	New stones and gravel between new and existing pier 3 (1.4, 2.1); revetment to remain (2.2); pier section 2 is modified (2.4)	1.4, 2.1, 2.2, 2.4	Items described will fill the space between the new and old piers.
12	Retain existing SW #2 and capstan	1.5	Not required to shift.
13	Revise fender pile embedment	2.3	PND initiated change; NOTE: Current value = 35 ft.; Previous value = 25 ft.
14	Revise south end wall and add pipe rail	2.1, 2.5	South end of sheet wall revised due to shortened pier.
15	Revise sub cap to W36 connection	3.2.4	Add section and revise welds. Related to seismic design modifications required for the shortened pier length.
16	Revise cap girder bearing @ pile	3.2.4	PND initiated change - change back plate dimension; Current value = 18" x 3'-3".
17	Modify beam splice	3.2.6	PND initiated change - Modify edge distances and plate sizes.
18	Modify crane offload box beam splice	3.2.6	PND initiated change - Modify edge distances, plate sizes, and added note to clarify # of splice plates.
19	Revise closure wall section at south end of dock	3.4	Closure wall revised due to shortened pier.
20	Add removable handrail (6.3.1); add details for side rail (6.3.3)	6.3.1, 6.3.3	Removable rail added to dolphin 2.
21	Clarify Catwalk landing ends	6.6.1	Clarification - revised callout to read, "MIDDLE CHORD TS 6x6x3/8..."; previous callout, "BOTTOM CHORD AT FLOOR CHORD LEVEL AT LANDING ENDS ONLY" (size = 6x6x3/8); no design change.

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Change Order #7

PPM Material Quantity Change
January 13, 2015

Bid Item	Client Bid #	Bid Description	Units	QTY	Unit Rate	Bid Total	Total QTY to Date	Cost to Date	Difference
50	204(4C)	Classified Material, Type C - furnish and place	Ton	29,000	\$ 38	\$ 1,102,000	33,025	\$ 1,254,950	\$ 152,950
150	208(1)	Rip Rap, Class 1 - furnish and place	Ton	1,960	\$ 100	\$ 196,000	1,848	\$ 184,800	\$ (11,200)
		Rip Rap, Class 1 - furnish and place on site material	Ton		\$ 90		970	\$ 87,300	\$ 87,300
160	208(1)	Rip Rap, Class II - furnish and place	Ton	1,050	\$ 100	\$ 105,000	1,874	\$ 187,400	\$ 82,400
170	211(1)	Armor Rock, Type 1 - furnish and place	Ton	4,660	\$ 150	\$ 699,000	5,168	\$ 775,200	\$ 76,200
180	211(2)	Armor Rock, Type II - furnish and place	Ton	4,830	\$ 130	\$ 627,900	6,778	\$ 881,140	\$ 253,240

\$ 640,890

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager 
Thru: Lon White, Harbormaster
Date: January 22, 2015

Agenda Item: V. f. **Authorization of Lease With MorphoTrust LLC for Office Space at 411 Marine Way**

SUMMARY: Council approved an agreement with MorphoTrust USA, the local Transportation Worker Identification Card (TWIC) contractor, in January 2014 for a two-year lease for the office space at 411 Marine Way, the downtown restroom building, effective from January 1, 2014, to December 31, 2015. In 2014 MorphoTrust became a Limited Liability Company and has requested the business designation changes be made to the agreement. The terms of the agreement are the same as presented and approved by Council in 2014. MorphoTrust has occupied this space since 2013. The space meets MorphoTrust LLC needs, and the office is open two days weekly for TWIC enrollment. Staff recommends Council authorize the attached revised two-year lease.

PREVIOUS COUNCIL ACTION: For many years this office was vacant with only occasional use by KPD. The Kodiak Maritime Museum (KMM) envisioned it as exhibit space, a concept approved by the Council in 2007. The Kodiak Maritime Museum withdrew its plan to establish an exhibit in this space, so the Council could consider a longer-term lease with MorphoTrust. It was used for a month in 2008 as Kodiak's initial TWIC enrollment office. Afterwards, there was no local TWIC office until the Council authorized a short-term lease in May 2013. The MorphoTrust USA agreement was approved by Council on January 23, 2014. The company requested additional changes to the agreement after it was approved by Council, so staff worked with them and the City attorney to incorporate the changes (Attachment A).

BACKGROUND: TWIC cards are required for employees working around regulated vessels like container ships, cruise ships, fuel barges, and others needing a mariner's license—including charter boat skippers. TWIC was implemented in 2008, and five years later several hundred cards, issued to Kodiak residents, expired. Until May 2013, the closest place to renew a TWIC was Anchorage. With a TSA office in Kodiak, employers save thousands of dollars previously spent on travel to and from Anchorage.

DISCUSSION: In 2013, TSA's new local contractor, MorphoTrust, contacted the Harbormaster with a request to lease the office long-term. The facility continues to be suitable for this purpose. It is conveniently located, has plenty of parking and is ADA compliant. Morpho provides a local service, which saves Kodiak employers the expense of sending employees to Anchorage for TWIC cards.

January 22, 2015
Agenda Item V. f. Page 1 of 2

The lease is for a term of two years, from January 1, 2014, through December 31, 2015. The tenant will pay \$850 per month.

Kodiak office space generally rents for between \$1.50 and \$2 per square foot, plus utilities. Since it is not possible to bill separately for utility service in this building, MorphoTrust LLC agreed to pay \$4 per square foot. It's a reasonable deal for both the contractor and the City. The rental rate was calculated as follows: 50 percent of the average monthly electric and fuel costs plus \$2 per square foot. MorphoTrust LLC pays their telephone and internet service separately.

ALTERNATIVES:

- 1) Authorize the two-year lease as revised, which is staff's recommendation. This keeps the building in use and allows the City to collect rent for its use.
- 2) Do not authorize the lease, which is not recommended. Not having this local service will cost employers a great deal of travel expense.

LEGAL: The City attorney prepared the original lease document and has advised the revisions be approved by Council.

STAFF RECOMMENDATION: Staff recommends Council authorize a two-year lease agreement of the office space at 411 Marine Way with MorphoTrust LLC with a 90-day cancellation clause.

CITY MANAGER'S COMMENTS: It is a great benefit for employers in Kodiak to send their employees to a local contractor for renewal or newly issued TWIC cards. It is also good for the City to have this facility occupied. I support staff's recommendation that Council approve the revised lease and authorize me to execute it on behalf of the City.

ATTACHMENTS:

Attachment A: Two-year Lease Agreement between City and MorphoTrust LLC

PROPOSED MOTION:

Move to authorize lease 211952 between the City of Kodiak and MorphoTrust LLC for the lease of the office space located at 411 Marine Way for the purpose of TWIC card enrollment and authorize the City Manager to execute the agreement on behalf of the City.

**AGREEMENT TO LEASE OFFICE SPACE
FOR TRANSPORTATION WORKER IDENTIFICATION
CREDENTIAL (TWIC) ENROLLMENT**

AGREEMENT is made and effective the date of last signature hereto, by and between the **City of Kodiak ("City")**, a municipal corporation organized under the constitution and laws of the State of Alaska, with offices at 710 Mill Bay Road, Room 220, Kodiak Alaska and **MorphoTrust USA LLC, Inc. ("Tenant")**, with its principal office at 296 Concord Road, Suite 300, Billerica, MA 01821.

WHEREAS, the City owns real property and improvements at: 411 Marine Way, Kodiak, Alaska – south corner of Marine Way and Shelikof Street intersection (**"Property"**).

WHEREAS the City determined that leasing space in the building located on the Property (**"Building"**) for the purpose of Transportation Worker Identification Credential (TWIC) enrollment is in the best interest of the public.

WHEREAS the Tenant desires to lease certain office space of approximately **210 square feet at 411 Marine Way, Kodiak, Alaska ("Premises")** for the purposes of enrolling individuals for Transportation Worker Identification Credentials.

NOW, THEREFORE, in consideration of the mutual promises herein, and other good and valuable consideration, the parties agree as follows:

1. Term and Termination.

A. City hereby leases the Premises to Tenant, and Tenant hereby leases the same from City, for a "Term" beginning **January 1, 2014, and ending on December 31, 2015**. City shall use its best efforts to deliver the Premises to Tenant for Tenant’s possession as closely as possible to the beginning of the Term. If City is unable to deliver the Premises by such date, rent shall abate for the period of delay. Tenant shall make no other claim against City for any such delay.

B. Notwithstanding the terms of Section 1.A. of this Lease, either party may terminate this Lease at any time and without penalty upon at least ninety (90) days prior written notice to the other party.

C. The City may, in its discretion, offer to extend the Term. The City shall give the Tenant written notice of an offer to extend the Term at least sixty (60) days before the expiration of the Term then in effect. Tenant may accept an offer to extend the Term by giving the City written notice of acceptance not later than thirty (30) days after the date of the City’s notice of the offer to extend. If the Tenant accepts the City's offer to extend the Term, all of the terms and conditions of this Agreement shall remain in full force and effect during the extended Term.

2. Rent. Tenant shall pay rent to the City during the Term at the rate of \$850.00 per month. Each monthly payment shall be due in advance, on the first day of each calendar month.

3. Use. Tenant may use the Premises to provide fingerprinting services and TWIC enrollment

**MorphoTrust USA, Inc. LLC Lease
City of Kodiak, 411 Marine Way
City Record No. 211952
January 1, 2014 - December 31, 2015
Page 1 of 5**

to Tenant's invitees and for general office use, and for no other purposes.

4. Insurance.

A. At all times during the Term and any extended Term, the City shall insure the Building (but not its contents) from all risk property perils at a value that the City deems sufficient.

B. At all times during the Term and any extended Term, the Tenant will carry and maintain at its expense commercial general liability insurance, including without limitation insurance against assumed or contractual liability under this Agreement, with respect to the Premises, to afford protection with limits of liability not less than \$1,000,000 combined single limit bodily injury and property damage, \$1,000,000 personal injury, and \$1,000,000 aggregate. The Tenant shall provide the City with a certificate of insurance and/or a copy of each policy for the coverage listed herein promptly upon commencement of the Tenant's obligation to procure the same. The company or companies writing any insurance which the Tenant is required to carry and maintain shall be licensed to do business in the State of Alaska and shall be rated no less than A-7 by AM Best rating service. Commercial general liability policies shall name the City as additional insured, contain a waiver of subrogation in favor of the City and shall also contain a provision by which the Tenant agrees to give ten (10) days' written notice to the City cancellation or material modification of such policy.

5. Utilities; Taxes; Common Area Maintenance.

A. The rent payable under Section 2 of this Lease includes the supplying of water, electricity, and heat to the Premises. Tenant shall be responsible for the cost of phone and internet service.

B. Except as provided in Section 9C of this lease, City shall pay all taxes, assessments, levies and other charges which may be assessed, levied, or imposed upon, or become a lien on, the Building, the Premises or the Property.

C. "Common Areas" shall mean those areas within the Property, including the Building's entrances, public lobbies, doors, windows, hallways, corridors, main elevators, freight elevators, loading docks, walkways, plazas, access ways, lavatories, roads, drives, public and fire stairways, sidewalks, exterior ramps, the parking facilities, and other areas not leased or held for lease within or contiguous to or serving the Property, but that are necessary or desirable for Tenant's full use and enjoyment of the Premises. City shall provide the following services with respect to Common Areas: maintain and repair the Common Areas in the condition and status as City deems consistent with those of other properties nearby with the same or similar character of the Property; provide security and fire protection; cleaning and removing of rubbish, dirt, debris, snow, and ice; planting, replanting, and replacing flowers and landscaping; the care and maintenance of artwork, maintaining lighting fixtures (including the costs of light bulbs and electric current) and such other services as City may reasonably determine are required for the proper maintenance of the Common Areas.

6. Signs. With City's prior written consent, Tenant shall have the right to place at the Premises,

at locations selected by Tenant and approved by City, signs permitted under applicable zoning ordinances. City may refuse consent to any proposed signage that is in City's reasonable opinion too large, deceptive, unattractive or otherwise inconsistent with or inappropriate for the Premises or use of the Building by any other tenant. City shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining building owners for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Premises resulting from the removal of signs installed by Tenant.

7. **Parking**. During the Term of this Lease, Tenant and Tenant's invitees shall have the non-exclusive use in common with City, other tenants of the Building and their invitees of the Common Areas provided for non-reserved automobile parking, driveways, and footways, subject to rules and regulations for the use thereof as prescribed from time to time by City. City reserves the right to restrict parking by Tenant and Tenant's invitees to certain parking areas.

8. **Building Rules**. Tenant will comply with the rules of the Building specified by City from time to time and will cause all of its agents, employees and invitees to do so; all changes to such rules will be sent by City to Tenant in writing at least thirty (30) days prior to such changes taking effect.

9. **Alterations and Modifications**.

A. The Tenant shall be solely responsible for the cost of partitioning and otherwise improving space within the Building in order to make such space suitable for enrolling TWIC applicants. The plans for such improvements shall be subject to the advance written approval of the City throughout the Term of this Agreement.

B. The Tenant may not make any structural alterations to the Building without the prior written approval of the City, and such alterations shall be accomplished at the expense of the Tenant, unless the City agrees otherwise in writing.

C. The Tenant shall perform all alteration work promptly, efficiently, competently and in a good and workmanlike manner by duly qualified or licensed persons or entities, using first grade materials, without interference with or disruption to the operations of the Building. All such work shall comply with all applicable governmental codes, rules, regulations and ordinances. Tenant may not permit any mechanic's or materialman's lien for such alteration work to be recorded against the Property. If any such lien is recorded against the Property, Tenant shall cause the same to be removed; provided that Tenant may in good faith and at Tenant's own expense contest the validity of any such lien without subjecting the Property to foreclosure, and if Tenant has furnished the bond required in A.S. 34.35.072 (or any comparable statute hereafter enacted providing for a bond freeing the Property from the effect of such a lien claim). Tenant shall indemnify and save the City harmless from all liability for damages occasioned by any such lien, together with all costs and expenses (including attorneys' fees) incurred by the City in negotiating, settling, defending, or otherwise protecting against such lien and shall, in the event of a judgment of foreclosure of the lien, cause the same to be discharged and removed prior to any attempt at execution of such judgment.

10. **Damage and Destruction**. Subject to the terms of Section 4A of this Lease, if the Premises

or any part thereof or any appurtenance thereto is so damaged by fire, casualty or structural defects such that the same cannot be used by Tenant's for the purposes described in Section 3 of this Lease, then Tenant shall have the right within ninety (90) days following such damage to elect, by notice to City, to terminate this Lease as of the date of such damage. In the event of minor damage to any part of the Premises that does not render the Premises unusable for Tenant's purposes, City shall promptly repair such damage at City's expense and there shall be no abatement of rent. In making the repairs described in this Section, City shall not be liable for any delays resulting from strikes, governmental restrictions, inability to obtain necessary materials or labor or other matters which are beyond the reasonable control of City. Tenant shall be relieved from paying rental payments during any portion of the Term that the Premises are inoperable or unfit for occupancy or the uses specified in Section 3 of this Lease. For any such time periods that the Premises are inoperable or unfit for occupancy or Tenant's permitted uses, Tenant shall receive credit for future rent payments Tenant may have paid in advance. If no further rent payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this Section extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Premises inoperable or unfit for occupancy or use, in whole or in part, for Tenant's permitted uses.

11. Access to Tenant Equipment. City shall provide Tenant with a means to secure its property located at the Premises during any times a Tenant employee is not present (e.g., locked cabinet, secure room).

12. Compliance with Laws. City shall ensure that the Premises, the Building and Property are in compliance with all applicable environmental, health, or safety statutes, ordinances, orders, rules, standards, regulations or requirements. City shall also ensure that the Premises, Building and Common Areas are in compliance with all legal requirements of the Americans with Disabilities Act.

13. Default. If Tenant defaults at any time during the Term on the payment of rent when due under the terms of this Lease, and if said default shall continue for fifteen (15) days after written notice thereof shall have been given to Tenant by City, or if Tenant defaults on any of the other covenants, terms or conditions under this Lease, and such default shall continue for thirty (30) days after written notice thereof to Tenant by City without correction thereof, City may terminate this Lease immediately by written notice to Tenant thereof. In the event of such termination, if Tenant has not surrendered possession of the Premises, City may reenter the Premises. City shall have, in addition to the aforementioned remedy, any other right or remedy available to City on account of Tenant default, either in law or equity. In all such instances of Tenant default, City shall use commercially reasonable efforts to mitigate its damages.

14. Quiet Enjoyment. Subject to the terms and conditions of this Lease, so long as Tenant is not in default under this Lease, City covenants and agrees that Tenant is entitled to quiet enjoyment of the Premises during the Term.

15. Indemnification. Tenant shall indemnify, hold harmless and defend the City from and against any and all claims, actions, damages, liability and expense, including without limitation attorney's and other professional fees, in connection with death or injury to persons and damage to property arising from or out of Tenant's occupancy of the Premises, occasioned wholly or in part by

any act or omission of Tenant, its officers, agents, contractors, employees or invitees; however, this provision shall not apply to any claim to the extent the claim arises from the negligence or intentional act of the City or the City's officers, agents, contractors, or employees.

16. Notice. Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, or by nationally-recognized overnight courier, addressed as follows:

If to City: Kodiak City Manager, Attn: Aimee Kniazowski, 710 Mill Bay Road, Room 220, Kodiak, Alaska 99615, cc: Kodiak Harbormaster, Attn: ~~Martin Owen~~ Lon White, 403 Marine Way, Kodiak, Alaska 99615.

If to Tenant: MorphoTrust ~~USA LLC~~, Inc. Attn: Charles Carroll, ~~15-Century Boulevard, Suite 500, Nashville, TN 37214~~ 6840 Carothers Parkway, Suite 601, Franklin, TN 37067. cc: MorphoTrust ~~USA LLC~~, Inc., Attn: General Counsel, ~~1235 South Clark Street, Suite 700, Arlington, VA 22202~~ 296 Concord Road, Suite 300, Billerica, MA 01821

City and Tenant shall each have the right from time to time to change the addresses to which such notices are to be given under this Section by providing written notice thereof to the other party.

17. Waiver. No waiver of any default of City or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by City or Tenant shall not be construed as a waiver of a subsequent breach of the same or any other covenant, term or condition.

18. Governing Law. This Agreement shall be governed, construed and interpreted by, through and under the laws of the State of Alaska, without regard to conflicts of law rules.

IN WITNESS WHEREOF, the parties have executed this Lease as of the date of last signature hereto.

City of Kodiak, Alaska

MorphoTrust USA, Inc.

By: _____
Typed Name: Aimee Kniazowski
Title: City Manager

By: _____
Typed Name: Robert Eckel
Title: Chief Executive Officer


Date: _____

Date: _____

MorphoTrust ~~USA, Inc.~~ LLC Lease
City of Kodiak, 411 Marine Way
City Record No. 211952
January 1, 2014 - December 31, 2015
Page 5 of 5

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniaziowski, City Manager
Debra Marlar, City Clerk 

Date: January 22, 2015

Agenda Item: V. g. Appointment to the Cook Inlet Regional Citizens Advisory Council

SUMMARY: The City of Kodiak has a dedicated seat for a representative and an alternate on the Cook Inlet Regional Citizens' Advisory Council (CIRCAC). Rob Lindsey has served in the City's primary seat for several years. Mr. Lindsey's current term ends in April 2015, and CIRCAC has requested the City re-appoint Mr. Lindsey or another individual to serve a three-year term. CIRCAC has also requested the City appoint an alternate to serve if or when the primary appointment is unable to attend meetings. The City Clerk advertised for the position, and letters of interest were received from Rob Lindsey and Kyle Crow.

PREVIOUS COUNCIL ACTION: The City of Kodiak has appointed a representative to the CIRCAC for several years.

BACKGROUND: The Cook Inlet Regional Citizens' Advisory is a citizens' oversight council for oil facility operations in the Cook Inlet area. The City's representative on the CIRCAC has the opportunity to influence decisions having profound implications for oil transportation safety in Alaska and the State's oil spill prevention and response capabilities. CIRCAC is seeking an appointee who understands Kodiak's needs, concerns, and perspectives; has a basic familiarity with oil spill transportation issues; has a schedule flexible enough to allow for travel; is committed to the CIRCAC's mission; and seeks opportunities to foster cooperative relationships with citizens, industry, and regulatory agencies.

DISCUSSION: The City Clerk advertised the vacant position in the newspaper and via Public Service Announcements. Applications were received from Rob Lindsey and Kyle Crow. At the January 20 work session, the Council interviewed applicants and reviewed applications for the vacant position.

ALTERNATIVES:

- 1) Appoint a City primary and alternate representative to the CIRCAC. This is recommended to ensure the City continues to be represented on the Advisory Council.
- 2) Do not make an appointment, which is not recommended.

CITY MANAGER'S COMMENTS: I recommend a primary and alternate appointment be made to the CIRCAC at this meeting per their request. There is interest in serving on this board to guarantee Kodiak representation, and I encourage Council to fill the seat(s) through April 2018.

JANUARY 22, 2015
Agenda Item V. g. Memo Page 1 of 2

ATTACHMENTS:

Attachment A: CIRCAC appointment request letter

Attachment B: Letters of interest and qualifications

PROPOSED MOTION:

Move to appoint _____ as the City of Kodiak primary appointee and _____ as the City's alternate appointee to a three-year term ending in April 2018 on the Cook Inlet Citizens' Advisory Council.



"The mission of the Council is to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet."



Members

Alaska State Chamber of Commerce

Alaska Native Groups

Environmental Groups

Recreational Groups

Aquaculture Associations

Fishing Organizations

City of Kodiak

City of Kenai

City of Seldovia

City of Homer

Kodiak Island Borough

Kenai Peninsula Borough

Municipality of Anchorage

December 18, 2014

The Honorable Pat Branson
Mayor, City of Kodiak
710 Mill Bay Road, Room 216
Kodiak, AK 99615

Mayor Branson:

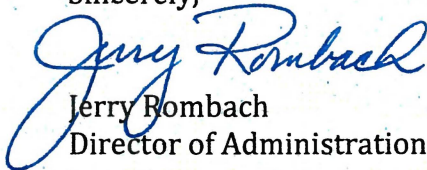
The Cook Inlet Regional Citizens Advisory Council (RCAC) is a citizens' oversight council for oil facility operations in the Cook Inlet area, organized under provisions in the Oil Pollution Act of 1990 (OPA 90). The Council's mission is to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet.

The Council, formed in late 1990 as a non-profit corporation, consists of 13 Directors appointed or elected by stakeholder groups as spelled out in OPA 90, including municipal and borough seats. Directors are elected or appointed to staggered 3 year terms. The term for the City of Kodiak seat expires in April of 2015; it is currently occupied by Mr. Rob Lindsey.

Mayor Branson, your participation in this appointment process is vitally important to us! Please submit to our office by January 23, 2015, written notification of your re-appointment of Mr. Lindsey for a full three year term, or the name of his replacement. We would also encourage you to appoint an Alternate Director, as provided for in our By Laws.

If you have any questions about Cook Inlet RCAC or the appointment process, please feel free to contact me at 907-283-7222 or jerryrombach@circac.org. We look forward to hearing from you in the very near future.

Sincerely,


Jerry Rombach
Director of Administration

cc: Rob Lindsey



Robert B Lindsey
3162 Spruce Cape Rd
907 942 7764

To the Honorable Mayor and City Council of Kodiak;

It has been my pleasure to serve as the representative of the City of Kodiak on the Cook Inlet Regional Citizen's Advisory Council for over 15 years. During this time I have come to understand the workings of the council, the nature of the Oil and gas production industry in the region and regard the Council as highly effective fulfilling the mandate set forth in the OPA 90 legislation.

I am seeking reappointment for another three year term.

The only reason I considered not reapplying is due to the difficulty of my work schedule not allowing time off to attend all meetings of the Council. However it is usually possible for me to attend telephonically. Mike Munger, Executive Director has urged me to continue as your representative. He understands the time it takes for a new council member to become familiar with the full workings of the Council and the myriad of issues that are involved in many of the matters that come to the council.

We do have another highly qualified applicant for the position , Kyle Crowe. It has been my pleasure to know Kyle for many years. Perhaps this would be an excellent opportunity to have you consider Kyle Crowe as my alternate for the position. The City would be well served to have both of us working together on the Council.

My plans are to be retired from my present employment within this 3 year period, and I would appreciate future consideration to participate on CIRCAC. However I may not be retired or you may wish to have Kyle (or another) become the fulltime representative at the end of this term. In my opinion, the best interests of the City of Kodiak will be well represented by either of us, even more so having both of us participating.

Thank you very much for allowing me to serve all these prior terms, and I look forward to serving Kodiak in many such fashions in the years to come.

Sincerely, Robert B. Lindsey

Marlar, Debra

From: Kyle Crow [kylecrow@yahoo.com]
Sent: Wednesday, December 31, 2014 1:58 PM
To: Marlar, Debra
Subject: CIRCAC kodiak vacancy

Debra,

I spoke with Ron Lindsey about his future plans as the City of Kodiak representative on the Cook Inlet Regional Citizens Advisory Council, and he encouraged me to submit my letter of interest, either as the primary or alternate representative. I am interested in serving in either capacity if the City would like to have me. Please consider this email my letter of interest.

I recently submitted a copy of my resume to be considered for the City seat on the Kodiak Island Borough Planning and Zoning Commission and hope you will be able to use that as supplemental information.

Please contact me via email or phone if you need additional information.

Sincerely

Kyle Crow
410 Rezanof Drive West
Kodiak, Alaska 99619
(907)738-9283

Sent from my iPad

Begin forwarded message:

From: Jerry Rombach <JerryRombach@circac.org>
Date: December 30, 2014 at 8:58:09 AM AKST
To: Kyle Crow <kylecrow@yahoo.com>
Subject: RE: kodiak vacancy

Mike, it appears the City of Kodiak has approached possible candidates to consider as options to Rob. Shall I tell him the appointment is the city's to make and have him petition the mayor/council members?

Jerry

From: Kyle Crow [<mailto:kylecrow@yahoo.com>]
Sent: Tuesday, December 30, 2014 8:51 AM
To: Jerry Rombach
Cc: dmarler@city.kodiak.ak.us
Subject: kodiak vacancy

Jerry,

I am interested in the possible vacant seat for Kodiak and would like to receive some additional information and how to apply if it looks like I might be suitable for it. I have reviewed your website and it appears that I may be useful to the city of Kodiak and your organization.

I retired last year, after a varied career working throughout Alaska. I've performed marine salvage work in the Cook Inlet and Prince William Sound, managed the Coast Guards industrial operations at the Kodiak Base, oversaw and managed oil spill and hazardous waste response operations for the coast guard, served as the environmental and safety officer for the Coast Guard in Sitka, managed the maintenance and repair of the Army Tank Farm and Marine fuel terminal in Haines, Alaska, as well as the Coast Guard Marine Fuel Terminal at Kodiak. I managed the USCG Kodiak RCRA Hazardous Waste operations in Kodiak, and was selected to serve as the Coast Guards Alaska contingency response coordinator out of Juneau. I have worked as a commercial fisherman in South East Alaska, and have been a lifelong subsistence hunter and fisherman. I am very familiar with OPA 90 and the Coast Guard 33 CFR regulations governing Marine Fuel facilities and transfer operations and pollution prevention and response. I have had extensive training and experience in emergency response and the Incident Command System. I was considered a subject matter expert in fuel facility design, operations and maintenance by the Coast Guard, and was selected by my peers to serve on a small team of engineers and subject matter experts to perform engineering evaluations of all coast guard fueling systems and facilities throughout Alaska, to identify risks and deficiencies and provide design solutions. I helped design and managed the USCG Base Kodiak ballast water treatment system and all oil water separators. Last year I worked for Beacon Occupational Health and Safety Services as a Project Safety Officer, at the Navy Seal Base in Kodiak.

Thank you

Kyle Crow
(907)738-9283

This message contains confidential information and is intended only for the intended recipient(s). If you are not the named recipient you should not read, distribute or copy this e-mail. Please notify the sender immediately via e-mail if you have received this e-mail by mistake; then, delete this e-mail from your system.

I became intimately familiar with the unit's equipment, operations, and processes that had the potential to impact the environment and worked with personnel and managers to seek ways to reduce the unit's regulatory burdens and potential for environmental mishaps.

Vigorously worked with individuals, divisions, and shops to find non-hazardous alternatives for commonly used chemicals and to maintain minimum required inventories of hazardous materials and promote the reuse and/or recycling of excess materials in lieu of disposal.

I managed the underground and above ground storage tank program, Pollution Prevention (P2), NEPA, EPCRA, NPDES, CERCLA, TSCA, CWA, CAA, Coastal Zone Management, Presidential Directives (EMS, FEC, etc.) and others.

I frequently communicated with: workers, shop leaders, department heads, command staff; local, state and federal officials; contractors, manufacturer's representatives, and professional and technical personnel from environmental consulting firms; Corps of Engineers, and Naval Facilities Engineering Command, to exchange information, coordinate work efforts, ensure compliance with laws and regulations, assess planning activities, discuss proposed projects and plans, and negotiate environmental approvals for Coast Guard and unit activities. I represented the Coast Guard at public meetings and hearings and resolved matters that were sometimes controversial.

I was selected as an "accomplished performer" to participate in the USCG Environmental Management Program workshop held in Newport News, Va Sept 2009, to identify job requirements for all USCG Unit Environmental Program Coordinators.

I supervised one full time military environmental protection assistant (E6).

(Contact Supervisor: Yes, Supervisor's Name Fritz Miller, Supervisor's Phone: 907-487-5320 x 249)

**US Bureau of Reclamation
Willows, California US**

7/2006 - 4/2008

Job Title: Construction Representative

I inspected and managed multi-million dollar civil construction, repair, and improvement projects to ensure contract compliance and project success. I reviewed draft contract specifications and drawings to ensure accuracy and provided corrections and recommendations where necessary. I reviewed contract submittals, such as rebar and concrete lift drawings, and proposals for mechanical, electrical, and structural materials and systems, to ensure they met contract requirements. I developed written responses as required. I inspected work to ensure contract compliance, and documented the daily, weekly, and monthly activity of contractors. I developed and distributed detailed reports showing the progress of work. I interacted with contractors, Government officials from different agencies, engineers, biologists, archaeologist's, and others to plan and coordinate work activities and ensure project success. I took measurements and performed calculations to determine quantities required or used, such as: pounds of rebar; earth and rock materials; cubic yards of concrete; etc.. I evaluated contractors submitted pay requests and invoices and recommend payments. I worked on projects in Colorado, California, and Oregon, including: The construction of the outlet tunnel gate chamber and power plant at the Ridges Basin Dam; The overhaul of station and service hydroelectric generators at Shasta Dam; Security upgrades at Shasta, Trinity, and Keswick Dams; the construction of new fish ladders and stream bulkheads at Coleman Fish Hatchery; the construction of a new pumping plant at San Louis National Wildlife Refuge; the construction of a new Pumping Plant at Chiloquin, near Klamath Falls, OR. (Contact Supervisor: Yes, Supervisor's Name: Randy Wyatt, Supervisor's Phone: 530-934-7066)

**US Coast Guard
Kodiak, Alaska US**

**5/1992 - 6/2006
Grade Level: WG10**

Job Title: Industrial Inspector/Plants Manager

Working under a military Civil Engineer, I managed contractor performed Industrial Operations, which included: Central Heating Plant (with four 800 HP Industrial Boilers); Waste Water Treatment Plant (2 MGD production capacity); Water Treatment Plant and Distribution System (1.5 MGD treatment capacity); Used-Oil/Ballast-Water Treatment Facility (5K gallon-per-day process capacity); Aviation Fuel Facility (avg yr issues 4,179,017); Marine Fuel Terminal (avg yr transfers- 7,567,141); Bulk Fuel Storage Facility (5,040,000 gallons capacity); Gas Free Services. I developed Performance Work Statements (contract specifications) and Government Cost Estimates for these and other services. I evaluated and monitored these diverse, complex, and highly regulated contractor performed industrial operations and services, to determine needs, and ensure compliance with environmental and safety regulations, industry standards, and contract specifications. I documented performance, and recommend penalties and corrective actions as necessary to ensure compliance. I accomplished long range project planning, developed schedules, and established milestones and deadlines for completion. I tracked and monitored the progress of repairs to ensure they were performed on schedule and within price thresholds. I planned, coordinated, directed, managed, and supervised the accomplishment of maintenance, repair, and construction work related to these operations and services, including: pipefitting, welding, mechanical, carpentry, electrical, electronic, painting, and grounds work. I evaluated the scheduled preventive maintenance needs of these facilities and systems, and developed preventive maintenance schedules and plans. I prepared minimum stocking levels for critical spares. I advised the Contracting Officer and other officials, on the contractor's ability to meet schedules and budgets and provided them with information concerning changes in work methods, standards and facilities. I investigated and studied problems and developed solutions, or recommend necessary corrective actions when required. I developed and provided detailed written instructions and plans. I established and fostered a good working climate. I coordinated work with third party contractors. I often supervised and managed the simultaneous conduct of multiple projects, services and operations that competed for limited manpower and equipment resources, and routinely considered and weighed a complex variety of factors, options, and priorities; then coordinated, scheduled and directed the work to ensure maximum efficiency. During the first seven years in this position, I also managed and supervised all contractor performed HAZMAT, HAZWOPER, and Spill Response Operations; and Underground Storage Tank Tightness Testing. I provided backup management and supervision for all BOSS Contractor performed heavy equipment and vehicle maintenance work and served as the Acting Facilities Maintenance Branch (FMB) Chief.

**Klukwan Inc.
Haines, Alaska US**

11/1990 - 3/1992

Job Title: Heavy Equipment Operator/Logger

I operated and maintained heavy and light construction machinery to build roads and bridges, and log steep mountainous terrain in Southeast Alaska. I primarily operated large tracked backhoes to "pioneer" new roads and skid trails (Cat 232, 235, 245), but also operated graders, loaders and dozers to clear stumps and construct roads to subgrade. On occasion, I assisted factory mechanics to accomplish repairs. I also cleared and developed personal property and built a house (Homesteaded). I occasionally supervised other Heavy Equipment Operators during the repair and maintenance of roads.

**City & Borough of Juneau
Juneau, Alaska US**

3/1988 - 8/1990

Job Title: Heavy Equipment Operator

I operated and maintained a variety of heavy and light construction machinery and equipment to construct, maintain, and repair: roads, bridges, streets, and drainages, street signs, and grounds for the City and Borough of

Juneau. I operated the following equipment: graders, loaders, dump trucks, street sweepers, plows and sanders, roller/compactors, augers, and hand and power tools.

US Army – Civilian
Haines, Alaska US

4/1983 - 3/1988

Maintenance Mechanic/Manager

I managed and supervised the maintenance and repair of a 12.6 million gallon Army Bulk Petroleum Storage Facility and Marine Terminal in Haines, Alaska. This Facility included several Industrial buildings and shops, a large marine wharf, several bulk fuel storage tanks, heavy and light mobile equipment and machinery, two-five unit housing complexes, and utilities. I planned, scheduled, directed, monitored, and supervised the performance of maintenance, repairs, and construction work, including: petroleum system maintenance, construction and repairs; structural construction and repairs; civil construction; painting and corrosion control; and other work. I developed a comprehensive computer based preventative maintenance (PM) Program, by: surveying facilities and compiling lists of equipment and components; locating manufacturers literature, recommendations and instructions; consulting with technical representatives, and; reviewing standards, to provide a maintenance schedule with accompanying task requirements. I developed work schedules, scopes of work, budgets, and cost estimates for labor and materials. I developed budgets for materials and supplies, determined what were needed, and placed orders. I inventoried stocks and re-ordered replacements when necessary. I directed, coordinated and inspected several significant construction and repair contracts (often occurring simultaneously), and accomplished this work independently and without direct supervision (my Headquarters was located several hundred miles distant). These contracts included: Fuel Tank cleaning, inspection, and minor corrosion repairs. Fuel Tank interior/exterior coating. Water Tank, interior coating (vinyl), and exterior spray on foam insulation system. The near white preparation, and high tech coating of a large steel and concrete Industrial Marine Wharf, to Mean Low Tide (with tides to 20', this was a challenge). Installation of state-of-art computerized fire alarm system. Painting of steel and wooden structures. Chemical cleaning of industrial boilers. The overhaul and modification of earthen containment dikes, and installation of impermeable liners.

US Army – Civilian
Delta Junction, Alaska US

4/1979 - 3/1983

Crane & Equipment Operator, 5716

I operated and maintained cranes, and a wide variety of other heavy construction machinery and equipment, including: graders, loaders, dozers, scrapers, sweepers, brush-hogs, and drills to support the Army's Cold Regions Testing and Northern Warfare Training Center. Operating Cranes, I assisted C-130 engine changes at remote assault airfields; lifted and set heavy, irregular and bulky materials and equipment, including: buildings, fuel tanks, heavy equipment (dozers, scraper pans, etc.); Lifted and maneuvered man baskets (to dismantle a nuclear reactor housing). Operating Dozers, I built and maintained roads, live fire ranges; built fire breaks and fought fires; stockpiled earthen materials; cleared trees and stumps; removed snow and ice; ripped hardpan; built and maintained landfills; and performed other work. Operating motor-graders, I built, repaired and maintained roads, accomplished snow removal, performed finish grading; cut ditches and sloped shoulders. Operating backhoes, I excavated trenches, exposed utilities, demolished buildings, and performed other work. I instructed and supervised military equipment operators in the safe and efficient operation of motor graders, scrapers, dozers, loaders, cranes, and back hoes, and other heavy and light construction machinery and equipment.

Inlet Marine, VECO, ACV
Multiple Alaska, Alaska US

11/1977 - 4/1979

Operator, mechanic, welder, roustabout

I performed welding and mechanical repairs to barges (freight and fuel), landing craft, and oceangoing tugs. This work was performed in dry dock, or on the beach (Anchorage, Tyonek, & Prince William Sound, Alaska). I

operated a crane from a barge to load, stack and unload scrap metal, equipment, logs, and freight, and performed various marine salvage operations to repair and recover storm-damaged barges. I accomplished welding repairs inside of cargo fuel compartments on a Fuel Barge. I overhauled and replaced the bunker fuel system on board a 100' landing craft. I performed extensive gas cutting and electric arc-welding repairs to beached, storm damaged barges, including: removing large sections of steel plate, and numerous support steel beams and ribs, and replacing these with new materials. I operated a crane with clamshell attachment to excavate earth during construction of the Trans-Alaska Pipeline, performing this work at Keystone Canyon, and Thompson Pass, North of Valdez. I installed electric thermostats to control steam heat in all buildings at the remote Air Force Early Warning Station, Tatalina, Alaska. I also repaired several steam pipeline support brackets and expansion joints located within utilidors. I performed oilfield roustabout work in Prudhoe Bay to move a drilling rig.

**Lindeman Construction, AlSCO Heiber,
Northern Cal, California US**

3/1975 - 5/1977

Student, Operator, Pipe Fitter, Pump Mech

When not attending college, I worked as a pipe fitter and pump mechanic, and operated dozers and cranes. Using ox/ac gas cutting torches and electric arc-welders, I fabricated steel piping manifolds and systems in the shop (sized from 6"-24"), transported these pieces to the field, and assembled them. I installed and repaired; agricultural, industrial, and residential pumps and water supply systems. I production welded aluminum irrigation pipe assemblies. I operated D-8 bulldozers to push and stockpile wood chips and bark at a large saw mill and pulp plant. I operated a crane to: drive sheet piling; muck marinas, excavate ponds, reservoirs and irrigation channels; and erect bridges.

EDUCATION

University of Alaska

Kodiak and Ketchikan, Alaska US
Some College Coursework Completed
7 Semester Hours
Major: art, biology, math, engineering
Relevant Coursework, Licensures and Certifications:
Arctic Engineering, Biology, Math for Industry, Boiler Technician, Watercolor
Painting, Water and Waste Water Treatment

Shasta College

Redding, California US
Some College Coursework Completed
19 Semester Hours
Major: General
Relevant Coursework, Licensures and Certifications:
Math, History, English, Art, Science

JOB RELATED TRAINING

(Including) McCoy RCRA Seminar April 2010; McCoy RCRA Seminar June 2008; EPA Region X Stormwater Workshop Jan 2009, USCG Hazwoper Train the Trainer Aug 2008; USCG Environmental Unit Coordinator Sept 2008; Hazmat Coordinators Seminar August 2009. Ongoing - EPA Web Academy courses and seminars. U.S. Army Mgt and Logistics College Ft. Lee, VA: Contracting Officers Technical Representative 1998 US Coast Guard Leadership and Management Institute At Kodiak Leadership and Management School USBR Willows USFS COTR/COR 10-06 USBR Concrete School Denver Tech Cent Concrete and Concrete Repair 3 Day 8-06 USBR Records Mgt USBR Safety & Health Standards 7-06 5-06 AWWA Conference and Seminars Anchorage, AK SCADA, Stormwater Mgt, and others AIA Principal - Green Building Services USCG ISC Kodiak US Green Building Council LEED® certification requirements 9/16/05 NFPA Petaluma, CA Shore Confined Space Entry & Safety 9/9/05 NPI Kodiak, Ak Source Selection 9/1/05 FEMA On-line National Incident Command System IS-700

Incident Command System IS-800 6-05 Dr. Joe Listurbek Building Science Corporation Kodiak, AK Moisture Control Workshop 8-04 Training Technology Inc. (TTI) Las Vegas NV Corrosion Control Techniques 10/03 Means Estimating Kodiak, AK Facilities Cost Estimating Seminar 9/03 MILPAC Kodiak, AK Environmental Compliance Refresher Workshop, in accordance with EPA 40 CFR 265.16, 262.34, and DOT 49 CFR 172.704 12 Y 5/03 A/E Ketchikan AK Oracle project management software 4/02 In House ISC Kodiak Waste Accumulation Area Operator 3/01 D-17 DRAT ISC Kodiak Hazwoper refresher 2/01 US Air Force Sheppard AFB TX Fuel QC Journeyman 10/00 MILPAC ISC Kodiak Environmental Compliance 7/00 CG In-house ISC Kodiak Respirator Update 5/00 Fed Acquisition Institute On Line COTR Update 5/00 CG In-house ISC Kodiak Excel 8 Y 4/00 AWWA Fairbanks, AK Water and Waste Water Technology 3/00 D17 DRAT ISC Kodiak Hazwoper refresher 9/99 Velcon Anchorage, AK Fuel Handling Seminar 8/99 CG HQ ISC Kodiak Road show Permit Required Confined Space Entry Sup 5/99 Water Assoc Fairbanks, AK Drinking Water Regs Update - Disinfection 3/99 USCG Office of Environmental Health ISC Kodiak Road show Unit Safety Coordinator 2/99 Alaska Dept. of Env Compliance ISC Kodiak Road show Above Ground Storage Tank Workshop 9/98 USCG Office of Environmental Health ISC Kodiak Road show Permit Required confined Space 9/98 USCG Office of Environmental Health ISC Kodiak Road show Environmental Compliance Workshop 8/98 EHS International ISC Kodiak Road show Hazwoper 7/98 ISC Kodiak IRM ISC Kodiak Excel 7/98 ISC Kodiak IRM ISC Kodiak MS Word 5/98 ISC Kodiak IRM ISC Kodiak MS Windows NT 4/98 ISC Kodiak Industrial Hygienist ISC Kodiak Respiratory protection 2/98 USCG Office of Environmental Health ISC Kodiak Asbestos Abatement Supervisor 9/97 ITT Sacramento, CA Programmable Logic Controllers 6/97 USCG Office of Environmental Health ISC Kodiak Road show Hazwoper refresher 6/97 EZ3 ISC Kodiak Road show Underground Storage Tank Tightness Testing 6/97 University of Alaska Technology Course Kodiak, AK Electricity for Water and Waste Water Systems Ops 5/97 Velcon and Gammon Tech Anchorage, AK Fuel Systems Design and Maint 2/97 CG Training Center Yorktown, VA Service Contract Admin 10/96 USCG Pac Strike Team ISC Kodiak Road show Incident Command System (ICS) 200-300 6/96 University of Alaska Kodiak Navigating Internet 6/96 University of Alaska Kodiak Hazwoper refresher 5/96 University of California, Sacramento Correspondence Course Kodiak Water Treatment Plant Operation 2/96 University of Alaska Kodiak Arctic Engineering 2/96 CG HQ ISC Kodiak Road show Quality Management 8/95 Ntl Water Assoc Anchorage, AK Elect Controls; Distribution Tech; Math; Chlorination and disinfection; Corrosion Control 6/95 Independent Liquid Terminals Assoc. Houston TX Training Employees; Problems and Solutions; Leak Prevention; Managing Terminal Problems; ISO 9000; Oily ISC Kodiak 3/95 Ft Sill Oklahoma ISC Kodiak Road show Storage Tank Mgt /95 USCG Office of Environmental Health ISC Kodiak Road show Hazwoper Supervisor 5/95 USCG Office of Environmental Health ISC Kodiak Road show Hazwoper 1/95 NAV SUPSALV ISC Kodiak Road show Oil Spill Response 24 Y 10/94 SIAC Kodiak Road show Regulatory Sampling Procedures 10/94 University of Alaska Ketchikan Power Boiler Operations and Maintenance 9/94 CG MLCPCAC ISC Kodiak Road show Hazwaste Mgt 5/94 NEI Fluid Technology Anchorage, AK Fuel Systems Design and Maint 3/94 NFPA New Orleans, LA Shipyard Competent Person 3/94 CG Contractor Kodiak Road show EPA/AHERA Asbestos Competent Person 11/93 OSHA Kodiak Road show Construction Safety 8 Y 10/93 CG MLCPCAC ISC Kodiak Road show HAZWOPER 8/93 University of Texas Huston TX Petroleum Measurement 1/93 USCG Office of Environmental Health ISC Kodiak Road show EPA/AHERA Asbestos Abatement Worker 1981 Red Cross Haines, AK Emergency Trauma Technician 1981 Army Corps of Engineers Dallas TX Paint Inspection

REFERENCES

I will be happy to provide additional references if needed. I've lived in Kodiak for about 20 years total and am known to many people here.

Name	Prof/ Pers	Occupation-Position	e-mail and phone number
Mike Williams	Pers	Journeyman Lineman KEA	(907) 654-7754 Reucut4u@gci.com
Cecil Rainey	Pers	Commercial Fisherman	(907) 512-7250
Norm Wooten	Both	Past President National School Board	(907) 539-1419
John Miller	Both	Civil Engineer/Construction Manager	(907) 654-3044

ADDITIONAL INFORMATION

Sept 2009 selected by MLCLANT as one of eight USCG Environmental "Accomplished Performers", to serve on a panel and identify job requirements for Unit Environmental Coordinators. Proven track-record of industrial facility and construction management, with a thorough knowledge of environmental and safety regulations. Able to prepare accurate, itemized cost estimates and scopes of work and specifications for construction and repair projects, and industrial operations. Successful supervisory experience. Proven track record of safely and successfully managing and supervising multiple, diverse, and technically complex projects and operations, simultaneously. Proven track record of effectively enhancing operations, facilities, systems, and worker proficiency. Recognized expert in petroleum operations, facilities and systems. Valuable experience and knowledge in haz-waste, emergency response, and confined space work. Expert in the use of the PC's and numerous standard software programs. Able to accurately type approximately 50-60 words per minute. Effective communicator and leader, with a record of establishing and maintaining good working relationships with subordinates, coworkers, contractors and officials. Prior Journeyman level experience in the following areas and trades: Pipefitting; plumbing; pump repair and installation; Crane and heavy equipment operation; Industrial maintenance, troubleshooting and repair; Quality Assurance. COTR for Waste Water Plant of the Year, State of Alaska 1995, 1996, 1999 & Water Plant of the Year, State of Alaska, 1998, 1999, 2000, 2001. Have received cash and time off performance awards almost every year of Government Service. Consistently rated superior performer. Meritorious or Distinguished performance every year from 1992-1999, distinguished performance 96-99, highest ratings possible since 1999. Selected for the position of D-17 Contingency Response Coordinator. Selected as Planner Estimator for ISC Ketchikan, 2003. Numerous letters of commendation and appreciation. Selected by CEU Juneau and ISC FE to participate in 2001 LORSTA engineering evaluations, as member of four person team (per direction of Commander D-17). Selected to represent Civilian Workforce at ISC Change-of Command Ceremonies.

EXECUTIVE SESSION

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Debra Marlar, City Clerk

Date: January 22, 2015

Agenda Item: X. a. Clerk's Annual Evaluation

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

PROPOSED MOTION:

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

JANUARY 22, 2015
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