

**City of Kodiak Regular Council Meeting Agenda for February 11, 2016**  
**7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)**

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<b>I. Call to Order/Roll Call</b>	
Invocation/Pledge of Allegiance	
<b>II. Previous Minutes</b>	
Approval of Minutes of the January 28, 2016, Regular Council Meeting .....	1
<b>III. Persons to Be Heard</b>	
a. Proclamation: Applauding the United States Coast Guard Presence in Kodiak .....	10
b. Presentation of Government Finance Officers Association Budget Award .....	12
c. Public Comments (limited to 3 minutes) (486-3231)	
<b>IV. Unfinished Business</b>	
a. Second Reading and Public Hearing, Ordinance No. 1342, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2015 and Ending on the Thirtieth Day of June 2016.....	16
<b>V. New Business</b>	
a. First Reading, Ordinance No.1343, Authorizing a Lease of a Communication Site on an Unsubdivided Portion of U.S. Survey 4947 on Near Island to Kodiak Island Broadcasting Co., Inc .....	32
b. Resolution No. 2016–05, Authorizing the Issuance of a Permit to Kodiak High School Soccer Team for the Use of Public Property for Its Soccer Clinic and to Sell Concessions and to Collect Gate Fees During Home Games .....	70
c. Resolution No. 2016–06, Adopting an Alternative Allocation Method for the FY16 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in Fisheries Management Area 13: Kodiak Island .....	74
d. Resolution No. 2016–07, Approving the City Council’s Budget Goals for FY2017.....	82
e. Resolution No. 2016–08, Adopting the Federal Fiscal Year 2016 Federal Capital Needs and Issues List.....	92
f. Authorization of Fisheries Analyst Contract.....	102
g. Authorization for Scope of Work for Monashka Pipeline Project No. 7038 .....	118
h. Authorization of a Professional Services Contract for Construction Administration Services for Sanitary Sewer Lift Stations 1 and 2 Project No. 11-06/7509.....	126
i. Authorization of Professional Services Contract for Dam Safety Inspections, Project No. 05- 03/7039.....	136
<b>VI. Staff Reports</b>	
a. City Manager	
b. City Clerk	
<b>VII. Mayor’s Comments</b>	
<b>VIII. Council Comments</b>	
<b>IX. Audience Comments</b> (limited to 3 minutes) (486-3231)	
<b>X. Adjournment</b>	

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**MINUTES OF THE REGULAR COUNCIL MEETING  
 OF THE CITY OF KODIAK  
 HELD THURSDAY, JANUARY 28, 2016  
 IN THE BOROUGH ASSEMBLY CHAMBERS**

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

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

Councilmember Whiddon gave the invocation and the Pledge of Allegiance was recited.

**II. PREVIOUS MINUTES**

Councilmember Whiddon MOVED to approve the minutes of the January 14, 2016, regular meeting as presented.

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

**III. PERSONS TO BE HEARD**

**a. Public Comments**

**John Butler** expressed concern about the Borough's draft ordinance pertaining to accessory dwelling units as a permitted use in certain residential zoning districts. He also expressed concern about Borough Ordinance No. FY2016-12 Title 15, which deals with the elimination of an engineering code and stated the Building Department has not had an opportunity to provide feedback to the ordinance. He expressed concern about liability from eliminating the engineering codes and advised caution about allowing additional dwelling units in the community.

**Dan Ogg**, referred to the Borough ordinance regarding additional dwelling units. He said the intent was to establish affordable housing, and the ordinance will not create affordable housing because land prices and cost of building are not going down in Kodiak. He indicated the public hearing process is different between a rezone and an ordinance within the Borough Code. He said the ordinance eliminates all R1 property within the Borough. He said data has been asked from the Borough to review, and he referenced a letter he drafted for the Mayor and Council to consider, which he hopes will slow down the process. He noted implications that the KIB ordinance will have on City water, sewer, roads, utilities, green space, property value, population density, etc., which are mentioned in his letter.

**Stephan Taufan** commented that the affiliations of the Fisheries Analyst Consultant and associates are important and should be readily accessible to the public. He commented that the role of the Fisheries Work Group should be advocacy. He stated he placed a public comment on the North Pacific Fisheries Management Council (NPFMC) website against bycatch.

**IV. UNFINISHED BUSINESS****a. Resolution No. 2014–30, Authorizing and Directing the Chief of Police to Place Signs Prohibiting Parking on the Northwest Side of Mission Road Between Erskine Avenue and 12th Avenue**

Mayor Branson read Resolution No. 2014–30 by title. The Kodiak Police and Public Works Departments fielded many complaints regarding drainage, traffic congestion, and snow removal on Mission Road until approximately fall of 2015. Complaints came from area residents as well as pedestrians and motorists using Mission Road. Staff recommended posting a section of Mission Road from 12th Avenue south to the intersection of Erskine Avenue with “No Parking This Side of Street” signs along the northwest side of the street. A resolution was drafted to authorize the Chief of Police to place signage in the problem area. However, the residents didn’t support the parking restrictions and complaints went away when the resident who had appropriated use of much of the ROW on the northwest side of the street moved away.

Councilmember Davidson MOVED to postpone indefinitely Resolution No. 2014–30.

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

**b. Second Reading and Public Hearing, Ordinance No. 1341, Repealing Kodiak City Chapter 8.20, Assault and Battery, Adopting Kodiak City Code Chapter 8.20, Offenses Against Public Order, and Repealing Kodiak City Code 8.56.060, Disorderly Conduct; 8.64.010, Begging; and 8.64.020, Jostling People; and Kodiak City Code 1.12.040, Disposition of Scheduled Offenses-Fine Schedule**

Mayor Branson read Ordinance No. 1341 by title. The last several years the City has fielded concerns from citizens and staff regarding the growing homeless, indigent, and inebriate population in the downtown area. Lacking depth in our Kodiak City Code and concerns about violating citizens’ constitutional rights has limited the Kodiak Police Department’s (KPD) ability to address ongoing problems. The City’s Attorney conducted research and developed regulations to meet the City’s needs.

Councilmember Bishop MOVED to adopt Ordinance No. 1341.

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 Arboleda, Bishop, Davidson, Saravia, Walker, and Whiddon in favor. The motion passed.

**V. NEW BUSINESS****a. First Reading, Ordinance No. 1342, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2015 and Ending on the Thirtieth Day of June 2016**

Mayor Branson read Ordinance No. 1342 by title. The Supplemental Appropriation No. 1 to the budget for the fiscal year commencing on the first day of July 2015 and ending on the thirtieth day of June 2016 is in the amount of \$2,886,917. It is customary for the City Council to approve at least one supplemental budget annually to authorize the adjustments of current revenues and expenses. 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 FY2016.

Councilmember Walker MOVED to pass Ordinance No. 1342 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 Arboleda, Bishop, Davidson, Saravia, Walker, and Whiddon in favor. The motion passed.

**b. Resolution No. 2016-04, Appropriating Necessary Funds From the Insurance Fund to the Storm Damage General Capital Project Fund for Emergency Storm Damage Repairs to a Portion of Pier III and the City Cemetery**

Mayor Branson read Resolution No. 2016-04 by title. A storm occurred during the night of December 29, 2015, which caused a substantial amount of damage to City property including washout of shoreline armor rock revetment areas at Pier III and fallen trees resulting in damage at the City cemetery. Due to the high risk of extended damage from continued exposure and the urgency to make immediate repairs at Pier III and the cemetery, the Manager and staff, in consultation with the City Attorney and City insurance broker, made a decision to request Brechan Construction LLC to mobilize and perform emergency repairs to the storm damaged shoreline revetment areas. Damage to several grave sites occurred at the cemetery as a result of the storm, and funds were expended to cover the cost to remove fallen trees.

Councilmember Whiddon MOVED to adopt Resolution No. 2016-04.

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

**c. Authorization of Bid Award for Rehabilitation of Sanitary Sewer Lift Stations 1 and 2, Project No. 11-06/7509**

Based on a full evaluation of the condition of the two downtown sanitary sewer lift stations, which are exposed daily to tidal influence and show significant corrosion, electrical and mechanical wear, and age, staff determined that refurbishment of the existing stations was the best and most affordable option. The project was put out to bid on December 11, 2015, and bids were opened January 14, 2016. Two bids were received, and following an evaluation of the bid,

staff recommends Council authorize the bid award for the rehabilitation of the sanitary sewer lift stations 1 and 2 to Brechan Construction LLC in the amount of \$1,048,600.

Councilmember Walker MOVED to authorize the bid award to Brechan Construction LLC for the refurbishment of the Sanitary Sewer Lift Stations 1 and 2 in the amount of \$1,048,600 with funds coming from the Sewer Capital Improvement Fund Project No. 11-06/7509 and authorize the City Manager to execute the documents on behalf of the City.

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

**d. Authorization of Equipment Purchase for Alaska Shield 2016 Exercise**

The City was awarded a 2015 State Homeland Security Grant in November 2015. The purpose of this grant is to provide funding for approved equipment purchases and to participate in the Alaska Shield 2016 statewide emergency response exercise. The monetary amount for this purchase exceeds the purchasing limits of the City Manager and needs authorization from the Council.

Councilmember Bishop MOVED to authorize the purchase of equipment for the Alaska Shield 2016 exercise from North American Rescue in the amount of \$23,515.40 with funds coming from General Capital Projects 300.443 4043 – 2015 SHSP account and authorize the City Manager to sign the documents on the City's behalf.

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

**e. Authorization of a Professional Services Contract for Accounting Software Support**

The City currently uses New World Systems for financial accounting, reporting, budgeting, building inspections, utility billing, project accounting, payroll, and HR functions. This software suite requires annual updates for changes in payroll and related taxes as well as software enhancement functionality.

Councilmember Arboleda MOVED to approve a five-year professional services agreement with New World Systems Corporation beginning March 1, 2016, and ending February 28, 2021, and payable in annual installments based on the following schedule: Year 1: \$28,070; Year 2: \$29,470; Year 3: \$30,940; Year 4: \$32,490; Year 5: \$34,110 with funds coming from the Finance Department, IT professional services operating budget line item and authorize the City Manager to sign the agreement for the City.

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

**f. Acceptance of the FY2015 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.

Councilmember Davidson MOVED to accept the City's Fiscal Year 2015 audited Comprehensive Annual Financial Report.

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

## **VI. STAFF REPORTS**

### **a. City Manager**

Manager Kniazowski referred to the 7.1 earthquake on Sunday stating the Police Chief, Fire Chief, Public Works Director, and Engineer assessed the Pumphouse and City buildings for damage and sent out a Nixle Alert. She indicated the Fire Station has some wall damage. She congratulated Finance Director Mayes and staff for receiving the distinguished budget award. She said the Matson ship should be arriving in Kodiak on February 3. She indicated staff is reviewing the strategic plan and will bring it to the Council for approval. She indicated there is some work being done at the Monashka Pumphouse; the facility is operational and has been taken over by the City. She gave an update on the compost facility, stating the air handling system is installed and the screener has been shipped to Kodiak. She said the Pier III site has been partially turned over to Matson. She said the decorative trash cans have arrived and installation will begin as time permits. She said Cynthia Franklin, Director of the Alcoholic Beverage and Marijuana Control Board presentation was interesting, and the City should discuss the impacts of marijuana legislation. She said the Near Island Plan public meeting with DOWL will occur on February 4. She has been working on emergency management issues.

### **b. City Clerk**

City Clerk Marljar announced the annual Records Management Report was completed by the Records Manager for the Mayor and Council and she thanked the City Manager, Department Heads, and Records Coordinators for their involvement, support, and work to adhere to the records management program. She informed the public of the next scheduled Council work session and regular meeting.

## **VII. MAYOR'S COMMENTS**

Mayor Branson said Pat Pitney, Alaska State Budget Director, and Diane Kaplan, Rasmuson Foundation President/CEO, will be in Kodiak on Saturday for the State of the State budget presentation, which the City is a co-sponsor along with other local agencies. She thanked Deputy Clerk Shuravloff-Nelson for the records management report and Finance Director Mayes for her impressive work on the audit. She indicated the letter of concern regarding crosswalks downtown from Judy Bissett at Trident has been resolved, and she thanked Public Works Director Kozak for working on the issue. She said she and Councilmember Whiddon will attend the NPFMC meeting next week. She referred to Dan Ogg and John Butler's public comments regarding

accessory dwelling units concerns. She said she would like to schedule time to discuss the letter at the next work session. She wished Clerk Marlar a happy birthday.

### VIII. COUNCIL COMMENTS

Councilmember Walker thanked Dan Ogg for his comments and thanked the department heads for their work and stated they represent the City well. He thanked Finance Director Mayes and said the audit by Michelle Drew, BDO, was very helpful.

Councilmember Davidson wished everyone a happy and healthy new year. He said he appreciated the comments from Dan Ogg and John Butler and sharing the ramifications of the Borough's ordinance.

Councilmember Arboleda thanked John Butler and Dan Ogg for addressing their concerns. She advised drivers to watch for children at the crosswalks and thanked Don Roberts for his services as a crossing guard. She congratulated Finance Director Mayes for the budget award and thanked finance staff for their work. She commented on Nixle and encouraged the public to download the app because it is helpful. She said there are Serendipity and Hospice fundraising events occurring within the next month.

Councilmember Whiddon acknowledged the Finance Director and staff and her comprehensive work on the audit this year. He said it is the sentinel year of United States Coast Guard and would like to recognize the USCG at a meeting in the near future. He said he will be at the NPFMC next week. He said it is the year of policy development in the fishing industry, and he believes the Council and community need to be informed to maintain a vital and healthy waterfront. He thanked the Fire Chief for the 2016 Alaska Shield Exercise involvement.

Councilmember Saravia thanked the Finance Department and Mr. Ogg for his comments. He thanked the Deputy Clerk for the annual records report. He said he is very supportive of visiting parents and urged Clerk Marlar to enjoy time with family. He thanked Chief of Police Wallace for keeping the citizens within the community safe. He said he appreciated Fire Chief Mullican's work on the Alaska Shield grant.

Councilmember Bishop said he attended the Joint Building Code Review Committee and read the KIB Ordinance title FY2016-12, Title 15. He said the language in the ordinance was unclear and there may be liabilities. He thanked Cynthia Franklin, stating she is smart and innovative. He indicated he supports reviewing ways for extra revenue and is interested in further discussion.

### IX. AUDIENCE COMMENTS

**John Butler** said the Borough is scheduled to review Ordinance No. FY2016-12 dealing with engineering codes at their meeting on February 4. He said he is writing a letter regarding affordable housing and will submit it to the Mayor and Council. He wished Clerk Marlar a happy birthday.



**Dan Ogg** thanked the Council for listening to his concerns regarding additional dwelling units. He said Planning & Zoning has had several public hearings and urged the timeliness of City elected official involvement.

**X. ADJOURNMENT**

Councilmember Davidson MOVED to adjourn the meeting.

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

The meeting adjourned at 8:40 p.m.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Minutes Approved:

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## **PERSONS TO BE HEARD**

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## MEMORANDUM TO COUNCIL

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**Date:** February 11, 2016

**Agenda Item: III. a. Proclamation: Applauding the United States Coast Guard Presence in Kodiak**

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**SUMMARY:** This proclamation urges all citizens to recognize our Coast Guard community for their individual and collective efforts in making Kodiak and all the navigable waters of Alaska a safer and better place to live, work, and play.

**ATTACHMENTS:**

Attachment A: Proclamation: Applauding the United States Coast Guard Presence in Kodiak

# PROCLAMATION

## Applauding the United States Coast Guard Presence in Kodiak

WHEREAS, the citizens of Kodiak wish to acknowledge and honor the men and women of the United States Coast Guard; and

WHEREAS, members of the Coast Guard are our friends and neighbors who contribute their time and talents to the well-being of our community; and

WHEREAS, we are deeply grateful to the men and women of the Coast Guard, and their families, for their sacrifices and devotion to duty, which preserve the safety of our country, our State, our fishermen, and the boating public; and

WHEREAS, the Kodiak community will gather on Saturday, February 20, 2016, in a celebration to honor and thank all members of the Coast Guard and their families.

NOW, THEREFORE, I, Pat Branson, Mayor of the City of Kodiak, Alaska, do hereby proclaim February 20, 2016, as

### Coast Guard Appreciation Day

in Kodiak and urge Kodiak residents to recognize our Coast Guard community for their individual and collective efforts in making Kodiak and all the navigable waters of Alaska a safer and better place to live, work, and play. To the men and women of the United States Coast Guard—WE APPLAUD YOU.

Dated this 11th day of February 2016.

City of Kodiak

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Pat Branson, Mayor

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager  
**Date:** February 11, 2016

**Agenda Item:** III. b. Presentation of Government Finance Officers Association Award

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**SUMMARY:** The Government Finance Officers Association of the United States and Canada has awarded Finance Director Kelly Mayes with Distinguished Budget Presentation Award for the City's Fiscal Year 2015 Operating Budget. This award is the highest form of recognition in governmental accounting and financial reporting.

**ATTACHMENTS:**

Attachment A: GFOA Distinguished Budget Presentation Award



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished  
Budget Presentation  
Award*

PRESENTED TO

**City of Kodiak**

**Alaska**

For the Fiscal Year Beginning

**July 1, 2015**

Executive Director

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# **UNFINISHED BUSINESS**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniaziowski, City Manager   
**Thru:** Kelly Mayes, Finance Director  
**Date:** February 11, 2016

**Agenda Item: IV. a. Second Reading and Public Hearing, Ordinance No. 1342, Establishing Supplemental Appropriation No. 1 to the Budget for the Fiscal Year Commencing on the First Day of July 2015 and Ending on the Thirtieth Day of June 2016**

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**SUMMARY:** The Supplemental Appropriation No. 1 to the budget for the fiscal year commencing on the first day of July 2015 and ending on the thirtieth day of June 2016 is in the amount of \$2,886,917. 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 FY2016. Staff recommends Council adopt Ordinance No. 1342.

**PREVIOUS COUNCIL ACTION:**

- June 11, 2015, Council adopted Ordinance No. 1334 for the FY2016 budget in the amount of \$42,503,069 commencing on the first day of July 2015 and ending on the thirtieth day of June 2016
- January 26, 2016, Council reviewed the budget amendment at the work session
- January 28, 2016, Council passed Ordinance No. 1342 in the first reading and advanced to second reading and public hearing at the next regular or special meeting
- February 9, 2016, Council reviewed the budget amendment again 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 Appropriation No. 1 is requesting the addition of \$2,886,917 to the adopted budget bringing the total amended budget to \$45,389,986 for FY2016.

The Supplemental Appropriation No. 1 is requesting an increase in non-capital funds in the amount of \$2,347,636 and an increase in capital funds in the amount of \$539,281.

Of the \$2,347,636 increase for non-capital funds, \$748,400 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, 2015, was \$1,496,800. The remaining \$1,599,236 in non-capital funds is necessary to make adjustments for unanticipated grant funds received, overtime incurred from staff turnover, increases in supplies, the operations of the new compost facility, and increases in professional fees.

Additions to capital projects of \$539,281 include additional funds needed to complete the sewer lift stations, additional grant funds received for the 2015 Federal SHSP grant, and storm damage repairs.

**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 FY2016 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 adopt Ordinance No. 1342 following the second reading and public hearing.

**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 adopt Ordinance No. 1342.

**ATTACHMENTS:**

Attachment A: Ordinance No. 1342

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

Attachment C: Backup line item detail to budget

**PROPOSED MOTION:**

Move to adopt Ordinance No. 1342.

**CITY OF KODIAK  
ORDINANCE NUMBER 1342**

**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 2015 AND ENDING ON THE THIRTIETH DAY OF JUNE 2016**

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 2016.

	<b>GENERAL FUND</b>		
	<b>Budget</b>	<b>Supplemental #1</b>	<b>Revised Budget</b>
<b>Anticipated Revenues:</b>			
Property Tax	\$ 1,003,500	\$ -	\$ 1,003,500
Sales Tax	12,027,500	-	12,027,500
Licenses and Permits	89,800	-	89,800
Intergovernmental	2,948,420	15,000	2,963,420
Charges for Services	1,660,317	-	1,660,317
Fines and Forfeitures	15,000	-	15,000
Interest Income	10,000	-	10,000
Rental Income	230,000	-	230,000
Other Revenues	22,000	-	22,000
Interfund Charges	1,198,832	-	1,198,832
Use of Fund Balance	3,346,341	973,880	4,320,221
Transfers In	-	-	-
Total Amended Revenues	\$ 22,551,710	\$ 988,880	\$ 23,540,590
 <b>Planned Expenditures:</b>			
Legislative	\$ 296,454	-	\$ 296,454
Legal	50,000	150,000	200,000
Executive	663,067	7,886	670,953
Emergency Preparedness	56,500	-	56,500
City Clerk	492,970	-	492,970
Finance	1,529,160	-	1,529,160
Police	6,868,059	57,738	6,925,797
Fire	2,208,736	8,475	2,217,211
Public Works	2,748,851	-	2,748,851
Engineering	294,070	-	294,070
Parks & Recreation	1,479,354	-	1,479,354
Library	1,044,680	-	1,044,680
Non-Departmental	658,790	24,267	683,057
Transfers	4,161,019	740,514	4,901,533
Total Amended Expenditures	\$ 22,551,710	\$ 988,880	\$ 23,540,590

**SPECIAL REVENUE FUNDS**

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
Tourism Development	\$ 189,500	\$ -	\$ 189,500	
Disaster Administration	-	10,356	\$ 10,356	
City Enhancement	-	748,400	\$ 748,400	
Total Amended Revenues	<u>\$ 189,500</u>	<u>\$ 758,756</u>	<u>\$ 948,256</u>	
Planned Expenditures:				
Tourism Development	\$ 189,500	\$ -	\$ 189,500	
Disaster Administration	-	10,356	\$ 10,356	
City Enhancement	-	748,400	\$ 748,400	
Total Amended Expenditures	<u>\$ 189,500</u>	<u>\$ 758,756</u>	<u>\$ 948,256</u>	

**CAPITAL PROJECTS**

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
300 General Capital Projects	\$ 20,000	\$ 289,281	\$ 309,281	
315 Vehicle Replacement Capital	171,019	-	171,019	
301 Street Improvements	2,190,000	-	2,190,000	
302 Building Improvements	1,000,000	-	1,000,000	
305 Water Capital Fund	315,000	-	315,000	
306 Sewer Capital Fund	235,000	250,000	485,000	
307 Cargo Development Fund	-	-	-	
308 Harbor Development	475,000	-	475,000	
309 Parks & Recreation Fund	30,000	-	30,000	
Total Amended Revenues	<u>\$ 4,436,019</u>	<u>\$ 539,281</u>	<u>\$ 4,975,300</u>	
Planned Expenditures:				
300 General Capital Projects	\$ 20,000	\$ 289,281	\$ 309,281	
315 Vehicle Replacement Capital	171,019	-	171,019	
301 Street Improvements	2,190,000	-	2,190,000	
302 Building Improvements	1,000,000	-	1,000,000	
305 Water Capital Fund	315,000	-	315,000	
306 Sewer Capital Fund	235,000	250,000	485,000	
307 Cargo Development Fund	-	-	-	
308 Harbor Development	475,000	-	475,000	
309 Parks & Recreation Fund	30,000	-	30,000	
Total Amended Expenditures	<u>\$ 4,436,019</u>	<u>\$ 539,281</u>	<u>\$ 4,975,300</u>	

**ENTERPRISE FUNDS**

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
Cargo Fund 500	\$ 1,051,529	\$ -	\$ 1,051,529	
Harbor Fund 510	3,605,033	-	3,605,033	
Boat Yard/Lift 512	1,276,715	-	1,276,715	
Electric Fund 515	616,590	-	616,590	
Water Fund 550	3,338,046	-	3,338,046	
Sewer Fund 570	4,570,353	350,000	4,920,353	
Trident Basin Fund 580	305,454	-	305,454	
E-911 Services	13,180	-	13,180	
Total Amended Revenues	<u>\$ 14,776,900</u>	<u>\$ 350,000</u>	<u>\$ 15,126,900</u>	

**ENTERPRISE FUNDS CONTINUED**

Planned Expenditures:			
Cargo Fund 500	\$ 1,051,529	\$ -	\$ 1,051,529
Harbor Fund 510	3,605,033	-	3,605,033
Boat Yard/Lift 512	1,276,715	-	1,276,715
Electric Fund 515	616,590	-	616,590
Water Fund 550	3,338,046	-	3,338,046
Sewer Fund 570	4,570,353	350,000	4,920,353
Trident Basin Fund 580	305,454	-	305,454
E-911 Services	13,180	-	13,180
Total Amended Expenditures	<u>\$ 14,776,900</u>	<u>\$ 350,000</u>	<u>\$ 15,126,900</u>

**INTERNAL SERVICE FUND**

	Budget	Supplemental #1	Revised	Budget
Anticipated Revenues:				
Self Insurance Fund	\$ 548,940	\$ -	\$	548,940
Appropriation of Fund Balance	-	250,000		250,000
Total Amended Revenues	<u>\$ 548,940</u>	<u>\$ 250,000</u>	<u>\$</u>	<u>798,940</u>
Planned Expenditures:				
Self Insurance Fund	\$ 548,940	\$ 250,000	\$	798,940
Total Amended Expenditures	<u>\$ 548,940</u>	<u>\$ 250,000</u>	<u>\$</u>	<u>798,940</u>
<b>Total Revenues</b>	<b>\$ 42,503,069</b>	<b>\$ 2,886,917</b>	<b>\$</b>	<b>45,389,986</b>
<b>Total Expenditures</b>	<b>\$ 42,503,069</b>	<b>\$ 2,886,917</b>	<b>\$</b>	<b>45,389,986</b>

**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: January 28, 2016

Second Reading:

Effective Date:

	Adopted	Capital Project	Amendments	Supplemental	Total	Revenues & Expenses		
	Budget	Rollover	FY 2016	#1	Budget	As of	Difference	%
	2016	2015		2016	2016	12/31/15		
<b>Fund 100 General Fund</b>								
REVENUES:								
310.100	1,000,000				1,000,000	908,086	91,914	91%
310.111	3,500				3,500	2,712	788	77%
310.200	12,000,000				12,000,000	3,510,548	8,489,452	29%
310.900	27,500				27,500	13,801	13,699	50%
320.000	89,800			-	89,800	26,151	63,649	29%
330.100	1,357,920				1,357,920	-	1,357,920	0%
330.105	150,000				150,000	377,926	(227,926)	252%
330.130	1,283,000				1,283,000	1,021,500	261,500	80%
330.131	75,000				75,000	10,858	64,142	14%
330.140	7,500				7,500	-	7,500	0%
330.150	20,000				20,000	-	20,000	0%
330.160	45,000				45,000	-	45,000	0%
330.300	10,000				10,000	-	10,000	0%
330.325	-			15,000	15,000	10,334	4,666	69%
340.100	991,552				991,552	495,776	495,776	50%
340.110	78,750				78,750	39,375	39,375	50%
340.120	5,000				5,000	450	4,550	9%
340.130	2,000				2,000	1,350	650	68%
340.210	109,415				109,415	109,415	-	100%
340.240	120,000				120,000	68,626	51,374	57%
340.300	200,000			-	200,000	103,515	96,485	52%
340.310	5,000				5,000	1,560	3,440	31%
340.405	15,000				15,000	6,231	8,769	42%
340.405	108,500				108,500	52,277	56,223	48%
340.520	15,900				15,900	13,674	2,226	86%
340.545	9,200				9,200	9,794	(594)	106%
350.100	15,000			-	15,000	1,927	13,073	13%
360.100	10,000				10,000	-	10,000	0%
363.100	230,000				230,000	100,025	129,975	43%
375.600	22,000				22,000	17,172	4,828	78%
380.100	86,996				86,996	86,996	-	100%
380.110	211,466				211,466	211,466	-	100%
380.115	59,651				59,651	59,651	-	100%
380.118	38,864				38,864	38,864	-	100%
380.120	253,506				253,506	253,506	-	100%
380.121	268,048				268,048	268,048	-	100%
380.125	8,601				8,601	8,601	-	100%
380.130	45,150				45,150	45,150	-	100%
380.150	55,531				55,531	63,464	(7,933)	114%
380.400	171,019				171,019	123,764	47,255	72%
385.100	3,346,341			973,880	4,320,221	-	4,320,221	0%
								Use of fund balance
<b>TOTAL REVENUES</b>	<b>22,551,710</b>	<b>-</b>	<b>988,880</b>	<b>23,540,590</b>	<b>8,062,593</b>	<b>15,477,997</b>	<b>34%</b>	
EXPENDITURES:								
Legislative	296,454			-	296,454	124,827	171,627	42%
Legal	50,000			150,000	200,000	92,946	107,054	46%
Executive	663,067			7,886	670,953	240,046	430,907	36%
Emergency Preparedness	56,500			-	56,500	9,880	46,620	17%
City Clerk - Clerk	324,210			-	324,210	122,241	201,969	38%
City Clerk - Records	168,760			-	168,760	59,850	108,910	35%
Finance	1,529,160			-	1,529,160	578,151	951,009	38%
Police	6,868,059			57,738	6,925,797	2,561,077	4,364,720	37%
Fire	2,208,736			8,475	2,217,211	933,991	1,283,220	42%
Public Works	2,748,851			-	2,748,851	987,898	1,760,953	36%
Engineering	294,070			-	294,070	71,840	222,230	24%
Parks & Recreation	1,479,354			-	1,479,354	624,145	855,209	42%
Library	1,044,680			-	1,044,680	432,108	612,572	41%
Non-Departmental	658,790			24,267	683,057	501,765	181,292	73%
Transfers	4,161,019			740,514	4,901,533	4,113,765	787,768	84%
								Transfer 1/2 of 6/30/15 surplus to Enhancement Fund Code 3.28.020 To Street Improvement Fund for SPCC on Police Station
<b>TOTAL EXPENDITURES</b>	<b>22,551,710</b>	<b>-</b>	<b>988,880</b>	<b>23,540,590</b>	<b>11,454,530</b>	<b>12,086,060</b>	<b>49%</b>	
<b>Fund 251 Tourism Development</b>								
Revenues:								
Hotel/Motel Tax	170,500				170,500	87,791	82,709	51%



**CITY OF KODIAK  
FY 2016 Supplemental  
Budget**

**Attachment B**

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%	
Approp. From Fund Balance	19,000				19,000	-	19,000	0%	
<b>Revenues:</b>	<b>189,500</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>189,500</b>	<b>87,791</b>	<b>101,709</b>	<b>46%</b>	
<b>Expenditures:</b>	<b>189,500</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>189,500</b>	<b>142,771</b>	<b>46,729</b>	<b>75%</b>	
<b>Fund 298 Disaster Administration</b>									
Revenues:									
Revenues from AK Forestry Service	-			2,470	2,470	2,470.00	-	100%	
Transfer from General Fund	-			7,886	7,886	-	7,886	0%	
<b>Revenues:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>10,356</b>	<b>10,356</b>	<b>2,470</b>	<b>7,886</b>	<b>24%</b>	
<b>Expenditures:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>10,356</b>	<b>10,356</b>	<b>10,356</b>	<b>-</b>	<b>100%</b>	
<b>Fund 299 City Enhancement</b>									
Revenues:									
Interest on Investments	40,000				40,000	20,378	19,622	51%	
Rentals from others	66,800				66,800	39,743	27,057	59%	
Approp. From Fund Balance	(106,800)			-	(106,800)		(106,800)	0%	
Transfer from General Fund	-			748,400	748,400	-	748,400	0%	Transfer 1/2 of 6/30/14 surplus to Enhancement Fund Code 3.28.020
<b>Revenues:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>748,400</b>	<b>748,400</b>	<b>60,121</b>	<b>688,279</b>	<b>0%</b>	
<b>Expenditures:</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>748,400</b>	<b>748,400</b>	<b>-</b>	<b>748,400</b>	<b>0%</b>	
<b>Fund 300 General Capital Projects</b>									
Revenue:									
State Grants	-	381,472		-	381,472		381,472	0%	
Federal Grants	-	327,684		64,281	391,965		391,965	0%	SHSP Grant
Approp. From Fund Balance		50,000			50,000		50,000	0%	
Transfer from General Fund	20,000	2,379,500			2,399,500	20,000	2,379,500	1%	
Transfer from Tourism Fund	-	25,000			25,000	-	25,000	0%	
Transfer from Insurance Fund				225,000	225,000		225,000	0%	Storm Damage
Transfer from Enhancement Fund		100,000			100,000		100,000	0%	
Transfer from Harbor Fund		20,000			20,000		20,000	0%	
Transfer from Land Development		70,000			70,000		70,000	0%	
<b>Revenues:</b>	<b>20,000</b>	<b>3,353,656</b>	<b>-</b>	<b>289,281</b>	<b>3,662,937</b>	<b>20,000</b>	<b>3,642,937</b>	<b>1%</b>	
Expenditures:									
4002 City Land Development		170,000			170,000	98,285	71,715	58%	
4009 Compr Records Management Prog		275,000			275,000	250,306	24,694	91%	
4013 Museum Building - Phase I		250,000			250,000	248,677	1,323	99%	
4015 Fire Station Upgrades		550,000			550,000	478,096	71,904	87%	
4028 Financial Software Upgrade		530,000			530,000	524,441	5,559	99%	
4029 E-911 Upgrade System		656,472		-	656,472	-	656,472	0%	
4030 Classification & Compensation Study		100,000			100,000	83,062	16,938	83%	
4035 Demolition of Old KPD & 1118 Mission		545,500		-	545,500	416,063	129,437	76%	
4039 Downtown Revitalization Project	-	175,000			175,000	13,217	161,783	8%	
4040 Assistance to Firefighters Grant	-	81,684			81,684	70,525	11,159	86%	
4041 City Website Development Project	-	20,000			20,000	17,875	2,125	89%	
4042 Long Term Records Storage	20,000	-		-	20,000	-	20,000	0%	
4043 2015 SHSP Grant				64,281		6,610	(6,610)	10%	SHSP Grant
4044 Storm Damage				225,000		3,248	(3,248)	1%	Storm Damage
<b>Expenditures:</b>	<b>20,000</b>	<b>3,353,656</b>	<b>-</b>	<b>289,281</b>	<b>3,373,656</b>	<b>2,210,405</b>	<b>1,163,251</b>	<b>66%</b>	
<b>Fund 315 Vehicle Replacement Capital Fund</b>									
Revenue:									

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%
Transfer from General Fund	171,019	272,580		-	443,599	123,764	319,835	28%
<b>Revenues:</b>	<b>171,019</b>	<b>272,580</b>		<b>-</b>	<b>443,599</b>	<b>123,764</b>	<b>319,835</b>	<b>28%</b>
Expenditures:								
4900 Vehicle Replacement Capital	171,019	272,580		-	443,599	-	443,599	0%
<b>Expenditures:</b>	<b>171,019</b>	<b>272,580</b>		<b>-</b>	<b>443,599</b>	<b>-</b>	<b>443,599</b>	<b>0%</b>
<b>Fund 301 Street Improvement</b>								
Revenue:								
Interest on Investments		120,000			120,000		120,000	0%
Approp. From Fund Balance	(450,000)	653,000			203,000		203,000	0%
Transfer from General Fund	2,420,000	1,961,000		-	4,381,000	2,420,000	1,961,000	55%
Transfer from Cargo Fund	-	5,000		-	5,000		5,000	0%
Transfer from Shipyard Fund	-	11,000		-	11,000		11,000	0%
Transfer from Water Fund 550	110,000	684,032		-	794,032	110,000	684,032	14%
Transfer from Sewer Fund 570	110,000	99,000		-	209,000	110,000	99,000	53%
<b>Revenues:</b>	<b>2,190,000</b>	<b>3,533,032</b>		<b>-</b>	<b>5,723,032</b>	<b>2,640,000</b>	<b>3,083,032</b>	<b>46%</b>
Expenditures:								
5003 Annual Sidewalk/Curb	30,000	720,032			750,032	617,905	132,127	82%
5025 Pavement Repairs	-	1,600,000			1,600,000	1,594,384	5,616	
5030 Preliminary Design of Snow Dump Storage Yard	500,000	570,000			1,070,000	237,130	832,870	22%
5031 Storm Drainage Repair on Sheikof		-			-	-	-	0%
5032 Storm Drainage Repair on Simeonof	450,000	465,000			915,000	-	915,000	0%
5033 Pillar-Mountain Waste Material Dump Site		60,000			60,000	30,739	29,261	51%
5034 Public Works Rock for Maintenance	-	60,000			60,000	-	60,000	0%
5035 SPCC Spill Prevention		58,000		-	58,000	52,643	5,357	91%
5036 Mill Bay Road Rebuild	1,200,000				1,200,000	1,128,410	71,590	94%
5037 Underground Storage Tank Inspection, Testing & Maintenance	10,000				10,000	-	10,000	0%
<b>Expenditures:</b>	<b>2,190,000</b>	<b>3,533,032</b>		<b>-</b>	<b>5,723,032</b>	<b>3,661,211</b>	<b>2,061,821</b>	<b>64%</b>
<b>Fund 302 Building Improvement Fund</b>								
Revenues:								
Interest on Investments		1,185			1,185	-	1,185	0%
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	1,000,000	1,110,000			2,110,000	1,000,000	1,110,000	47%
Transfer from New Library Fund 255		5,424			5,424		5,424	0%
Transfer from Enhancement Fund		2,510,000			2,510,000		2,510,000	0%
<b>Revenues:</b>	<b>1,000,000</b>	<b>12,558,372</b>		<b>-</b>	<b>13,558,372</b>	<b>1,000,000</b>	<b>12,558,372</b>	<b>7%</b>
Expenditures:								
6012 New Library		12,448,372			12,448,372	10,968,970	1,479,402	88%
6015 New Fire Station	1,000,000	110,000		-	1,110,000	32,000	1,078,000	3%
<b>Expenditures:</b>	<b>1,000,000</b>	<b>12,558,372</b>		<b>-</b>	<b>13,558,372</b>	<b>11,000,970</b>	<b>2,557,402</b>	<b>81%</b>
<b>Fund 305 Water Capital</b>								
Revenues:								
Interest on Investments					-	-	-	
State Grants	-	13,541,547			13,541,547	314,314	13,227,233	2%
Federal Grants		768,000			768,000		768,000	0%
Approp. From Fund Balance	-	464,106			464,106		464,106	0%
ADEC Drinking Loans		7,284,890			7,284,890		7,284,890	0%
Water Sales Fee		-			-	187,157	(187,157)	0%

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%
Transfer from Water Fund 550	315,000	4,427,712		-	4,742,712	-	4,742,712	0%
ADEC Clean Water Loans		341,930			341,930		341,930	0%
Transfer from Sewer Fund 570	-	2,447,712			2,447,712	-	2,447,712	0%
Transfer from Street Improvement Fund		78,000			78,000		78,000	0%
<b>Revenues:</b>	<b>315,000</b>	<b>29,353,897</b>		<b>-</b>	<b>29,668,897</b>	<b>501,471</b>	<b>29,167,426</b>	<b>2%</b>

Expenditures:

7023 UV Water Treatment Facility Construction		6,859,589		-	6,859,589	5,726,954	1,132,635	83%
7024 Utility Rate Study	-	96,000			96,000	55,000	41,000	57%
7026 Aleutian Homes Water & Sewer Replacement Proj Phase V	-	10,001,792			10,001,792	6,565,341	3,436,451	66%
7029 Monashka Pump House Feasibility Study	-	11,530,986			11,530,986	7,305,275	4,225,711	63%
7031 Monashka Watershed Survey		250,000			250,000	350	249,650	0%
7033 Pillar Creek Dam Spillway Repair Work		100,000			100,000	37,935	62,065	38%
7036 Annual Electric	50,000	50,000			100,000	-	100,000	0%
7037 Aleutian Homes Water & Sewer Replacement Project: Phase VI	-	465,530			465,530	149,764	315,766	32%
7038 Monashka Transmission Line	205,000				205,000	-	205,000	0%
7039 Dam Safety	60,000				60,000	-	60,000	0%
					-			
<b>Expenditures:</b>	<b>315,000</b>	<b>29,353,897</b>		<b>-</b>	<b>29,668,897</b>	<b>19,840,619</b>	<b>9,828,278</b>	<b>67%</b>

**Fund 306 Sewer Capital Fund**

Revenues:

Interest on Investments					-	-		
Charges for Sewer Sales (10%)		26,000			26,000	-	26,000	0%
Approp. From Fund Balance	235,000	1,610,000	-	250,000	2,095,000		2,095,000	0%
Sewer Sales Fee		-			-	163,822	(163,822)	0%
Transfer from Sewer fund 570	-	6,000,000			6,000,000	-	6,000,000	0%
Transfer from Water fund 550	-	1,200,000			1,200,000	-	1,200,000	0%
Transfer from Street Improvement Fund 301		15,000			15,000	-	15,000	0%
<b>Revenues:</b>	<b>235,000</b>	<b>8,851,000</b>	<b>-</b>	<b>250,000</b>	<b>9,336,000</b>	<b>163,822</b>	<b>9,172,178</b>	<b>2%</b>

Expenditures:

7508 Lift Station Electric (5)		26,000			26,000	1,079	24,921	4%
7509 Upgrade Lift Station #1	175,000	1,050,000	-	250,000	1,475,000	129,215	1,345,785	9%
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%
7517 Bio Solid Management Project		7,200,000			7,200,000	4,014,302	3,185,698	56%
7518 APDES Permit Renewal	60,000	-			60,000	-	60,000	0%
<b>Expenditures:</b>	<b>235,000</b>	<b>8,851,000</b>	<b>250,000</b>	<b>9,336,000</b>	<b>4,144,596</b>	<b>5,191,404</b>	<b>44%</b>	

**Fund 307 Cargo Development Fund**

Revenues:

State Grants		35,784,000			35,784,000	796,378	34,987,622	2%
Transfer from Cargo Fund		2,240,000			2,240,000	-	2,240,000	0%
Transfer from General Fund		100,000			100,000	-	100,000	0%
Approp. From Fund Balance		847,700	-		847,700	-	847,700	0%
<b>Revenues:</b>	<b>-</b>	<b>38,971,700</b>	<b>-</b>	<b>38,971,700</b>	<b>796,378</b>	<b>38,175,322</b>	<b>2%</b>	

Expenditures:

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%
8016 Pedestrian Access from Pier II		2,400,000			2,400,000	2,359,162	40,838	98%
8017 Inspection Pier II and Inner Harbor Docks		85,700			85,700	64,347	21,353	75%
8018 Security Improvements		50,000			50,000	11,500	38,500	23%
8023 Pedestrian Pathway		384,000			384,000	11,574	372,426	3%
8024 Pier III Replacement		36,052,000	305,000		36,357,000	35,970,655	386,345	99%
Expenditures:	-	<b>38,971,700</b>		-	<b>39,276,700</b>	<b>38,417,238</b>	<b>859,462</b>	<b>98%</b>

**Fund 308 Harbor  
Development**

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%
Revenues:								
Interest on Investments					-	-	-	0%
State Grant	-	1,500,000			1,500,000		1,500,000	0%
Approp. From Fund Balance	(25,000)	885,000			860,000		860,000	0%
Transfer from General Fund	500,000	780,000			1,280,000	500,000	780,000	39%
Transfer from Boat Harbor	-	1,000,000			1,000,000		1,000,000	0%
Revenues:	<b>475,000</b>	<b>4,165,000</b>		-	<b>4,640,000</b>	<b>500,000</b>	<b>4,140,000</b>	<b>11%</b>

Expenditures:								
8516 Float, Boat Launch, SPH		150,000			150,000	14,863	135,137	10%
8517 Restrooms, Fisherman's Hall		200,000			200,000	53	199,947	0%
8520 SHH Repairs		745,000			745,000	429,721	315,279	58%
8521 Channel Transient Float/ Bull Rails		25,000			25,000	19,491	5,509	78%
8523 Oscar's Dock Fender Pilling Replacement		45,000			45,000	10,920	34,080	24%
8525 Channel Transient Float Replacement	-	3,000,000			3,000,000	1,935	2,998,065	0%
8526 Oscar's Dock Electric	150,000				150,000	-		0%
8527 Decking for Dock 1	100,000				100,000	-		0%
8528 Security Cameras	25,000				25,000	-		0%
8529 St Herman's Harbor Parking Improvements	200,000				200,000	-		0%
Expenditures:	<b>475,000</b>	<b>4,165,000</b>		-	<b>4,640,000</b>	<b>476,983</b>	<b>3,688,017</b>	<b>10%</b>

**Fund 309 Parks & Rec  
Capital**

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%
Revenue:								
Interest on Investments					-	-	-	0%
State Grants		5,850,000			5,850,000		5,850,000	0%
Local Grants		500,000			500,000		500,000	0%
Approp. From Fund Balance	(20,000)	331,000			311,000		311,000	0%
Transfer from Enhancement Fund		500,000			500,000		500,000	0%
Transfer from General Fund	50,000	278,094			328,094	50,000	278,094	15%
Revenues:	<b>30,000</b>	<b>7,459,094</b>		-	<b>7,489,094</b>	<b>50,000</b>	<b>7,439,094</b>	<b>1%</b>

Expenditures:								
9001 Baranof Park Improvements (E&D)	(16,001)	7,015,000			6,998,999	6,998,999	-	100%
9004 Playground Equipment & Improve		-			-	806	(806)	0%
9007 Storage Building - Baranof Park		115,000			115,000	106,840	8,160	93%
9012 Baranof Baseball Field Improvements		48,094			48,094	48,094	-	100%
9013 Major Park Maintenance		121,000			121,000	108,987	12,013	90%
9014 Building Improvement (Weatherization)		50,000			50,000	22,373	27,627	45%
9015 Skate Park Improvements	16,001	110,000			126,001	99,713	26,288	79%
9016 Teen Center Floor Replacement	30,000				30,000	19,659	10,341	66%
Expenditures:	<b>30,000</b>	<b>7,459,094</b>		-	<b>7,489,094</b>	<b>7,405,471</b>	<b>83,623</b>	<b>99%</b>

**Fund 500 Cargo Terminal**

Revenue:								
PERS Relief	33,570				33,570	-	33,570	0%
Dockage Pier III	130,000				130,000	65,610	64,390	50%
Cruise Ship Revenues	70,000				70,000	54,463	15,537	78%

	Adopted	Capital Project	Amendments	Supplemental	Total	Revenues & Expenses		
	Budget 2016	Rollover 2015	FY 2016	#1 2016	Budget 2016	As of 12/31/15	Difference	%
Pier III Lease	280,500				280,500	140,118	140,382	50%
Wharf	475,000				475,000	291,469	183,531	61%
Interest on Investments	7,000				7,000	-	7,000	0%
Warehouse Rental	202,500			-	202,500	101,194	101,306	50%
Van Storage Rental	20,000				20,000	12,575	7,425	63%
Other Miscellaneous Revenues	-			-	-	1,042	(1,042)	0%
Approp. From Retained Earnings	(167,041)			-	(167,041)		(167,041)	0%
<b>Revenues:</b>	<b>1,051,529</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,051,529</b>	<b>666,471</b>	<b>385,058</b>	<b>63%</b>
<b>Expenditures:</b>								
Cargo Terminal Administration	385,120			-	385,120	151,022	234,098	39%
Cargo Terminal Interfund Charges	123,103				123,103	123,103	-	100%
Cargo Terminal Warehouse	42,000				42,000	1,015	40,985	2%
Cargo Terminal Pier II	482,306				482,306	224,705	257,601	47%
Cargo Terminal Pier III	19,000				19,000	5,376	13,624	28%
Transfer	-			-	-	305,000	(305,000)	0%
<b>Expenditures:</b>	<b>1,051,529</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,051,529</b>	<b>810,221</b>	<b>241,308</b>	<b>77%</b>

**Fund 510 Boat Harbor Fund**

<b>Revenue:</b>								
PERS Relief	144,670				144,670		144,670	0%
Dockage AMHS	65,000				65,000	36,052	28,948	55%
Exclusive Moorage	1,240,000				1,240,000	1,231,200	8,800	99%
Transient Moorage	525,000				525,000	320,787	204,213	61%
Harbormaster Service	10,000				10,000	2,493	7,507	25%
Gridiron Fees	15,000				15,000	5,690	9,310	38%
Pier/Dock Fees	175,000				175,000	62,078	112,922	35%
Used Oil Fees	15,000				15,000	7,434	7,566	50%
Waiting List Fees	3,000				3,000	1,250	1,750	42%
Trailer Parking Fees	35,000				35,000	16,960	18,040	48%
Bulk Oil Sales/Charges	20,000				20,000	17,994	2,006	90%
Gear Storage	50,000				50,000	51,254	(1,254)	103%
Parking Meters	7,500				7,500	2,243	5,257	30%
Launch Ramp Fees	19,000				19,000	5,702	13,298	30%
Interest on Investments	14,000				14,000	6,572	7,428	47%
Office Rent AMHS	16,500				16,500	6,569	9,931	40%
Other Revenues	7,300				7,300	18,258	(10,958)	250%
Harbor Services to Cargo	70,435				70,435	28,174	42,261	40%
Harbor Services to Boat Yard						28,174		0%
Harbor Services to Electric					-	14,087	(14,087)	0%
Approp from Retained Earnings	1,172,628				1,172,628		1,172,628	0%
<b>Revenues:</b>	<b>3,605,033</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,605,033</b>	<b>1,862,971</b>	<b>1,770,236</b>	<b>52%</b>
<b>Expenditures:</b>								
Boat Harbor Administration	3,385,634				3,385,634	1,567,492	1,818,142	46%
Boat Harbor Interfund	219,399				219,399	219,399	-	100%
Transfer to Harbor Capital	-				-	-	-	
<b>Expenditures:</b>	<b>3,605,033</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,605,033</b>	<b>1,786,891</b>	<b>1,818,142</b>	<b>50%</b>

**Fund 512 Shipyard**

<b>Revenues:</b>								
PERS Relief	22,220				22,220		22,220	0%
Customer Fees	693,000				693,000	282,200	410,800	41%
Interest on Investments	1,000				1,000	-	1,000	0%
Other Revenue	2,000				2,000	1,385	615	69%
Approp from Retained Earnings	558,495			-	558,495	-	558,495	0%
<b>Revenues:</b>	<b>1,276,715</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,276,715</b>	<b>283,585</b>	<b>993,130</b>	<b>22%</b>
<b>Expenditures:</b>								
Yard Administration	1,180,957				1,180,957	539,811	641,146	46%
Boat Yard Interfund	95,758				95,758	95,758	-	100%
<b>Expenditures:</b>	<b>1,276,715</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>1,276,715</b>	<b>635,569</b>	<b>641,146</b>	<b>50%</b>

**Fund 515 Harbor Electrical**

<b>Revenues:</b>								
Non-Meter Charge	15,000				15,000	4,633	10,367	31%
Customer Charge recurring	115,000				115,000	54,930	60,070	48%
Connect/Disconnect fee	7,000				7,000	3,680	3,320	53%
Energy Charge	530,000				530,000	251,304	278,696	47%
Record Fee	1,000				1,000	240	760	24%
HM Service	5,000				5,000	1,381	3,619	28%

	Adopted Budget 2016	Capital Project Rollover 2015	Amendments FY 2016	Supplemental #1 2016	Total Budget 2016	Revenues & Expenses As of 12/31/15	Difference	%
Interest on Investments	1,000				1,000	-	1,000	0%
Approp from Retained Earnings	(57,410)				(57,410)	-	(57,410)	0%
Transfer	-				-	-	-	
<b>Revenues:</b>	<b>616,590</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>616,590</b>	<b>316,168</b>	<b>300,422</b>	<b>51%</b>
<b>Expenditures:</b>								
Electric Utility Administration	563,042				563,042	246,927	316,115	44%
Electric Utility Interfund	53,548				53,548	52,951	597	99%
<b>Expenditures:</b>	<b>616,590</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>616,590</b>	<b>299,878</b>	<b>316,712</b>	<b>49%</b>
<b>Fund 550 Water Utility</b>								
<b>Revenues:</b>								
PERS Relief	80,280				80,280	-	80,280	0%
Water Sales Metered	1,900,000				1,900,000	1,061,479	838,521	56%
Water Sales City	1,500,000				1,500,000	792,007	707,993	53%
Water Sales Borough	1,000,000				1,000,000	535,625	464,375	54%
Water Service Connections	15,000				15,000	5,370	9,630	36%
Interest on Investments	2,000				2,000	-	2,000	0%
Other Revenues	32,000				32,000	7,127	24,873	22%
Approp From Retained Earnings	(1,191,234)			-	(1,191,234)	-	(1,191,234)	0%
<b>Revenues:</b>	<b>3,338,046</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,338,046</b>	<b>2,401,608</b>	<b>936,438</b>	<b>72%</b>
<b>Expenditures:</b>								
Water Utility Transfers	110,000				110,000	110,000	-	100%
Water Utility	2,813,771			-	2,813,771	1,247,551	1,566,220	44%
Water Treatment Plant	414,275				414,275	210,204	204,071	51%
Transfer	-				-	-	-	0%
<b>Expenditures:</b>	<b>3,338,046</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>3,338,046</b>	<b>1,567,755</b>	<b>1,770,291</b>	<b>47%</b>
<b>Fund 570 Sewer Utility</b>								
<b>Revenues:</b>								
PERS Relief	138,190				138,190	-	138,190	0%
Sewer Service Charges - City	2,500,000			-	2,500,000	1,269,848	1,230,152	51%
Sewer Service Charges - Outside	1,400,000			-	1,400,000	697,412	702,588	50%
Sewer Connections	9,800				9,800	6,122	3,678	62%
Septic Truck Discharge	62,000				62,000	40,416	21,584	65%
Lab Testing Fee	23,000				23,000	12,260	10,740	53%
Interest on Investments	4,000				4,000	-	4,000	0%
Other Revenues						1,117	(1,117)	
Approp From Retained Earnings	433,363			350,000	783,363	-	783,363	0%
<b>Revenues:</b>	<b>4,570,353</b>	<b>-</b>	<b>-</b>	<b>350,000</b>	<b>4,920,353</b>	<b>2,027,175</b>	<b>2,893,178</b>	<b>41%</b>
<b>Expenditures:</b>								
Sewer Utility Transfers	110,000				110,000	110,000	-	100%
Sewer Utility	827,918				827,918	389,491	438,427	47%
Wastewater Treatment Plant	3,632,435			-	3,632,435	1,674,524	1,957,911	46%
Compost Facility				350,000	350,000	1,674,524	(1,324,524)	478%
<b>Expenditures:</b>	<b>4,570,353</b>	<b>-</b>	<b>-</b>	<b>350,000</b>	<b>4,920,353</b>	<b>3,848,539</b>	<b>1,071,814</b>	<b>78.2%</b>
<b>Fund 580 Trident Basin</b>								
<b>Revenues:</b>								
Trident Basin - Charges	13,000				13,000	13,309	(309)	102%
Rentals from Others	33,300				33,300	19,602	13,698	59%
Approp From Retained Earnings	259,154				259,154	-	259,154	0%
Transfer from Trident Basin Capital Fund	-				-	-	-	0%
<b>Revenues:</b>	<b>305,454</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>305,454</b>	<b>32,911</b>	<b>272,543</b>	<b>11%</b>
<b>Expenditures:</b>	<b>305,454</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>305,454</b>	<b>162,697</b>	<b>142,757</b>	<b>53%</b>
<b>Fund 585 E-911 Services</b>								
<b>Revenues:</b>								
PERS Relief	1,070				1,070	-	1,070	0%
Customer Charges	36,700			-	36,700	-	36,700	0%
Approp From Retained Earnings	(24,590)				(24,590)	-	(24,590)	0%
<b>Revenues:</b>	<b>13,180</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>13,180</b>	<b>-</b>	<b>13,180</b>	<b>0%</b>
<b>Expenditures:</b>	<b>13,180</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>13,180</b>	<b>3,070</b>	<b>10,110</b>	<b>23%</b>
<b>Fund 780 Self-Insurance</b>								
<b>Revenue:</b>								
Interest on Investments	500				500	-	500	0%
Insurance Refund/Reserve	40,000				40,000	-	40,000	0%

CITY OF KODIAK  
 FY 2016 Supplemental  
 Budget

Attachment B

	Adopted	Capital Project	Amendments	Supplemental	Total	Revenues & Expenses		
	Budget	Rollover	FY 2016	#1	Budget	As of	Difference	%
	2016	2015		2016	2016	12/31/15		
Charges to General Fund	234,840				234,840	234,840	-	100%
Charges to Trident Basin	11,690				11,690	11,690	-	100%
Charges to Cargo Terminal	25,140				25,140	25,140	-	100%
Charges to Boat Harbor	114,720				114,720	114,720	-	100%
Charges to Boat Yard	19,840				19,840	19,840	-	100%
Charges to Boat Electric	140				140	140	-	100%
Charges to Water Utility	49,040				49,040	49,040	-	100%
Charges to Sewer Utility	52,920				52,920	52,920	-	100%
Charges to E-911	110				110	110	-	100%
Approp Fund	-			250,000	250,000	-	250,000	0%
Revenues:	<b>548,940</b>	-		<b>250,000</b>	<b>798,940</b>	<b>508,440</b>	<b>290,500</b>	<b>64%</b>
Expenditures:								
Insurance Expenses	548,940			250,000	798,940	567,306	231,634	71%
Expenditures:	<b>548,940</b>	-		<b>250,000</b>	<b>798,940</b>	<b>567,306</b>	<b>231,634</b>	<b>71%</b>
<b>Totals</b>								
Non Capital Projects Revenue	38,067,050	-		2,347,636	40,404,330			
Non Capital projects Expenses	38,067,050	-		2,347,636	40,404,330			
	-	-		-	-			
Capital Projects Revenue	4,436,019	108,518,331		539,281	113,493,631			
Capital Projects Expenses	4,436,019	108,518,331		539,281	113,493,631			
	-	-		-	-			
Total Revenues	42,503,069	108,518,331		2,886,917	153,908,317			
Total Expenses	42,503,069	108,518,331		2,886,917	153,908,317			
	-	-		-	-			
Total Non-Capital Projects for FY	38,067,050	-		2,347,636	40,414,686			
Total Capital Projects for FY	4,436,019	-		539,281	4,975,300			
	<b>\$ 42,503,069</b>	<b>\$ -</b>		<b>2,886,917</b>	<b>\$ 45,389,986</b>			

Storm Damage and Increases in Premiums for additional facilities

	Detail Description	Account Number		Total Debit Adjustment	Total Credit Adjustment
<b>100</b>	<b>General Fund</b>				
	Police Admin Professional Services	100.140.100.430.110		3,300	-
	Police Admin M&E < \$5,000	100.140.100.470.125		616	-
	Police Uniformed Patrol OT	100.140.149.410.140		50,000	-
	Police Support Dispatch Rent	100.140.144.450.620		2,400	
	Police Support Dispatch M&E >\$5,000	100.140.144.470.126		1,422	
	Fire M&E >\$5,000	100.150.100.470.126		8,475	
	Legal	100.105.106.430.110		150,000	
	Non-Department KIB Rent - City Hall	100.190.100.450.620		24,267	
	Emergency Services- Professional Svcs	100.110.110.430.110			7,886
	Transfers to Disaster Administration	100.190.198.490.298		7,886	
	Transfers to Enhancement Fund	100.190.198.490.299		748,400	
	EMPG Federal Grant	100.001.330.325			15,000
	Use of Fund Balance	100.001.385.100			973,880
<b>298</b>	<b>Disaster Administration</b>				
	Transfers from General - Emergency Svcs	298.001.390.100			7,886
	Other Revenues	298.001.375.600			2,470
	Salaries & Wages	298.285.100.410.100		7,692	
	Social Security	298.285.100.420.120		585	
	Retirement	298.285.100.420.130		1,262	
	Workman's Comp	298.285.100.420.200		282	
	Telephone	298.285.100.450.115		125	
	Supplies	298.285.100.450.310		410	
<b>300</b>	<b>General Capital Projects</b>				
<b>2015 SHSP</b>	Federal Grants	300.001.330.320	4043.4		64,281
<b>2015 SHSP</b>	Salaries & Wages	300.300.443.410.100	4043.50	17,979	
<b>2015 SHSP</b>	Travel	300.300.443.450.135	4043.51	4,449	
<b>2015 SHSP</b>	Supplies	300.300.443.450.310	4043.51	325	
<b>2015 SHSP</b>	Equipment	300.300.443.470.125	4043.53	41,528	
<b>Storm Damage</b>	Transfers from Insurance Fund	300.001.390.780			225,000
<b>Storm Damage</b>	Equipment	300.300.444.470.125	4044.53	225,000	
<b>780</b>	<b>Insurance Fund</b>				
<b>Storm Damage</b>	Transfers to General Capital Projects	780.790.XXX.XXX		225,000	
<b>Adds</b>	Insurance Premium Expense	780.790.100.450.112		25,000.00	
	Appropriation of Fund Balance	780.001.XXX.XXX			250,000
<b>306</b>	<b>Sewer Capital Fund</b>				
	Appropriation of Fund Balance	306.001.385.100		250,000	
	Upgrade Lift Station	306.350.759.470.725	7509.55		250,000
<b>570</b>	<b>Sewer Fund</b>				
	Appropriation of Fund Balance	570.001.385.100			350,000
	Salaries & Wages	570.580.390.410.100		53,000	
	Supplies - Wood Chips	570.580.390.450.340		200,000	
	Equipment	300.300.443.470.126		97,000	
<b>299</b>	<b>Enhancement Fund</b>				
	Use of Fund Balance	299.001.385.100		748,400	
	Transfer from General Fund	299.001.390.100			748,400



# **NEW BUSINESS**


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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager   
**Date:** February 11, 2016

**Agenda Item:** V. a. **First Reading, Ordinance No. 1343, Authorizing a Lease of a Communication Site on an Unsubdivided Portion of U.S. Survey 4947 on Near Island to Kodiak Island Broadcasting Co., Inc**

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**SUMMARY:** The City has leased a communication site on Near Island to Kodiak Island Broadcasting Co., Inc. (KIBCI) since the first agreement sometime prior to the year 2000. The last five year lease extension in 2010 expired in November of 2015 and has been honored on a month-to-month basis until the new lease could be approved by Council. KIBCI notified staff of its desire to continue a lease and staff worked with the City Attorney to prepare a new lease. Due to the lease's term and value, Council must approve it by an ordinance (Attachment A).

**PREVIOUS COUNCIL ACTION:** Prior to the year 2000 the Council authorized the primary lease of Near Island property to Kodiak Island Broadcasting Co., Inc. and authorized subleases between KIBCI and other entities, the latest being approval of the sublease between KIBCI and Alaska Wireless Network in October of 2015.

**DISCUSSION:** The City has had a lease for a communication site on Near Island with KIBCI for many years. The last extension of their lease expired in November and has been extended on a monthly basis at the existing rate of \$416.66 per month.

The company notified the City of its interest in entering a new lease for the property. Staff worked with the City Attorney to prepare a new five year lease with the option of one-five year extension under the same terms as the 2016 lease at the rate of \$1,000 per month. The lease includes a carryover provision to receive permission from the City for any subleases on the property and to remit 50 percent of all sublease fees to the City monthly.

Prior to 2009, the City determined to charge the base rate of \$1,000 per month to any commercially held communication site leases. The commercial leases that have been issued since that time have been at that new rate. The City has also seen an increased interest in the availability and value of commercial communication site property over the past few years. Staff will explore the market to better understand what's in the City's best interest when it comes to lease and/or management rates. Therefore, staff prepared KIBCI's new lease at five years at the new monthly rate with one-five year option to renew.

This should give staff time to complete research on the trends and needs of the communication industry and to understand the benefits the City derives from such services.

This lease requires approval by Council by ordinance to meet the requirements of the City Charter Article V-17.

**ALTERNATIVES:**

- 1) Pass Ordinance No. 1343 in the first reading, 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.1343, which is not recommended, because it would result in a loss of revenue and would affect communications in Kodiak.

**FINANCIAL IMPLICATIONS:** The new lease rate reflects the commercial rate for communication sites, \$1000/month. The City increased the rates for communication sites before 2009 to reflect the growing interest in such sites and the value commercial lessor were willing to pay.

**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 pass Ordinance No. 1343 in the first reading and advance to second reading and public hearing.

**CITY MANAGER'S COMMENTS:** I support the issuance of this new lease to KIBCI. They have been a reliable and responsible partner in operating the site and in disbursing their monthly payments as well as those of their sub-lessees. The terms are comparable to other commercial communication site leases. The City also will continue to use this communication site as a condition of the lease to house City equipment which supports a receiver/repeater and microwave link to Pillar Mountain. Therefore, I recommend Council pass Ordinance No. 1343 in the first reading and advance to the second reading and public hearing at the next regular or special meeting.

**ATTACHMENTS:**

Attachment A: Ordinance No. 1343

Attachment B: City's Lease with Kodiak Island Broadcasting Co., Inc.

**PROPOSED MOTION:**

Move to pass Ordinance No. 1343 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

**CITY OF KODIAK  
ORDINANCE NUMBER 1343**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK  
AUTHORIZING A LEASE OF A COMMUNICATION SITE ON AN UNSUBDIVIDED  
PORTION OF U.S. SURVEY 4947 ON NEAR ISLAND TO KODIAK ISLAND  
BROADCASTING CO., INC.**

WHEREAS, the City owns property on Near Island that it has leased to Kodiak Island Broadcasting Co., Inc. as a communication site since before 2000; and

WHEREAS, Kodiak Island Broadcasting Co., Inc. desires to continue leasing the communications site, and has requested that the City Council authorize the Near Island Communications Site Lease (“Lease”) that now is before this meeting, and it is in the best interest of the City that the Lease be authorized; and

WHEREAS, the City intends to continue to exercise its right to access to the communications tower permitted under Section 4 of the Lease; and

WHEREAS, the sublease to New Cingular Wireless PCS, LLC identified in Section 13 of the Lease will be approved at no cost, based on New Cingular Wireless PCS, LLC’s permission for the City to install communications equipment in its building on the Lease site; and

WHEREAS, the approval of subleases does not release Kodiak Island Broadcasting from any of its obligations under its Lease with the City; the sublessees agree to comply with all the terms of the City’s Lease with Kodiak Island Broadcasting regarding the use of the premises, insurance and environmental requirements; and the insurance provided by Kodiak Island Broadcasting must cover the activities of the sublessees.

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 Kodiak Island Broadcasting Co., Inc., for a term commencing April 1, 2016, and ending March 31, 2021, with an option for the Lessee to renew the Lease for an additional five (5) years upon the written request of the Lessee with all the terms and conditions of the 2016 Lease applying to the additional terms of the communications site described in the Lease, located on an unsubdivided portion of U.S. Survey 4947 on Near Island in the City of Kodiak.

**Section 2:** The form and content of the Lease between the City and Kodiak Island Broadcasting Co., Inc. 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 Kodiak Island Broadcasting Co., Inc. 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.

CITY OF KODIAK

\_\_\_\_\_  
MAYOR

ATTEST:

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

First Reading:  
Second Reading:  
Effective Date:

**NEAR ISLAND COMMUNICATION SITE LEASE  
CITY OF KODIAK AND KODIAK ISLAND BROADCASTING CO., INC.**

THIS LEASE ("Lease") is made effective the 1st day of April 2016, by and between the CITY OF KODIAK, an Alaska municipal corporation ("Lessor"), and KODIAK ISLAND BROADCASTING CO., INC., an Alaska corporation ("Lessee").

WHEREAS, Lessor and Lessee entered into a Near Island Communications Site Lease effective as of December 1, 2005, which expired as of November 30, 2015, and has been carried over on a month-to-month basis; and

WHEREAS, Lessee desires to continue to lease the premises described herein for the communications facilities of Lessee and its sublessees; and

WHEREAS, the communications facilities that Lessee and its sublessees have located on the leased premises serve the interests of the City of Kodiak and its residents.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein, the parties agree as follows:

**1. Leased Premises.** Upon the terms and conditions set forth in this Lease, and subject to the prompt payment and performance by Lessee of each and every sum and other obligation hereinafter referred to, the Lessor does hereby lease, let, and demise to the Lessee, and the Lessee does hereby lease from the Lessor, the following described premises (the "Site"):

Beginning at the monument marking the point of curvature on the Dog (Salmon) Bay Road, station 66+85.60, Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska; thence the following State Plane Zone 5, courses:

S 02°20'37" E, a distance of 139.09 feet to the TRUE POINT OF BEGINNING;

Thence S 16°54'45" E, a distance of 85.00 feet;

Thence S 73°05'15" W, a distance of 85.00 feet;

Thence N 16°54'45" W, a distance of 85.00 feet;

Thence N 73°05'15" E, a distance of 85.00 feet to the TRUE POINT OF BEGINNING;

containing 7,225 square feet, more or less, all as shown on a plat of survey prepared by Ecklund Surveying, dated May 5, 1992.

Together with a vehicular access easement along the following described line: Beginning at the monument marking the point of curvature on the Trident Basin Access Road, station 62+21.92; thence N 51°00' W 220 feet, more or less; thence N 16°54'45 W 63 feet, more or less.

**2. Term.** This Lease shall continue in effect for a period of five (5) years from the date first written above with an option for the Lessee to renew the Lease for an additional five (5) years upon the written request of the Lessee with all the terms and conditions of the 2016 Lease applying to the additional terms. Unless they conflict with the terms of this Lease, the provisions of Kodiak City Code section 18.20.350 in effect on the date first written above shall govern the Lessee's re-lease rights.

**3. Rental.** Lessee agrees to pay as and for rent the sum of \$1,000 per month in monthly installments which fall due on the first day of each calendar month; and Lessor shall further pay such amounts provided under Paragraph 13.

**4. Conditions of Lease.** The Site shall be used solely as a radio communication and telecommunications site. Lessor shall also be entitled to sufficient space on the tower to attach one omni antenna and all associated coaxial cabling, for Lessor's sole individual use, on such reasonable terms as the parties shall decide.

**5. Improvements.** Lessor shall have the right to make additions, alterations, or improvements to the Site which will not impede Lessee's access to or use of the Site. Lessee shall have the right to erect, construct and maintain a suitable building and/or associated structure(s) on the Site necessary for the operation of a communications facility. 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 sole cost and expense. Upon termination of this Lease, such improvements shall become the property of Lessor or, at Lessee's option, removed by Lessee at its sole expense.

**6. Maintenance.** Except as otherwise specifically provided herein, the Lessee shall, at all times and at its sole expense, keep and maintain the Site in good repair, and in neat, orderly, and sightly 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, including without limitation attorney's fees reasonably incurred for response or defense, for 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. 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) Without limiting Lessee's obligations to indemnify under this Lease, 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 \$1,000,000.

(2) 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: (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

(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 Landlord, 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.

(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 under this Lease.

(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 thirty (30) days' prior written notice has been given by the Insurer to Lessor 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 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. 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 premises or its rights hereunder.

**10. Operation of Equipment.** In installing, operating, or maintaining any equipment on the Site and in its general management of the Site, the 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. The Lessee will at all times protect from interference all frequencies assigned to the Lessor whether or not such frequencies are in use. The Lessee will not do, attempt, or permit any acts in connection

with this Lease which could be construed as a violation of law.

**11. Security of Site.** Lessee agrees to take, at the Lessee's own expense, all reasonable measures and precautions necessary to render the communications facility inaccessible to unauthorized persons.

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

**13. Assignment and Subleasing.** Lessee is authorized to continue to lease tower spots to New Cingular Wireless PCS, LLC and Alaska Wireless Network LLC. Copies of the existing leases are attached as Exhibits A and B. Lessee shall not otherwise assign its rights, enter into a sublease, or delegate its duties under this Lease without the prior written consent of Lessor and under the terms outlined in Kodiak City Code Title 18, Section 18.20.230. Lessee shall remit to Lessor fifty percent (50%) of any assignment or sublease revenues paid monthly in equal installments, which shall fall due on the first day of each calendar month. For so long as New Cingular Wireless permits the City to install communications equipment in the building located on the lease site, Lessee will not be required to remit to Lessor any portion of the sublease revenues that Lessee receives from New Cingular Wireless.

**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 this Lease as of such date and re-enter the premises and remove all property therefrom and Lessee shall remain liable for the payment of rental to the extent provided by law.

**15. 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 executed this instrument as of the date first written above.

CITY OF KODIAK

KODIAK ISLAND BROADCASTING, INC.

---

AIMÉE KNIAZIOWSKI  
City Manager  
710 Mill Bay Road  
Kodiak, AK 99615

---

DENNIS BOOKEY  
Vice President  
9740 Jupiter Drive  
Anchorage, AK 99507

ATTEST:

WITNESS:

---

DEBRA L. MARLAR  
City Clerk

EXHIBIT A

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

**FIRST AMENDMENT TO SUBLEASE OF LAND AND TOWER SPACE LEASE**

THIS FIRST AMENDMENT TO SUBLEASE AND TOWER SPACE LEASE ("First Amendment") dated as of the later date below is by and between Kodiak Island Broadcasting, Inc., an Alaska corporation, having a mailing address at 9740 Jupiter Drive, Anchorage, AK 99507 (hereinafter referred to as "Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, successor in interest to Dobson Cellular Systems, Inc., successor in interest to Kodiak Wireless, LLC, an Alaska corporation, having a mailing address at 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "Lessee").

WHEREAS, Lessor and Lessee entered into a Sublease of Land and Tower Space Lease dated March 1, 2006 whereby Lessor leased to Lessee certain Tower Premises, therein described, that are a portion of the Real Property located at Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615 ("Lease"); and

WHEREAS, the City of Kodiak (the "Owner"), owns certain real property located upon Near Island, Kodiak, Alaska, which is further described as Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska; and

WHEREAS, the Owner and Lessor are parties to a lease dated September 14, 2000, as amended from time to time (collectively, the "Prime Lease"); and

WHEREAS, Lessor and Lessee desire to extend the term of the Lease; and

WHEREAS, Lessor and Lessee desire to modify, as set forth herein, the rent payable under the Lease; and

WHEREAS, Lessor and Lessee, in their mutual interest, further wish to amend the Lease as set forth below.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

1. **Term.** The Term of the Lease shall be amended to provide that the Lease has a new term of 60 months ("New Initial Term"), commencing on March 1, 2011. The Term will be automatically renewed for up to 1 additional 60 month term (each an "Extension Term") without further action by Lessee. Hereafter, the defined term "Term" shall include the New Initial Term and any applicable Extension Term. The foregoing notwithstanding, the Term of this Lease shall be co-terminus with the term of the Lessor's Prime Lease with the Owner.

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

2. **Memorandum of Lease.** Either party will, at any time upon fifteen (15) days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum of Lease substantially in the form of the Attachment 1. Either party may record this memorandum at any time, in its absolute discretion.

3. **Acknowledgement.** Lessor acknowledges that: 1) this First Amendment is entered into of the Lessor's free will and volition; 2) Lessor has read and understands this First Amendment and the underlying Lease and, prior to execution of the First Amendment, was free to consult with counsel of its choosing regarding Lessor's decision to enter into this First Amendment and to have counsel review the terms and conditions of the First Amendment; 3) Lessor has been advised and is informed that should Lessor not enter into this First Amendment, the underlying Lease between Lessor and Lessee, including any termination or non-renewal provision therein, would remain in full force and effect.

4. **Notices.** Section 13 of the Lease is hereby deleted in its entirety and replaced with the following: 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 Lessee:

New Cingular Wireless PCS, LLC  
Attn: Network Real Estate Administration  
Re: Cell Site #: 10125247; Cell Site Name: Near Island (Kodiak) (AK)  
Fixed Asset No: 10125247  
12555 Cingular Way, Suite 1300  
Alpharetta, GA 30004

With a required copy of the notice sent to the address above to AT&T Legal at:

If sent via certified or registered mail:

New Cingular Wireless PCS, LLC  
Attn: AT&T Legal Department  
Re: Cell Site #: 10125247; Cell Site Name: Near Island (Kodiak) (AK)  
Fixed Asset No.: 10125247  
P.O. Box 97061  
Redmond, WA 98073-9761

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

Or

If sent via nationally recognized overnight courier:

New Cingular Wireless PCS, LLC

Attn: AT&T Legal Department

Re: Cell Site #: 10125247; Cell Site Name: Near Island (Kodiak) (AK)

Fixed Asset No.: 10125247

16331 NE 72nd Way

Redmond, WA 98052-7827

And if to Lessor:

Dennis Bookey

Vice President

Kodiak Island Broadcasting

9740 Jupiter Drive

Anchorage, AK 99507

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

5. **Other Terms and Conditions Remain.** In the event of any inconsistencies between the Lease and this First Amendment, the terms of this First Amendment shall control. Except as expressly set forth in this First Amendment, the Lease otherwise is unmodified and remains in full force and effect. Each reference in the Lease to itself shall be deemed also to refer to this First Amendment.

6. **Capitalized Terms.** All capitalized terms used but not defined herein shall have the same meanings as defined in the Lease.

[NO MORE TEXT ON THIS PAGE – SIGNATURES TO FOLLOW ON NEXT PAGE]

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

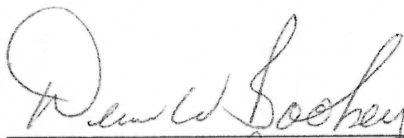
IN WITNESS WHEREOF, the parties have caused their properly authorized representatives to execute and seal this First Amendment on the date and year below.

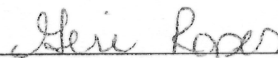
LANDLORD:

TENANT:

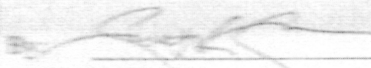
Kodiak Island Broadcasting, Inc., an Alaska corporation

New Cingular Wireless PCS, LLC  
a Delaware limited liability company  
By: AT&T Mobility Corporation  
Its: Manager

By:   
Name: Dennis W Bookley  
Title: Vice President  
Date: 8/31/2009

By:   
Name: Geri Roper  
Title: Real Estate & Construction Mgr.  
Date: 9/30/09

WITNESSED BY:

  
Name: Scott K. Smith  
Title: Vice President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

LESSOR ACKNOWLEDGEMENT

CORPORATE ACKNOWLEDGEMENT

STATE OF Alaska

COUNTY OF Anchorage

I CERTIFY that on September 2nd, 2009, Dennis Dooney [name of representative] personally came before me and acknowledged under oath that he or she:

(a) is the Vice President [title] of Kodiak Island Broadcasting, Inc. [name of corporation], the corporation named in the attached instrument,

(b) was authorized to execute this instrument on behalf of the corporation and

(c) executed the instrument as the act of the corporation.

Lara M. Bickford  
Notary Public: Lara M. Bickford  
My Commission Expires: 9/24/09

**Lara M. Bickford**  
**NOTARY PUBLIC**  
**STATE OF ALASKA**  
My comm. Exp. 9/24/09



Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

LESSEE ACKNOWLEDGEMENT

STATE OF WA )  
COUNTY OF King ) ss

I certify that I know or have satisfactory evidence that Gren Raper is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager Real Estate & Construction of New Cingular Wireless PCS, LLC, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 9/30/09



Brandi Rachele Trader  
(Signature of Notary)

(Legibly Print or Stamp Name of Notary)  
Notary Public in and for the State of \_\_\_\_\_  
My appointment expires: 1/14/2012

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1  
FA No: 10125247  
Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

ATTACHMENT 1

MEMORANDUM OF LEASE

Prepared by:  
Black Dot Wireless  
300 Commerce, Suite 200  
Irvine, CA 92602

Return to:  
New Cingular Wireless PCS, LLC  
12555 Cingular Way, Suite 1300  
Alpharetta, GA 30004  
Attn: AT&T Network Real Estate Administration

Re: **Market: Seattle/Oregon/No. ID**  
**Cell Site Number: 10125247**  
**Cell Site Name: Near Island (Kodiak)**  
**FA Number: 10125247**  
**Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615**  
**County: Kodiak Island**

MEMORANDUM  
OF  
LEASE

This Memorandum of Lease is entered into on this 31<sup>st</sup> day of August, 2009, by and between Kodiak Island Broadcasting, Inc., an Alaska corporation, having a mailing address of 9740 Jupiter Drive, Anchorage, AK 99507 (hereinafter referred to as "Lessor") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "Lessee").

1. Lessor and Lessee entered into a certain Sublease of Land and Tower Space Lease ("**Lease**") on the 1st day of March, 2006, as amended by that certain First Amendment to Sublease of Land and Tower Space Lease for the purpose of installing, operating and maintaining a telecommunications facility and other improvements. All of the foregoing are set forth in the Lease.
2. The initial lease term will be five (5) years ("**Initial Term**") commencing on March 1, 2011, with one (1) automatic five (5) year Extension Term.

ATT Master Template\_v.20\_v.1

- 7 -

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

3. The portion of the land being leased to Lessee (the "Tower Premises") is described in Exhibit 1 annexed hereto.
4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Lease, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Lease, the provisions of the Lease shall control. The Lease shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Lease.

SIGNATURES TO FOLLOW ON NEXT PAGE

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above

WITNESSES

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

"LESSOR"

Kodiak Island Broadcasting, Inc.  
an Alaska corporation

By: Dennis W Bookley

Print Name: Dennis W Bookley

Its: Vice President (IT)

Date: 8/31/2009

"LESSEE"

New Cingular Wireless PCS, LLC,  
a Delaware limited liability company

By: AT&T Mobility Corporation

Its: Manager

By: Geri Roper

Print Name: Geri Roper

Its: Real Estate & Cordl Mgr.

Date: 10/14/09

Cell Site No: 10125247 / Near Island (Kodiak)\_WS-163643.1

FA No: 10125247

Site Address: Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska 99615

**EXHIBIT 1**

**DESCRIPTION OF TOWER PREMISES**

Page \_\_\_\_ of \_\_\_\_

to the Memorandum of Lease dated \_\_\_\_\_, 200\_\_, by and between Kodiak Island Broadcasting, Inc., an Alaska corporation, as Lessor, and New Cingular Wireless PCS, LLC, a Delaware limited liability company, as Lessee.

The Tower Premises are described and/or depicted as follows:

Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska

Notes:

1. This Exhibit may be replaced by a land survey and/or construction drawings of the Tower Premises once it is received by Lessee.
2. Any setback of the Tower Premises from the Real Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers and mounting positions may vary from what is shown above.

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**TOWER COLLOCATION AND LAND SUBLEASE AGREEMENT**

THIS TOWER COLLOCATION AND LAND SUBLEASE AGREEMENT ("Lease") is made and entered into as of the 1st day of February, 2015, ("Effective Date") by and between The Alaska Wireless Network, LLC, an Delaware limited liability company, on its own behalf and on behalf of its telecommunication affiliates (collectively, "Tenant") and Kodiak Island Broadcasting Co., Inc. ("Owner") (each a "Party" and collectively, the "Parties").

**WITNESSETH:**

WHEREAS, the City of Kodiak (the "Property Owner"), owns certain real property located in Kodiak, AK, Recording District, Third Judicial District, State of Alaska (the "Real Property"); and

WHEREAS, the Property Owner and Owner, are parties to a certain Lease Agreement dated December 1, 2010, covering the Real Property as described in the "Prime Lease", which is attached as Exhibit "B" hereto and made a part hereof, pursuant to which Owner leases from the Property Owner, the Real Property; and

WHEREAS, Owner owns a communications tower (together with guy wires, the "Tower") and real property ("Property") located at Near Island, Kodiak Alaska part of US Survey 4947 with an address known as 199 Alimaaq Drive Kodiak Alaska (Tract "D", Plat 92-10) and desires to lease a portion of said Tower, and a 10 x 15 ground portion with fence and gate of the underlying Real Property, and certain rights and obligations covered by the Prime Lease, to Tenant and City of Kodiak;

WHEREAS, Tenant desires to lease a portion of said Tower, and sublease a portion of the underlying Real Property, and certain rights and obligations covered by the Prime Lease, from Owner;

NOW, THEREFORE, Owner and Tenant have agreed and do hereby agree as follows:

1. Premises. Owner hereby leases to Tenant, and Tenant hereby leases from Owner certain space on the Tower ("Tower Space"), owned and operated by Owner, and Owner hereby subleases to Tenant and Tenant hereby subleases from Owner certain land and connections between the land and the Tower (collectively, the "Premises"), all as more particularly described on Exhibit "A" which is attached hereto and made a part hereof. Owner also grants Tenant a non-exclusive access for ingress and egress, parking, utilities, construction, maintenance, operation and removal relating to Tenant's use of the Premises on, over, under and upon the adjacent land of Owner and the Tower, subject to the conditions and restrictions set forth herein.

2. Use. The Premises shall be used for the purpose of installing, constructing, maintaining, repairing, operating, inspecting, and removing a communications facility as described in this Lease, including but not limited to:

(a) Up to 5 antenna(s) to be located within Tenant's space on the Tower.

(b) Transmission lines, mounting and grounding hardware which lines and equipment shall be installed on the Tower in accordance with good and accepted engineering practices, at locations approved in writing in advance by Owner, at locations reasonably acceptable to Owner, and which shall not interfere with the use of, or access to the Tower by Owner or any other tenant leasing space on the Tower.

(c) Communications building, and/or outdoor equipment facilities (collectively, "Communications Building") placed at the location on the Real Property approved by Owner, and containing, without limitation and in Tenant's reasonable discretion, wireless communications equipment including, but limited to, radio-telephone base station(s), wireless data, microwave equipment, radio-telephone and or other commutation switch(es), power supplies, battery(ies),

and accessories, all as more particularly described on Exhibit "A," which is attached hereto and made a part hereof.

- (d) In the event of an emergency power outage, and for the duration of such outage, Tenant may install a temporary portable generator to be located adjacent to the Communications Building. The fuel tank for the generator will be self-contained (gasoline or diesel) and shall be used in accordance with all applicable environmental and other laws and building codes, regulations, and the terms of the Prime Lease. Tenant shall obtain all necessary permits to operate any temporary portable generator.

For the purposes of this Lease, all of Tenant's antennas, dishes, lines, equipment, switches, power supplies, batteries, Communications Building, accessories, and necessary appurtenances hereinafter shall be referred to collectively as the "Communications Facility." The Communications Facility may be installed by Tenant or by any of Tenant's agents or contractors, and in the installation thereof, said agent(s) or contractor(s) may tie into the Tower's grounding system, if any. Tenant has the right to make alterations of the Communications Facility from time to time so long as such alterations do not adversely affect the structural integrity to the Tower or interfere with those uses being made or reasonably anticipate to be made of the Tower. Tenant shall notify the tower owner of any frequency changes before alterations are anticipated and tower owner will notify Tenant as of the date of such alterations. Tenant shall be entitled to the primary use of the Tower Space, and the only Party entitled to erect any antenna or microwave dish as provided in subsection (a) above in such Tower Space. Owner shall not interfere with Tenant's permitted use of the Tower Space under this Agreement. The Parties hereto acknowledge that Owner may grant other and future leases or subleases on the Tower and Real Property, and that such interests must be protected.

Tenant shall keep the Premises, Communication Facility, and improvements thereon in a neat, safe and orderly condition and in good repair at all times, and shall promptly repair any damage caused by Tenant, its agents or contractors to the Real Property, Tower or other improvements.

3. Term. The initial term of this Lease is 5 years ("Term"), commencing as of May 1, , 2015 with 3, 5 year extensions (individually, an "Extension" and collectively, the "Extensions") at the sole option of Tenant, so long as Tenant is not in violation of any terms or conditions as set forth in this Lease. The Extensions shall be automatic unless: (a) Tenant notifies Owner at least 90 days prior to the expiration of the then-current term of its intent not to renew this Lease, or (b) Owner notifies Tenant in writing of a default, and Tenant fails to timely cure that default. At the conclusion, of the initial Term or final Extension, if any, this Lease shall continue month to month unless either Party has given notice of termination. Notice of termination during the month to month period shall be given no later than 30 days before the expiration of the then-current Lease term.

4. Rent. The rent for the Premises will be Eight Hundred Forty Dollars (\$840.00) per month, payable on the 1<sup>st</sup> day of each month, with a (3%) annual increase over the prior year's rent. Payment shall be made by check, bank draft, or money order made payable to Owner. All unpaid rents and fees will accrue interest at 10% percent per annum beginning 30 days after payment is due. Rent for any period during the term hereof which is less than one (1) month shall be prorated on the basis of a thirty-one (31) day month. Throughout the Initial Term and Extensions Tenant shall pay for any improvements to the Tower and site that Owner reasonably determines must be made to support use by Tenant.

5. Access and Easements. Owner hereby grants to Tenant, for use by Tenant, its employees, agents, contractors and by utility companies, a non-exclusive easement and non-exclusive licenses over, under, upon and lands of Owner, the Tower and rights-of-way or easements owned or leased by Owner, on a twenty-four (24) hour daily basis, for (a) ingress and egress to and from the Premises (the "Access Easement"), and (b) the installation, operation and maintenance of necessary utilities for the Premises (the "Utility Easement"). Such Access Easement and Utility Easement shall be over and lie within existing roads, parking lots and/or roads the access the Premises. Tenant shall have

the right, but not the obligation, to improve the Access Easement by grading, graveling and/or paving same, subject to Owner's prior written consent. Tenant shall obtain prior written approval from Owner prior to any change in the particular location of any Access Easement or Utility Easement. Owner reserves, both for itself and for the benefit of any other collocation tenants on the Tower, non-exclusive rights of access over Tenant's Tower Space and Premises, for purposes of accessing, maintaining, repairing and improving the Tower, as well as for any wiring or cable running through or on Tenant's Tower Space, provided same shall not unreasonably interfere with Tenant's use or occupation of its Tower Space.

Owner agrees that no part of Tenant's Communications Facility installed, constructed, erected or placed by Tenant on the Premises will be or become, or be considered as being, affixed to or a part of Owner's property, any and all provisions and principles of law to the contrary notwithstanding and it is the specific intention of Owner to agree hereby that all such Tenant's Communications Facility (exclusive of improvements made by Tenant to the Tower itself, which will remain part of the Tower) will be and remain the property of Tenant despite any termination of this Lease. Notwithstanding the foregoing, any structural enhancements to or extensions of the Tower by Tenant shall, upon completion, become the property of Owner, without warranty from Tenant.

Tenant shall remove all Tenant's Communications Facility at its sole expense within ninety (90) days of the expiration or earlier termination of this Lease, and Tenant shall repair any damage to the Premises, Tower and Real Property caused by such removal. In the event of Tenant's failure to remove same, and make such repairs prior to the expiration or permitted termination of this Lease, at Owner's option, Owner may treat Tenant as a holdover tenant, subject to the provisions herein for same, until such removal and repairs are completed, or Owner may treat the Communications Facility as abandoned after such ninety (90) day period, and may remove same from the Tower and Premises, liquidate same, apply proceeds of same to any costs of such removal and restoration, and any other sums payable hereunder, and the balance, if any, shall be paid over to Tenant.

6. Utilities. Tenant shall be solely responsible for and promptly pay all charges for gas, electricity, telephone service, or any other utility used or consumed by Tenant on the Property. Tenant shall have an electrical current meter installed at the Property for Tenant's electrical usage, and Tenant shall pay for the cost installation, maintenance, and repair of same. Such meter will be billed by and paid directly to the power company.

7. Holding Over. Subject to the Extensions available to Tenant in Section 3 above, if Tenant holds over after the expiration of this Lease, the holding over will not operate as a renewal or extension of this Lease, but only creates a tenancy from month to month, regardless of any rent payments accepted by Owner. Tenant's obligations for performance under this Lease will continue until the month-to-month tenancy is terminated by Owner. Owner may terminate the hold-over, month-to-month tenancy at any time by giving Tenant at least 30 days' prior written notice.

8. Notice. All notices or demands are deemed to have been given or made when mailed by certified, registered, or express mail, return receipt requested, postage prepaid, United States mail, or by overnight carrier service (such as Federal Express, UPS, etc.) and addressed to the applicable Party as follows:

Tenant:  
The Alaska Wireless Network, LLC  
Attn: Rachelle A. Alger  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503  
Phone: 907.868.5771  
Email: raalger@gci.com

Owner:  
Kodiak Island Broadcasting Co. Inc.  
Attn: Dennis Bookey  
PO Box 708  
Kodiak, AK 99615  
Phone: 907-275-2272 907-486-5159  
Email: ellen@kvok.com



With a copy of all legal notices to:  
The Alaska Wireless Network, LLC  
Attn: Vice President and Senior Legal Counsel  
2550 Denali Street, Suite 1000  
Anchorage, AK 99503

With a copy of all legal notices to:  
Kodiak Island Broadcasting Co, Inc.  
Attn: Ellen Simeonoff, General Manager  
1315 Mill Bay Road, Suite A  
Kodiak, AK 99615

Rent shall be paid to:  
Kodiak Island Broadcasting Co., Inc.  
PO Box 708  
Kodiak AK 99615  
907-486-5159

A Party may change its address to which any notice or demand may be given by thirty (30) days' prior written notice thereof to the other Party.

9. Liability and Indemnity. Tenant agrees to indemnify, hold harmless, and save Owner and Owners agents, and Property Owners harmless from all claims (including all costs and expenses of defending against such claims) arising or alleged to arise from any breach of this Agreement by Tenant, or any negligent act, negligent omission or intentional tort of Tenant or Tenant's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the term of this Agreement in or about the Premises, except to the extent caused by, or arising from the wrongful willful acts or negligence of Owner, Owner's agents, employees, contractors, subcontractors, invitees or licensees and Owners. Tenant further agrees to indemnify, hold harmless, and save Owner and Owners harmless from all claims (including all reasonable costs and expenses of defending against such claims) arising or alleged to arise from any personal injury to the person of Tenant, or any of Tenant's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the term of this Agreement in or about the Premises or the Real Property. Further, unless caused by, or arising from the wrongful willful acts or negligence of Owner, Owner's agents, employees, contractors, subcontractors, invitees or licensees and Owners, Tenant agrees to indemnify, hold harmless, and save Owner and Owners harmless from all claims (including all reasonable costs and expenses of defending against such claims) arising or alleged to arise from any damage to property of Tenant, or property of any of Tenant's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the Term of this Agreement in or about the Premises.

Owner agrees to indemnify, hold harmless, and save Tenant harmless from all claims (including all reasonable costs and expenses of defending against such claims) arising or alleged to arise from any breach of this Agreement by Owner, or any negligent act, negligent omission or intentional tort of Owner or Owner's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the term of this Agreement in or about the Premises or Real Property, except to the extent caused by, or arising from the wrongful willful acts or negligence of Tenant, Tenant's agents, employees, contractors, subcontractors, invitees or licensees. Owner further agrees to indemnify, hold harmless, and save Tenant harmless from all claims (including all reasonable costs and expenses of defending against such claims), arising or alleged to arise from any personal injury to the person of Tenant, or any of Tenant's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the Term of this Agreement in or about the Premises or the Real Property, to the extent such claims arise from any breach of this Agreement by Owner, or any negligent act, negligent omission or intentional tort of Owner or Owner's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the term of this Agreement in or about the Premises or Real Property, except to the extent caused by, or arising from the wrongful willful acts or negligence of Tenant, Tenant's agents, employees, contractors, subcontractors, invitees or licensees. Further, unless caused by, or arising from the wrongful willful acts or negligence of Tenant, Tenant's agents, employees, contractors, subcontractors, invitees or licensees, Owner agrees to indemnify, hold harmless, and save Tenant harmless from all claims (including all reasonable costs and expenses of defending against such claims) arising or alleged to arise from any damage to property of Tenant, or property of any of Tenant's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the term of this Agreement in or about the

Premises or Real Property, that arises from any breach of this Agreement by Owner, or any negligent act, negligent omission or intentional tort of Owner or Owner's agents, employees, contractors, subcontractors, invitees or licensees, occurring during the term of this Agreement in or about the Premises or Real Property.

The foregoing shall not, however, constitute a waiver by the indemnifying Party of any immunity from claims by employees under any industrial insurance or workers compensation act.

Neither Party shall be liable to the other, or any of their respective agents, customers, licensees, representatives or employees for any lost revenue, lost profits, loss of technology, rights or licenses, services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise. The provisions of this Section shall survive the termination of this Agreement.

10. Termination. Owner may cancel this Lease and recover possession of the Premises by giving Tenant 90 days' prior written notice, upon the happening of any of the events listed below, that are not cured within the 30 day notice period:

- (a) Tenant's failure to pay when due the rents or fees specified in this Lease, including any increases made pursuant to this Lease.
- (b) The return for insufficient funds of checks for payment of rents or fees.
- (c) The use of the Premises by Tenant for any purpose not authorized by this Lease.
- (d) The appointment of a trustee or receiver for the Tenant's assets in a proceeding brought by or against the Tenant.
- (e) The failure of Tenant to perform any provision or covenant in this Lease. If such provision or covenant is not possible to perform within such 30 day cure period, except for subsection (a) and (b) above, Tenant shall not be in default under this Lease if it has promptly commenced and is diligently pursuing the cure thereof.

Tenant may cancel this Lease with 270 days' written notice if (a) if the Premises become unsuitable for its communications purposes, (b) the appointment of a trustee or receiver for the Owner's assets in a proceeding brought by or against Owner, (c) during the Initial Term, the approval of any agency, board, court, or other governmental authority, including, without limitation, local zoning approval and the approval of the Federal Aviation Administration necessary for the construction and/or operation of the Communications Facility cannot be obtained, or is revoked, , (e) prior to Tenant's commencement of work to install its Communications Facility on the Premises and Tower, Tenant determines that the Premises is not appropriate for locating the Communications Facility for material technological reasons, including, but not limited to, signal interference, (f) during any term of this Agreement, Tenant is prevented by causes beyond its control, from utilizing the Premises to operate its Communications Facility for the use intended herein (other than a temporary disruption of such use). If such provision or covenant is not possible to perform within such 30 day cure period, Owner shall not be in default under this Lease if it has promptly commenced and is diligently pursuing the cure thereof.

Prior to commencement of its Initial Term and operations, Tenant may immediately cancel this Lease upon written notice to Owner if upon inspection of the Premises, Tenant identifies any Hazardous Materials as defined below or other geotechnical condition unacceptable in Tenant's sole discretion. However, once Tenant commences operation of its Communications Facility on the Tower and Premises, this basis for termination shall be deemed waived. During any term of this Agreement, if Tenant discovers Hazardous Materials on the Premises, unless caused by Tenant, its employees, agents, contractors or assigns, Tenant shall notify Owner of the condition, and Owner shall arrange to clean up the Hazardous Materials.

Upon any such permitted termination, neither Party will owe any further obligation under this Agreement except as otherwise provided in Section 11 and except for the indemnities and hold harmless provisions in this Agreement, the provisions of Section 20, Section 21, the prompt reimbursement of pro-rata prepaid rent if any, and Tenant's responsibility of removing all of the Communications Facility from the Premises and restoring the Premises to its condition as of the commencement date of this Agreement, as near as practicable (save and except utilities and fences installed, access areas improved, removal of vegetation for construction purposes, concrete pads installed, items constructed or changed by any person(s) or entity(ies) other than Tenant, normal wear and tear, and matters beyond Tenant's control).

For purposes of this Agreement, "Hazardous Materials" shall include hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9801, et seq.), petroleum and petroleum products, and any other hazardous or toxic materials, substances or wastes under any federal, state or local laws or regulations relating to protection of health, safety or the environment. The obligations of this Section 10 shall survive the expiration or other termination of this Agreement

11. Default.

(a) Notwithstanding anything in the Agreement to the contrary, Tenant shall not be in default under this Agreement until five (5) business days after Tenant's receipt of written notice from Owner of default due to failure to pay any sum due hereunder when due, or thirty (30) days after receipt of written notice from Owner specifying Tenant's failure to comply with any material provision of this Agreement, which failure is not cured within said thirty (30) days, PROVIDED that if reasonable efforts to cure such non-monetary default have been commenced within said thirty (30) day period, but the reasonable time to cure such default will take longer than thirty (30) days, and if Tenant diligently continues with such curative measures at all times until the cure is completed, Tenant shall be permitted a reasonable time thereafter to complete such curative measures.

(b) No course of dealing between the Parties, or any delay on the part of a Party to exercise any right it may have under this Agreement, shall operate as a waiver of any of the rights hereunder or by law or equity provided, nor shall any waiver of any prior default operate as the waiver of any subsequent default, and no express waiver shall affect any term or condition other than the one specified in such waiver, for the time and manner specifically stated.

(c) In the event of Owner's breach or failure to comply with any material provision of this Agreement, which failure is not cured within thirty (30) days after receipt of written notice thereof from Tenant (provided, however, where any such default cannot reasonably be cured within thirty (30) days, Owner shall not be deemed to be in default under this Agreement if Owner commences to cure such default within said thirty (30) days and thereafter diligently pursues such cure to completion), Tenant may, at its option, and as its sole remedy, terminate this Agreement, effective as of the date of the event of default. The rights of termination under this Section are subject to Tenant's obligation to remove its Communications Facility, and complete any restoration to the Tower and Premises required herein.

12. Taxes. Unless separately billed to Tenant by a taxing authority, Tenant shall pay annually to Owner an amount equal to any increase in real estate taxes that may be attributable to any improvement to the Premises made by Tenant, or any tax imposed on Owner as a result of, or arising out of this Lease (other than income taxes). Tenant shall pay to Owner Tenant's aforementioned share of any such tax within sixty (60) days of receipt of sufficient documentation demonstrating the increase in the assessed value of the Premises due to Tenant's improvements and calculating Tenant's said share of the resulting increase in said taxes and payment thereof by Owner shall pay annually when due all real estate taxes and assessments attributable to the Premises, the land beneath and surrounding the Tower, Access Easement, Utility Easement, and the tax lot(s) of which they are a part. Upon written request by Tenant, Owner shall furnish evidence of payment of said assessments and taxes. All charges payable

under this Lease such as utilities and taxes shall be billed by Owner within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond such period shall not be billed by Owner, and shall not be payable by Tenant. The foregoing shall not apply to monthly rent which is due and payable without a requirement that it be billed by Owner. The provisions of the foregoing sentence shall survive the termination or expiration of this Lease.

13. Insurance.

(a) Tenant, at its expense, shall maintain in force during the term of this Agreement a broad form coverage combined single limit policy of bodily injury and property damage insurance, with contractual liability coverage, in form reasonably acceptable to Owner, with a limit of not less than \$1,000,000.00 per occurrence and Two Million Dollars (\$2,000,000) in the aggregate, insuring Owner and Owner as additional insureds and Tenant as a named insured against liability arising out of Tenant's use, occupancy, or maintenance of the Premises, occurring during the term of this Agreement in or about the Premises or the Real Property, the general aggregate limit shall apply. Tenant shall cause Owner and Owners to be included on said policy as additional insured.

(b) Tenant shall also carry at all times such worker's compensation insurance as may be required under the laws of the state where the Premises are located, and shall provide Owner written evidence of such coverage for no less than One Million Dollars (\$1,000,000) within ten (10) days of any written request by Owner therefore. Any and all injuries or claimed injuries to Tenant's employees occurring on the Premises or the Real Property within the scope of employees' duties shall be regarded as a worker's compensation matter, to be adjusted through the worker's compensation system, and in the event any such employee shall claim that his or her injury is of a nature allowing pursuit of a claim in addition to or in lieu of a worker's compensation claim, such matter shall be the sole responsibility of, and shall be handled by, Tenant solely as an employer/employee matter, without the involvement of Owner, and Tenant shall indemnify, defend and hold Owner harmless from any and all such claims unless caused by the negligence or willful misconduct of Owner.

(c) Further, before allowing Tenant's agents, contractors, subcontractors, or the employees of any of them, to enter upon the Real Property, Tenant shall require any such person or entity to have, and provide written evidence to Tenant, (and upon request of Owner, to Owner) that such person or entity has like amounts and types of insurance coverage to those required of Tenant herein, with Owner to be included as an additional insured thereunder, and with such person or entity further agreeing to hold harmless Owner and Owner from any claims for personal injury or property damage suffered while on the Real Property or the Premises. Upon Tenant's failure to require same, Tenant shall protect and hold harmless Owner from any claim which would be covered by such insurance and indemnity, if it were in effect.

(d) Owner may, at its expense, maintain in force during the term of this Agreement and any extensions thereof, hazard insurance in an amount sufficient to cover the full replacement value of Owner's interest in the Tower in the event of fire, or other casualty. Tenant shall be responsible for its own hazard insurance, at its own expense, for amounts needed to cover the replacement value of Tenant's property on the Premises, including but not limited to Tenant's Communications Facility. Permission is granted to Licensee to self insure this coverage.

(e) Each insurance policy required under this Section shall be issued by an insurance entity authorized to do business in the state where the Premises are located, and shall be with an insurer which has a policyholder's rating of "A minus" and a financial rating of "VII", or better, as listed in the most current "Best's Insurance Reports". Each general liability insurance policy required under this Section shall specifically include contractual liability coverage. Written proof of insurance shall be given to Owner by Tenant prior to commencement of Agreement and updated with each renewal throughout the term of this Agreement and all extensions thereto.

Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered to Owner in accordance with the policy provisions, but in any event, Owner shall be provided with proof of insurance and/or replacement policies meeting the requirements of this Section 13 (in the form of certificates of insurance) on an annual basis.

(f) Owner shall maintain in force during the term of this Agreement a broad coverage combined single limit policy of bodily injury and property damage insurance, with contractual liability coverage, in form reasonably acceptable to Tenant, with a limit of not less than \$1,000,000.00 per occurrence and in the aggregate, insuring Tenant as additional insureds and Owner as a named insured against liability arising out of Owner's use, occupancy, or maintenance of the Premises, occurring during the term of this Agreement in or about the Premises or the Real Property. Owner shall cause Tenant to be included on said policy as additional insured.

14. Tests. Tenant will hereby be given the right to survey, soil test, radio coverage test, and to conduct any other investigations needed to determine if the surface and location of the Premises are suitable for Tenant's use as intended by this Lease. This will be granted following the signing of all Parties of this Lease and Tenant producing the aforementioned insurance for the site. The test period shall last sixty (60) days from the Effective Date and expire before the Commencement Date.

15. Fixtures and Improvements. At no additional charge, Tenant may operate, maintain, add and replace equipment at the Premises so long as the size of Tenant's Premises is not increased thereby. Any construction on the Premises must be neat, presentable, and compatible with its use and surroundings.

16. Permits. Owner acknowledges that following the execution of this Agreement, Tenant will be contacting the appropriate local governmental agencies for the purpose of obtaining all building permits and approvals, zoning changes and/or approvals, variances, use permits, and other governmental permits and approvals, including Federal Aviation Administration approval, if required (collectively, "Permits") necessary for the installation, construction, operation, and maintenance of the Communications Facility. Owner agrees to fully cooperate with Tenant in obtaining the Permits and to execute any applications, maps, certificates, or other documents that may be required in connection with the Permits. As a condition of this Agreement, Tenant agrees at all times to comply with all applicable local, state and federal codes, laws, regulations and ordinances of any kind, and obtain all necessary consents, permits and approvals which may be required to allow Tenant to lawfully construct, maintain or operate its Communications Facility on the Tower and Premises.

17. Consent. Except as otherwise specifically stated herein, whenever under this Lease the consent or approval of either Party is required or a determination must be made by either Party, no such consent or approval shall be unreasonably withheld, conditioned, or delayed, and all such determinations shall be made on a reasonable basis and in a reasonable manner.

18. Sublease and Assignment. Tenant may not sell or assign this Lease without the written consent of the Owner, which consent shall not be unreasonably withheld, conditioned or delayed, except Tenant may assign this Lease to a Tenant's parent, subsidiary, or affiliate under common control without Owner's consent, except notice of such assignment shall be provided to Owner. Owner retains exclusive right to lease tower and ground space adjacent to the Premises to other carriers and tenants.

19. Environmental Matters.

(a) Owner represents and warrants that Owner's Real Property space has not been unlawfully used by Owner for the generation, storage, treatment or disposal of Hazardous Materials (as defined in Section 10). Tenant represents and warrants that no Hazardous Materials, other than materials and supplies associated with authorized use of the Premises as

set forth in Section 2 here, will be transported to, used or stored on the Premises or Owner's Real Property space by Tenant or its agents, employees or contractors.

(b) Each Party will be responsible for the compliance of its activities on the Premises and Real Property with any and all applicable environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as such laws may now or at any time hereafter be in effect.

(c) Each Party shall hold the other harmless and indemnify the other from and assume all duties, responsibility and liability at its sole cost and expense, for all duties, responsibilities, and liability (including without limitation for payment of penalties, sanctions, forfeitures, losses, costs, or damages) and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is in any way related to: a) that Party's failure to comply with any applicable environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene concerns or conditions as such laws may now or at any time hereafter be in effect; and b) any environmental conditions arising out of or in any way related to that Party's activities conducted on the Real Property; provided, that each Party's obligations hereunder shall be limited to the extent such noncompliance or environmental or industrial hygiene conditions are caused by the other Party or its employees, agents, or invitees or were caused by an unrelated third party's activities at the Premises (other than by the indemnitee or its agents or invitees); Owner shall have no duty to so indemnify or hold Tenant harmless to the extent the claims were caused by Tenant or its employees, agents or invitees.

(d) The provisions of this Section shall survive the termination of this Lease and shall be the exclusive remedy relating to environmental matters between the Parties hereto.

20. Title. Owner represents and warrants to Tenant that Owner has good and marketable title to the Tower and that Owner has a good and valid leasehold interest in the Premises, the ground beneath the Tower, Access Easement and Utility Easement. If Owner is a corporation, partnership or other legal entity, the individual who executes this Lease on behalf of Owner represents and warrants to Tenant that he or she is duly authorized to do so.

However, if, but only if, Owner is required to obtain prior written consent from the Owners to sublease space on the Real Property or Tower, Owner shall seek to obtain Owners' consent to this Lease in substantially the form set forth in Exhibit "C" attached hereto ("Consent to Sublease"). Tenant agrees to cooperate with Owner in Owner's efforts to obtain the Consent to Sublease. This Lease may be terminated by either Party on thirty (30) days' prior written notice to the other Party if such consent is required by the Prime Lease, but Owners have not executed the Consent to Sublease within sixty (60) days after the Commencement Date. In the event of such a termination, Tenant shall not be responsible for any additional costs and expenses incurred after termination, but shall continue to be responsible for paying or reimbursing (as appropriate) all costs and expenses incurred by Owner, if any, prior to termination.

21. Condemnation of Premises. In the event that any government, public body, or other condemning authority shall take, or if Owner shall transfer in lieu of such taking, all or such part of the Premises, the ground beneath the Tower, Access Easement or Utility Easement thereby making it physically or financially unfeasible for the Premises to be used in the manner intended by this Agreement, Owner and Tenant shall each have the right to terminate this Agreement effective as of the date of the taking by the condemning Party and the rental shall be prorated appropriately. However, if only a portion of the Premises, the ground beneath the Tower, Access Easement or Utility Easement is taken, and neither Owner nor Tenant elects to terminate this Agreement under this provision, then the Agreement shall continue, but rental payments provided under this Agreement shall abate proportionally as to the

portion taken which is not then usable by Tenant, and at Owner's option, Owner shall make all necessary repairs and alterations to restore the portion of the Premises, Access Easement and Utility Easement remaining to as near their former condition as circumstances will permit (at a cost not to exceed Owner's proceeds from said condemnation or transfer). The Parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses, provided that any award to Tenant will not diminish Owner's recovery.

22. Quiet Enjoyment. Owner covenants that Tenant, upon paying the rent and observing the other covenants and conditions herein upon its part to be observed, shall peaceably and quietly hold and enjoy the right to use the Premises, Access Easement, and Utility Easement on the terms and conditions and for the purposes stated herein during the term of this Lease, as it may be extended, without hindrance, ejection or molestation by Owner or any person(s) or entity(ies) claiming under Owner, and regardless of any sale, transfer, assignment or foreclosure of the Premises.

23. Other Conditions and Provisions.

(a) At Owner's expense, Owner shall maintain in good condition and repair the Tower, Owner's Real Property space beneath and surrounding the Tower, the Access Easement and the Utility Easement, but shall have no such responsibility as to Tenant's Communications Facility. Owner has the responsibility of observing Tower lights requirements, if any, and keeping applicable records (including records of notification to Federal Aviation Administration of any failure or repairs of the Tower and any corrections of it). If the Premises, Access Easement or Utility Easement is damaged for any reason other than Tenant's willful acts or negligence, or the willful acts or negligence of Tenant's employees, agents or contractors, so as to render all or any part of the Premises, Access Easement or Utility Easement substantially unusable for Tenant's intended use, rent shall abate while Owner, at Owner's option and expense, promptly restores the Premises, Tower, Access Easement and Utility Easement to its condition prior to such damage. In the event Owner fails to repair the Premises, Access Easement or Utility Easement, as the case may be, or fails to comply with Tower lights requirements, if any, within thirty (30) days after written notice of said damage or failure to maintain, Tenant shall have the right to terminate this Lease without further obligations from Tenant to Owner.

(b) Owner shall comply with all applicable local, State, and Federal laws, rules, and regulations required by it to be performed as Owner hereunder and owner of the Tower.

(c) Tenant shall keep and maintain its Communications Facility in good repair and condition and in accordance with all applicable local, State, and Federal laws, rules and regulations. Tenant shall acquire no interest in the land or in the Tower by virtue of this Lease, other than as set forth in this Lease.

(d) Notwithstanding any other provision in this Lease, the rights of Tenant expressly granted under this Lease shall not exceed any rights granted to Owner under the Prime Lease.

(e) Upon reasonable request of Owner, and within twenty (20) business days after receipt of request for same from Owner, Tenant shall execute a written estoppel affidavit, confirming the existence and validity of this Lease, the status of all payments made hereunder, and a statement as to whether or not the Lease is then in default.

(f) Tenant shall not record this Lease, or any memorandum of same, without the prior written consent of Owner, which may be granted or denied at Owner's sole option. At Owner's request, Tenant shall execute a summary Memorandum of Lease, confirming the existence of this Lease, the Parties, any term, including commencement and expiration dates, the Real Property and Premises. At Owner's sole option, such Memorandum may be recorded in the office of the local official responsible for maintaining local public deed and land records.

24. Interference.

(a) Tenant shall install, maintain, repair, replace, operate and remove Tenant's Communications Facility, including all of Tenant's antennas, in a manner that a) will not cause interference to Owner or any other lessees or licensees of Owner's Real Property space, or the Tower, or the Access Easement, or the Utility Easement, provided that their installations and usage predate those of Tenant's Communications Facility and are in compliance with all requirements of this Lease and FCC requirements ("Pre-existing Communications"), and b) will protect the right of Owner to the Maximum Use of the Tower and Real Property (including the Premises), present and future. All operations by Tenant shall at all times be in compliance with all FCC requirements, and shall be in conformity with reasonably prudent engineering and operating standards for such operations and facilities in the telecommunications industry. Pre-existing Communications shall also be deemed to include Owner's Communications Facilities which are constructed or installed concurrently with Tenant's Antenna Facilities.

(b) Owner and Tenant agree to cooperate and use reasonable commercial efforts to minimize any interference or disruption of either Party's communications operations caused by the other Party's operations. Time is of the essence with regard to interference. When interference occurs, Owner shall give Tenant notice of same in any of the following manners:

i. By verbal notice, whether in person, by telephone or other verbal means, to a representative of Tenant, followed by written notice of the interference given by Owner to Tenant given or sent within seventy-two (72) hours after the verbal notice is given, such written notice to be given in the manner authorized for notice in Section 8 above. In such case, such notice shall be deemed given as of the time the notice is first given. Such written notice shall be given to the person and/or address of the person or entity authorized to receive notices under Section 8 hereof. Further, such notice shall identify the Tower in question, the general nature of the interference, the approximate date and time the verbal notice of interference was first given, the names of the person giving the notice for Owner, and the person who received such notice for Tenant.

ii. By written notice of the interference given by Owner to Tenant, such written notice to be given to the person or entity, and in any manner authorized for notice in Section 8 above. In such case, such notice shall be deemed given as of the time the written notice is first received by Tenant.

(c) Tenant shall use its best efforts to cause the immediate termination of any interference or disruption to any Pre-existing Communications; provided, however, if Tenant's communications operations interfere with or disrupt Pre-existing Communications, and such interference or disruption is not completely cured within ten (10) days after Tenant first receives notice of such interference as provided in this Section, then Tenant shall immediately cease any and all operations on the Premises (except for intermittent testing) until such time as the interference is corrected to Owner's reasonable satisfaction. Such written notice shall provide sufficient information about the Tower and general nature of the interference to Tenant in order for Tenant to cause the cessation of any such interference. If Tenant fails to cease its operations on the Premises if such interference or disruption is not completely cured within said ten (10) day period after notice, or if Tenant cannot correct such interference to Owner's reasonable satisfaction within thirty (30) days following Tenant's receipt of notice of such interference, then, in either event, Tenant will power down the equipment causing such interference, other than for a reasonable intermittent testing period, until such time that the interference is remedied, so long as such testing does not materially adversely affect Owner's or Owner's customer's traffic that transits through Owner's equipment at the Real Property. In the case of any conflicts or overlaps between this Section and the default or remedies provisions of this Lease, this Section shall control as to matters described herein, and any other Notice provisions under the Default Section shall not apply to the circumstances described herein.



(d) Notwithstanding the fact that Owner's Pre-Existing Communications are paramount to and have priority over any other communications facilities located or to be located on the Tower or the Real Property, neither Owner nor Tenant shall make, or cause to be made, or suffer any subsequent installation and existence of any other improvement or modification (including, without limitation, transmission or reception devices), other than in replacement or repair of existing facilities with substantially similar facilities, upon the Tower or any other portion of the Parties' respective Premises if such improvement or modification causes interference with transmission or reception by the other Party's pre-existing communications facility. In the event Owner seeks to cause changes to be made to Tenant's Communications Facility to accommodate new facilities of Owner or a tenant or subtenant of Owner, which new facilities are not Pre-existing Communications, Owner may, at its expense, and upon prior written notification to Tenant and prior written approval of the tenant, cause Tenant's Communications Facility to be altered if, and only if, and only to the extent that, such alteration would BOTH allow Tenant to continuously operate from the Premises per Tenant's authorized use of the Tower and Premises under the terms of this Lease, and accommodate Owner's needs for Maximum Use of the Tower or Real Property. A temporary cessation of Tenant's continuous operation of the Communication Facilities may be authorized by Tenant as long as its scheduled in advance by the Parties and confirmed in writing, signed by an authorized agent of Owner and Tenant.

(e) Tenant's Communications Facility shall, in all respects, be installed, maintained, operated, repaired and removed in such a manner as to at all times protect and respect Owner's right to the Maximum Use, while at the same time allowing Tenant the right to enjoy the intended uses of Tenant provided for in this Lease. Tenant's failure to do so shall constitute a form of interference under this Lease.

(f) Owner agrees and acknowledges that these same or similar representations made within this Section 24 shall be included in all subsequent leases or licenses for use of the Premises and/or Real Property.

25. Dispute Resolution. This Lease shall be governed by the laws of the state of Alaska. The Parties shall attempt to resolve any dispute arising under this Lease through good faith negotiations. The Parties may agree to submit any dispute to non-binding mediation. Any unresolved disputes shall be submitted to the Alaska Superior Court or Federal Court in Anchorage, Alaska, and resolved under the laws of the State of Alaska without regard to choice of law provisions. **THE PARTIES AGREE TO WAIVE THE RIGHT TO A JURY TRIAL.**

26. Amendment, Entire Lease and Binding Effect. This Lease, and any attached exhibits, constitutes the entire agreement between Owner and Tenant; no prior written promises, or prior, contemporaneous, or subsequent oral promises or representations, shall be binding. This Lease shall not be amended or changed except by written instrument signed by the Parties hereto. Section captions herein are for convenience of reference only and neither limits nor amplifies the provisions of this Lease. The invalidity of any portion of this Lease shall not have any effect on the balance thereof. The provisions of this Lease shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns of Owner and Tenant.

27. Prime Lease.

(a) Notwithstanding any other terms in this Agreement, to the extent that the terms and conditions of the "Prime Lease", a copy of which is attached hereto as Exhibit "B", are applicable to the Premises, and are not inconsistent with the terms of this Agreement (which terms and conditions shall include, without limitation, the default and remedy provisions of the Prime Lease), and except as otherwise provided in this Agreement, such terms and conditions of the Prime Lease are incorporated into and made a part of this Agreement as if Owner were the lessor thereunder, Tenant were the lessee thereunder, and the Premises were Owner's right to use the entire leased premises thereunder. To the extent the terms of the Prime Lease and this

Agreement conflict with each other (as distinguished from being different because this is a collocation sublease), this Agreement is subject to such terms of the Prime Lease. As between the Prime Lease and this Agreement, the more restrictive term or provision dealing with rights or privileges under either agreement shall apply to Tenant.

(b) Tenant shall not commit or suffer any act or omission that will violate any of the provisions of the Prime Lease. However, Owner, and not Tenant, shall be responsible for obligations under the Prime Lease relating to Owner's rights thereunder other than those relating to the Premises herein, and Owner shall be responsible for maintenance and repair of the Tower and Real Property, except as otherwise expressly stated herein.

(c) Notwithstanding anything to the contrary contained elsewhere in this Agreement or in the Prime Lease, if the Prime Lease terminates or expires prior to the termination or expiration of this Agreement, then this Agreement shall terminate as between Owner and Tenant on the effective date of the termination of the Prime Lease. Owner shall give Tenant notice thereof as provided for herein.

28. **Multiple Originals.** This Lease may be prepared for execution in multiple original counterparts, each of which shall constitute one and the same agreement. Delivery of an executed counterpart by electronic transmission shall be equally effective as physical delivery of an original counterpart.

[END OF SECTIONS AND TEXT]

THE ALASKA WIRELESS NETWORK, LLC

By:   
Name: Ben Benton  
Title: VP Wireless Operations

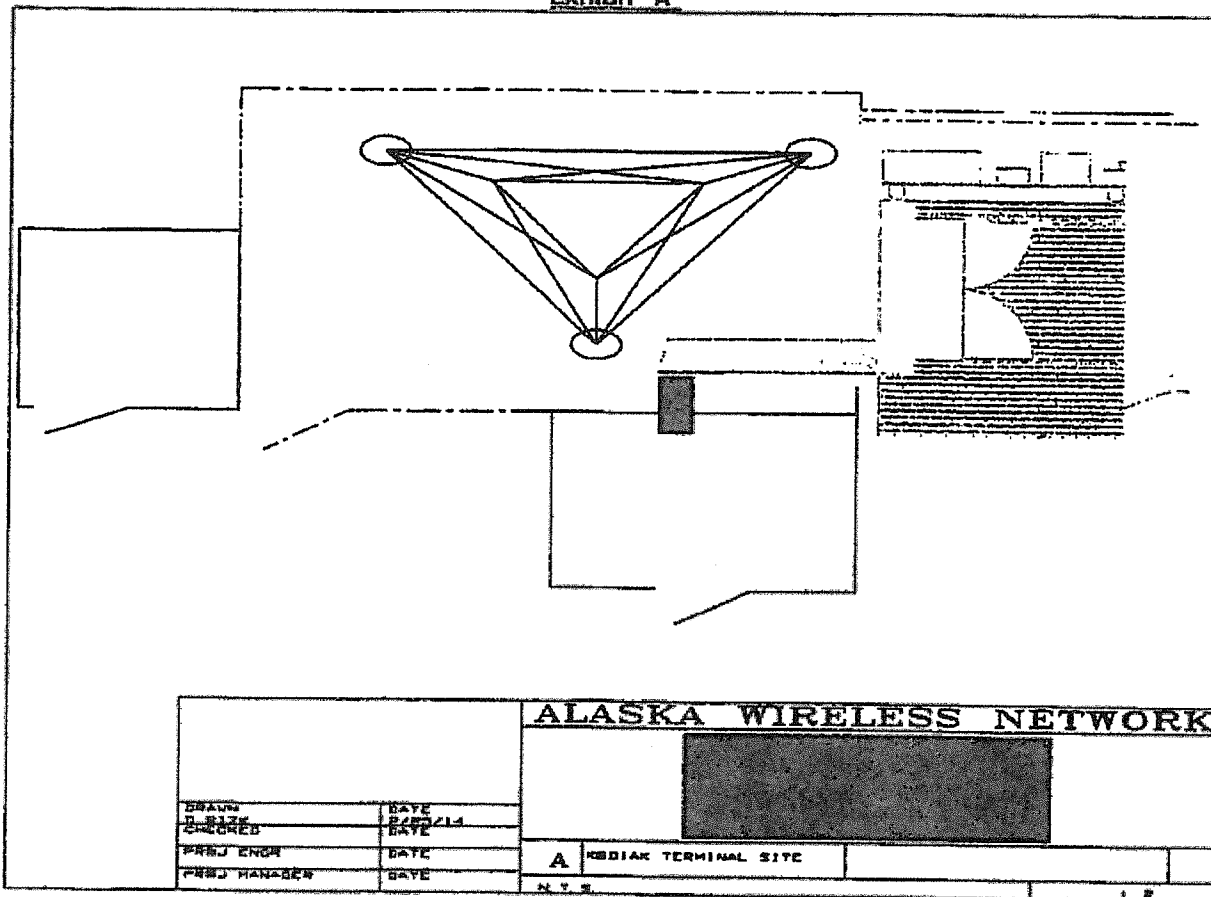
Dated the 21<sup>st</sup> day of April, 2015.

KODIAK ISLAND BROADCASTING CO, INC.

By:   
Name: Dennis Bookey  
Title: Vice President, Kodiak Island Broadcasting Co., Inc.

Dated the 21<sup>st</sup> day of April, 2015.

EXHIBIT "A"



**Tower Equipment List**

- 1 - 3' standoff antenna mount
- 3 - RFS APX16dwv-16dwvs-e Antennas mounted at 87 feet.
- 3 - RRUS radio units
- 6 - 7/8" coax cable & 1 - power/fiber cable w/ squid box
- 2 - omni antennas
- 2 - 7/8" coax cable

**EXHIBIT "B"**  
**Prime Lease**

**NEAR ISLAND COMMUNICATION SITE LEASE  
CITY OF KODIAK AND KODIAK ISLAND BROADCASTING CO., INC.**

THIS LAND LEASE (the "Lease") is made effective the 1st day of December 2010, by and between the CITY OF KODIAK, an Alaska municipal corporation, herein referred to as "Lessor," and KODIAK ISLAND BROADCASTING CO., INC., an Alaska corporation, herein referred to as "Lessee."

WHEREAS, Lessor and Lessee entered into a Near Island Communications Site Lease effective as of December 1, 2005 ("2005 Lease"), for a term of five (5) years; and

WHEREAS, Section 2 of the 2005 Lease granted to Lessee the option to renew the 2005 Lease for one additional five-year term, with all of the terms and conditions of the 2005 Lease applying to the additional term; and

WHEREAS, Lessee has given Lessor timely notice of Lessee's intention to exercise this option to renew;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein, the parties agree as follows:

1. **Leased Premises.** Upon the terms and conditions herein set forth in this Lease, and subject to the prompt payment and performance by Lessee of each and every sum and other obligation hereinafter referred to, the Lessor does hereby lease, let, and demise to the Lessee, and the Lessee does hereby lease from the Lessor, the following described premises:

Beginning at the monument marking the point of curvature on the Dog (Salmon) Bay Road, station 66+85.60, Tract "D", Near Island, Plat Number 92-10, Kodiak Recording District, Third Judicial District, State of Alaska.

Thence the following State Plane Zone 5, courses:

S 02°20'37" E, a distance of 139.09 feet to the TRUE POINT OF BEGINNING:

1. Thence S 16°54'45" E, a distance of 85.00 feet;
2. Thence S 73°05'15" W, a distance of 85.00 feet;
3. Thence N 16°54'45" W, a distance of 85.00 feet;
4. Thence N 73°05'15" E, a distance of 85.00 feet to the TRUE POINT OF BEGINNING and containing 7,225 square feet, more or less, all as shown on a plat of survey prepared by Ecklund Surveying, dated May 5, 1992.

Together with a vehicular access easement along the following described line: Beginning at the monument marking the point of curvature on the Trident Basin Access Road, station 62+21.92; thence N 51°00' W 220 feet, more or less; thence N 16°54'45" W 63 feet, more or less.

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

2. **Term.** This Lease shall continue in effect for a period of five (5) years from the date first written. Unless they conflict with the terms of this Lease, the provisions of Kodiak City Code section 18.20.350 in effect on the day and year first above written shall govern the Lessee's re-lease rights.

3. **Rental.** Lessee agrees to pay as and for rent the sum of \$416.66 per month in monthly installments which fall due on the first day of each calendar month; and, Lessor shall further pay such amounts provided under Paragraph 13.

4. **Conditions of Lease.** The Site shall be used solely as a radio communication site. Lessor shall also be entitled to sufficient space on the tower to attach one omni antennae and all associated coaxial cabling, for Lessor's sole individual use, on such reasonable terms as the parties shall decide.

5. **Improvements.** Lessor shall have the right to make additions, alterations, or improvements to the Site which will not impede Lessee's access to or use of the Site. Lessee shall have the right to erect, construct and maintain a suitable building and/or associated structure(s) on the Site necessary for the operation of a communications facility. 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 sole cost and expense. Upon termination of this Lease, such improvements shall become the property of Lessor or, at Lessee's option, removed by Lessee at its sole expense.

6. **Maintenance.** Except as otherwise specifically provided herein, the Lessee shall, at all times and at its sole expense, keep and maintain the Site in good repair, and in neat, orderly, and sightly 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, including, but not limited to, attorney's fees reasonably incurred for response or defense of 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 premises under this Lease. 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.** In order to meet its requirements under this Lease, and for other purposes, Lessee shall further procure and maintain at its sole expense, and keep in full force and effect, policies of public and property damage liability insurance in the amount of ONE

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MILLION DOLLARS (\$1,000,000) for death or bodily injury, or loss sustained by any one person in any one occurrence. Lessor, including its officers and employees, shall be named as joint insureds in all such policies, which shall include a clause requiring at least thirty (30) days advance written notice to Lessor by the carrier before any cancellation or non-renewal during the term of this lease. Unless similar insurance coverage was previously required by a prior agreement between the parties, in which case this clause must be met before the termination of such prior coverage, the Lessee shall provide the Lessor with proof of such insurance pursuant to this paragraph prior to the effective date of this Lease and this Lease shall not become effective until and unless such proof is made. Unless otherwise expressly agreed to in writing by the Lessor, all insurance coverage required to be obtained under this paragraph shall be placed with a carrier licensed to do business in the State of Alaska. No insurance coverage required by this Lease shall be obtained pursuant to a "claims made" policy unless, at the time such insurance is procured a "tail" policy covering all insured risks is also obtained.

9. **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 premises or its rights hereunder.

10. **Operation of Equipment.** In installing, operating, or maintaining any equipment on the Site and in its general management of the Site, the 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. The Lessee will at all times protect from interference all frequencies assigned to the Lessor whether or not such frequencies are in use. The Lessee will not do, attempt, or permit any acts in connection with this Lease which could be construed as a violation of law.

11. **Security of Site.** Lessee agrees to take, at the Lessee's own expense, all reasonable measures and precautions necessary to render the communications facility inaccessible to unauthorized persons.

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

13. **Assignment and Subleasing.** Lessee is authorized to continue to lease tower spots to Kodiak Wireless and Bristol Bay Cellular; and, Lessee shall further have the right to lease up to two omni antennae, and all associated coaxial cabling, to ACS Wireless, Inc, an Alaska corporation with an address of 600 Telephone Avenue, Anchorage, Alaska 99503. Copies of the existing or proposed leases are attached as Exhibits A, B, and C. Lessee shall not otherwise assign its rights, enter into a sublease, or delegate its duties under this Lease without the prior written consent of Lessor and under the terms outlined in Kodiak City Code Title 18, Section 18.20.230. Lessee shall remit to Lessor fifty per cent (50%) of any assignment or sublease revenues, paid monthly in equal installments, which shall fall due on the first day of each calendar month. For so long as Kodiak Wireless permits the City to install communication

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equipment in the Kodiak Wireless building located on the lease site, Lessee will not be required to remit to Lessor any portion of sublease revenues that Lessee receives from Kodiak Wireless.

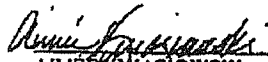
14. **Default and Re-Entry.** If Lessee fails to cure any default of the conditions of this Lease within thirty (30) days after written notice thereof by Lessor, or in the event insolvency proceedings should be instituted by or against Lessee, then Lessor may terminate this Lease as of such date and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

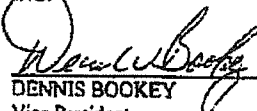
15. **Applicable Law.** Lessee shall, at all times, in its use and occupancy of the Site and in the conduct of its operations thereon, comply with all applicable federal, state, and local laws, ordinances, and regulations.

IN WITNESS WHEREOF, the parties executed this instrument the day and month first above written.

CITY OF KODIAK

KODIAK ISLAND BROADCASTING,  
INC.

 8/28/14  
AIMEE KNIAZOWSKI Date  
City Manager  
710 Mill Bay Road  
Kodiak, AK 99615

 8/26/14  
DENNIS BOOKEY Date  
Vice President  
9740 Jupiter Drive  
Anchorage, AK 99507

ATTEST:

WITNESS:


  
DEBRA L. MARLAR  
City Clerk

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager   
**Thru:** Corey Gronn, Parks and Recreation Director  
**Date:** February 11, 2016

**Agenda Item:** V. b. **Resolution No. 2016-05, Authorizing the Issuance of a Permit to Kodiak High School Soccer Team for the Use of Public Property for Its Soccer Clinic and to Sell Concessions and to Collect Gate Fees During Home Games**

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**SUMMARY:** The high school soccer coach, Eric Waltenbaugh, requested use of the Baranof Park turf field to offer a soccer clinic to the youth and collect gate fees as a fundraiser for the high school soccer program from March 1 through May 31, 2016. The clinic will be held March 14 through March 18. The soccer team is a high school club sport that is completely self-funded. The team raises money to cover the cost of travel and other costs associated with the sport. Staff recommends Council approve this use by adopting Resolution No. 2016-05.

**PREVIOUS COUNCIL ACTION:** The City Council routinely issues permits to non-profit and other community organizations to allow them to conduct fundraising activities that benefit the community on public property.

**DISCUSSION:** The high school soccer team began in 2011. The team first traveled to the Kenai Peninsula to scrimmage in two games in 2011 and now has an active program with over 40 students involved. Since it is a club sport, all expenses are covered with self-generated funds. City staff supports the soccer team and coach's efforts to promote soccer in the community and to raise funds for the team and recommends that Council adopt the resolution authorizing the use of the Baranof Park synthetic fields.

**ALTERNATIVES:**

- 1) Adopt Resolution No. 2016-05, which is staff's recommendation because it promotes the use of the City's fields and helps the high school team meet their expenses and is consistent with council to support club sports.
- 2) Do not adopt the resolution, which is not recommended because it would not show support for the efforts of the high school team and would impact their opportunity to raise money for their program.



**LEGAL:** KCC 5.04.050 allows the Council to issue permits to non-profit organizations to conduct activities on designated City-owned property through passage of a resolution. The Resolution No. 2016–05 (Attachment A) complies with that requirement.

**STAFF RECOMMENDATION:** Staff recommends Council approve the high school soccer team’s use of the City’s soccer field to provide a soccer clinic and lessons as well as permitting the high school soccer club to collect gate fees during home games by adopting Resolution No. 2016–05.

**CITY MANAGER’S COMMENTS:** Council routinely authorizes the use of City property for fundraising activities, especially activities that benefit high school student athletic groups. The high school soccer team is entirely self-supporting and relies on fundraisers to cover travel and other team related expenses. I support the soccer team’s efforts to conduct a soccer clinic to raise money to cover their team’s expenses and recommend Council adopt the resolution like you did last year.

**ATTACHMENTS:**

Attachment A: Resolution No. 2016–05

Attachment B: Letter from Eric Waltenbaugh, dated January 7, 2016

**PROPOSED MOTION:**

Move to adopt Resolution No. 2016–05.

**CITY OF KODIAK  
RESOLUTION NUMBER 2016-05**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE ISSUANCE OF A PERMIT TO THE HIGH SCHOOL SOCCER TEAM FOR THE USE OF PUBLIC PROPERTY FOR ITS SOCCER CLINIC AND TO SELL CONCESSIONS AND TO COLLECT GATE FEES DURING HOME GAMES**

WHEREAS, the Kodiak High School soccer team is a self-funded team affiliated with the Kodiak High School; and

WHEREAS, in order to cover some of the costs of the program, the Kodiak High School soccer team has requested permission to offer a soccer clinic to be held at Baranof Park; and

WHEREAS, the soccer team has requested use of the Baranof Park soccer field(s) and will charge a fee and/or request donations at home games; and

WHEREAS, Kodiak City Code Section 5.04.010 prohibits business activities on City property, and Kodiak City Code Section 5.04.060 requires a permit for community festivities.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that a permit be issued, with the permit fee waived, to the Kodiak High School Soccer Team as provided in section 5.04.050(b) and (d) of the City Code for use of public property for its 2016 soccer clinic on the condition that the Team agrees to comply with the stipulations set forth in this section and section 5.04.060 of the City Code.

BE IT FURTHER RESOLVED that event sponsors shall coordinate the event with the Kodiak Parks and Recreation Director.

CITY OF KODIAK

\_\_\_\_\_  
MAYOR

ATTEST:

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

Adopted:

Date: 7 January 2016

To: City of Kodiak  
722 Mill Bay Rd  
Kodiak, AK 99615

From: Eric Waltenbaugh  
Kodiak High School Soccer Team  
PO Box 2244  
Kodiak, AK 99615  
Phone: 907-299-1055  
E-Mail: ewaltenbaugh01@kibsd.org

Re: Use of Baranof Soccer Field

Dear Mayor Branson,

My name is Eric Waltenbaugh and I am the coach for the Kodiak High School Soccer Team. This program is a growing sport at the high school and currently has a membership of some 40+ students. The season runs from March through May.

Last year we joined ASAA as official varsity programs for both boys and girls teams. Several teams will be coming to Kodiak to play both our boys and girls teams this year. We would like to have the opportunity to collect money for these games on Baranof Field.

Though the team is affiliated with Kodiak High School we are currently entirely self-funded. We raise money entirely through our own efforts. One source of funding will be to put on a clinic for the greater Kodiak Community for a fee and/or donations.

As such I am requesting the use of the Baranof Park Soccer Field for this purpose. The clinic is planned for March 14<sup>th</sup> -18<sup>th</sup>, 2016.


Sincerely,

Eric Waltenbaugh  
Kodiak High School Boys Soccer Team  
Head Coach

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniaziowski, City Manager   
**Thru:** Kelly Mayes, Finance Director  
**Date:** February 11, 2016  
**Agenda Item:** V. c. **Resolution No. 2016–06, Adopting an Alternative Allocation Method for the FY16 Shared Fisheries Business Tax Program and Certifying that this Allocation Method Fairly Represents the Distribution of Significant Effects of Fisheries Business Activity in Fisheries Management Area 13: Kodiak Island**

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**SUMMARY:** Resolution No. 2016–06 adopts an alternative allocation method and certifies that the allocation method fairly represents the distribution of significant effects of Fisheries Business activity in Fishing Management Area (FMA) 13. This resolution adopts an alternative allocation from the long form, which has been used in the past. This departure from the use of the long/standard form is decided on an annual basis and is being done to facilitate filing the application by the deadline of February 15 and to ensure the City receives its share of the tax under this allocation method and satisfies the preference of the state and the other Kodiak Island Borough governments. Staff recommends Council adopt Resolution No. 2016–06.

**PREVIOUS COUNCIL ACTION:** On February 26, 2015, the City Council adopted Resolution No. 2015–08 for the Alternative Allocation Method for the Shared Fisheries Business Tax Program. The alternative allocation method allocates 50 percent shared equally among the municipalities located within the FMA 13 region. The remaining 50 percent is shared among the municipalities on a per capita basis. Prior to adopting Resolution No. 2015–08, the City Council approved a resolution certifying the Shared Fisheries Business Tax Program application on the long-form using the standard method as it had for several years prior to that time.

**BACKGROUND:** The State of Alaska Shared Fisheries Business Tax Program was created in 1990 to help municipalities impacted by the effects of the rapidly expanding offshore fish processing industry. A previously existing fish tax sharing program (commonly referred to as the Raw Fish Tax Program), administered by the Department of Revenue, shares back to municipalities half of the state fisheries business tax collected from fish processors operating inside municipal boundaries. The Department’s program extends tax sharing to include a sharing of fish taxes collected outside of municipal boundaries, primarily from floating processors.

There are two application methods available to the municipalities in each Fisheries Management Area:

1. Under the **Standard Method**, each municipality in the FMA must determine and document the cost of fisheries business impacts experienced by the community in the previous calendar year. These impacts are submitted by each municipality in their applications. The department reviews the applications and determines if the impacts submitted are valid. Once the impacts have been established for each of the municipalities in the FMA, the department calculates the allocation for each municipality using the following formula:

One half of the funding available within a FMA is divided up among participating municipalities on the basis of the relative dollar amount of impact in each municipality. The other half of the funding available to that area is divided equally among all eligible municipalities.

2. Under the **Alternative Method**, municipalities within the FMA agree on a distribution formula. The department only approves the use of a proposed alternative method if all the municipalities in the area agree to use the method, and if the method includes some measure of the relative effects of the fishing industry on the respective municipalities in the area.

The proposed alternative method would divide half of the funding available equally among all eligible municipalities. The other half would be divided based on population.

Due to the time and expense involved in determining and documenting the standard method, all but one of the FMAs use the Alternative Method to determine the allocation of the Shared Fisheries Business Tax for the past several years. The Kodiak Management Area, FMA 13, is the only FMA in Alaska that used the long form to distribute the Shared Fisheries Taxes to the communities. That practice was changed to using the alternative method in 2015 at the request of the state and the other communities in the Kodiak Island Borough.

**DISCUSSION:** The municipalities located in this region's FMA include Akhiok, Kodiak, Kodiak Island Borough, Larsen Bay, Old Harbor, Ouzinkie, and Port Lions. The FY2016 program allocation to be shared within this area is estimated to be \$254,248.16 compared to \$189,360.25 in FY2015. The City's shared tax payment for FY2016 is expected to be \$76,475.31. This means the program requires that funding be first allocated to fisheries management areas around the state based on the level of fish processing in each area compared to the total fish processing for the whole state. Then the funding is further allocated among the municipalities located within each fisheries management area based on the relative level of impacts experienced by each municipality.

Based on the large capital expenditures made by the other municipalities in FMA 13, it appears unlikely that the City of Kodiak will receive a larger allocation for FY2016 by using the standard

method. Using the alternative method this year does not preclude the City from using the standard method in future years.

The standard method used by the Kodiak FMA in the past used a study done by the McDowell Group in 2001 that determined the 64 percent of certain (mostly capital) costs are considered significant effects on the community. The Department of Commerce, Community, and Economic Development (DCCED) decided that this study did not reflect the current economics of the Kodiak region and, therefore, would require municipalities to justify how significant their costs really have been.

Based on the lack of a current study and the significant cost of preparing the standard form, the City of Kodiak feels that the alternative method will provide more money, and less cost, to the City for impacts from fisheries-related activities in the community.

**ALTERNATIVES:**

- 1) Adopt Resolution No. 2016–06, which is the staff recommendation, because it provides the City with funding to offset impacts to fisheries business conducted in Kodiak.
- 2) Council could require the City to complete the standard method application. This is not recommended because it would delay the application process due to the time and complexity of filing using that method.

**FINANCIAL IMPLICATIONS:** By completing this application and adopting the resolution, the City will receive funding from DCCED. This funding is recorded in the general fund. The Shared Fisheries Tax Program provides for a sharing of State Fisheries Business Tax with municipalities that can demonstrate they suffered significant effects during the program base year from fisheries business activity in their respective fisheries management area.

**STAFF RECOMMENDATION:** Staff recommends Council adopt Resolution No. 2016–06 in order for the City to receive funding using the alternative method.

**CITY MANAGER’S COMMENTS:** The City has received funds through this program since its inception, and Council approves the application process for the funds by resolution each year. Receipt of the shared fisheries tax helps to offset expenses that result from impacts to the City’s facilities, operations, and services created by fisheries activities. I support staff’s recommendation that Council adopt Resolution No. 2016–06.

**ATTACHMENTS:**

- Attachment A: Resolution No. 2016–06
- Attachment B: DCCED Shared Fisheries Allocation

**PROPOSED MOTION:**

Move to adopt Resolution No. 2016-06.

**CITY OF KODIAK  
RESOLUTION NUMBER 2016-06**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK ADOPTING AN ALTERNATIVE ALLOCATION METHOD FOR THE FY16 SHARED FISHERIES BUSINESS TAX PROGRAM AND CERTIFYING THAT THIS ALLOCATION METHOD FAIRLY REPRESENTS THE DISTRIBUTION OF SIGNIFICANT EFFECTS OF FISHERIES BUSINESS ACTIVITY IN FISHERIES MANAGEMENT AREA 13: KODIAK ISLAND**

WHEREAS, AS 29.60.450 requires that for a municipality to participate in the FY16 Shared Fisheries Business Tax Program, the municipality must demonstrate to the Department of Commerce, Community, and Economic Development that the municipality suffered significant effects during calendar year 2014 from fisheries business activities; and

WHEREAS, 3 AAC 134.060 provides for the allocation of available program funding to eligible municipalities located within fisheries management areas specified by the Department of Commerce, Community, and Economic Development; and

WHEREAS, 3 AAC 134.070 provides for the use, at the discretion of the Department of Commerce, Community, and Economic Development, of alternative allocation methods which may be used within fisheries management areas if all eligible municipalities within the area agree to use the method, and the method incorporates some measure of the relative significant effect of fisheries business activity on the respective municipalities in the area; and

WHEREAS, The City of Kodiak proposes to use an alternative allocation method for allocation of FY16 funding available within the Fisheries Management Area 13: Kodiak Island in agreement with all other municipalities in this area participating in the FY16 Shared Fisheries Business Tax Program.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak, Alaska, by this resolution certifies that the following alternative allocation method fairly represents the distribution of significant effects during 2014 of fisheries business activity in FMA 13: Kodiak Island:

All municipalities share equally 50% of allocation; all municipalities share the remaining 50% on a per capita basis.

The Kodiak Island Borough population is reduced by the population of the Cities of Akhiok, Kodiak, Larsen Bay, Old Harbor, Ouzinkie, and Port Lions.

CITY OF KODIAK

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MAYOR



ATTEST:

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CITY CLERK

Adopted:

**FY 16 Shared Fisheries Business Tax Program**

<b>FMA 13: Kodiak Area</b>				<b>FY 16 Landing Tax Allocation</b>	
		<b>50% Divided Equally</b>	<b>50% per Capita</b>	<b>Calculated Allocation</b>	<b>Calculated Allocation</b>
<b>Total allocation:</b>		<b>\$254,248.16</b>	<b>\$127,124.08</b>	<b>\$127,124.08</b>	<b>\$1,494.36</b>
<b>Community</b>	<b>Population</b>	<b>50% divided share</b>	<b>50% per Capita</b>	<b>Calculated Allocation</b>	<b>Calculated Allocation</b>
Akhlok	81	\$18,160.58	\$746.33	\$18,906.91	\$111.13
Kodiak	6,329	\$18,160.58	\$58,314.73	\$76,475.31	\$449.49
Kodiak Island Boro**	6,756	\$18,160.58	\$62,249.06	\$80,409.64	\$472.61
Larsen Bay	71	\$18,160.58	\$654.19	\$18,814.77	\$110.58
Old Harbor	213	\$18,160.58	\$1,962.56	\$20,123.14	\$118.28
Ouzinkie	171	\$18,160.58	\$1,575.58	\$19,736.16	\$116.00
Port Lions	176	\$18,160.58	\$1,621.65	\$19,782.23	\$116.27
<b>Totals</b>	<b>13,797</b>	<b>\$127,124.08</b>	<b>\$127,124.08</b>	<b>\$254,248.16</b>	<b>\$1,494.36</b>
<b>Community Count</b>	<b>7</b>				

\* 50% Divided Equally and 50% on a Per Capita Basis.

\*\* Kodiak Island Boro population = boro population less pop. of cities


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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers

**From:** Aimée Kniaziowski, City Manager 

**Date:** February 11, 2016

**Agenda Item:** V. d. Resolution No. 2016-07, Approving the City Council's Budget Goals for FY2017

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**SUMMARY:** The Council reviewed a draft list of proposed budget goals for FY2017 at the annual planning meeting on January 16, 2016. The goals are similar to those of FY2016 with some changes and suggested deletions for clarification. The approved goals will be used by staff in the development of the FY2017 City budget. Staff recommends Council approve the budget goals as discussed on January 16, 2016, by adopting Resolution No. 2016-07.

**PREVIOUS COUNCIL ACTION:** Council has adopted annual budget goals each year following discussions at the annual planning session. The goals are used in development of the City's operating and capital budget.

- March 3, 2011, adopted FY2012 budget goals by Resolution No. 2011-04
- February 23, 2012, adopted FY2013 budget goals by Resolution No. 2012-04
- February 28, 2013, adopted FY2014 budget goals by Resolution No. 2013-04
- February 13, 2014, adopted FY2015 budget goals by Resolution No. 2014-08
- February 12, 2015, adopted FY2016 budget goals by Resolution No. 2015-03
- January 16, 2016, reviewed and discussed proposed FY2017 budget goals at annual planning meeting
- February 9, 2016, reviewed FY2017 budget goals in Resolution No. 2016-07 at the work session

**DISCUSSION:** For the past six fiscal years the Mayor and Council have reviewed and discussed annual budget goals at the Council planning meeting and then adopted final goals by resolution at a following meeting. The goals reflect Council's philosophy and direction for the coming fiscal year. The process of adopting formal budget goals gives the elected officials the opportunity to define the budget direction at the outset of the budget cycle. The City Manager then uses the goals as a guide in preparation of the City's operating and capital budget. The goals focus on specific areas of the budget, such as revenue, personnel, operating expenses, capital expenditures, enterprise fund performance, and debt service.

Goals like these provide guidance to management as operating and capital budgets are prepared for the new fiscal year. The departmental budgets should reflect the overall budget goals with written

justification provided if variations are needed for operational reasons. Written justifications are reviewed internally and presented to the Council during budget presentations.

Council discussed budget goals for FY2017 at the annual planning meeting on January 16. The proposed goals are similar to those from FY2016 (Attachment B). The goals have been well developed over time because the City's organization, infrastructure needs, and overall financial condition remain similar from year to year. Council discussed the feasibility of planning for a budget that retains a specific amount of operating reserves set aside in the General Fund budget, and staff talked briefly about how that affects the budgeting process. In general, Council supported the goals as drafted, but expressed concern about the unknowns that will likely affect the City in the upcoming year due to lack of state revenue and the support the state traditionally provides in the form of specialty grants, matching, and legislative grants. This concern is shared by the management staff as intergovernmental sources of funds like revenue sharing, PERS on behalf payments, and grants will be reduced, making up a smaller percentage of the City's General Fund revenue stream. The General Fund provides the financial resources for most of the City's services like fire, police, engineering, public works and utilities, and more. If the legislature reduces or eliminates state programs, the City would have to carry the burden of costs to maintain services.

The budget goals are the elected officials' policy statement that tells the Manager how to utilize the City's resources and provision of services for the next fiscal year. They are goals and therefore are both a policy statement and a planning tool. They may be accomplished in a single year or two as some have, or they can carry over from year to year because they are needed each year, or because they have not yet been completed. Management uses the goals as a template in preparation of the City's operating and capital budget. This process improves accountability by making the management staff and employees aware of Council's concerns and gives staff the direction necessary to help work toward and achieve the goals.

When Council adopts the resolution, the Manager will provide a copy to department heads and review the process to be used in the development of the departmental operating and capital budgets.

**ALTERNATIVES:** There are three primary alternatives for Council to consider.

- 1) Adopt the budget goals as identified in this resolution. This is staff's recommendation because the goals reflect Council's budgetary philosophy and will provide guidance to management and improve budget accountability.
- 2) Amend the list of budget goals.
- 3) Decide not to adopt budget goals for FY2017.

**FINANCIAL IMPLICATIONS:** The use of formal budget goals does not have a direct financial impact to the City. However, increased Council participation at the outset provides clear guidance to staff on areas of importance to the Council. Budget goals improve planning at the departmental level,

provide important information on how departmental budgets interrelate to the entire budget, and provide a means for staff at all levels to understand and work toward reaching Council's goals.

**LEGAL:** N/A

**CITY MANAGER'S RECOMMENDATION AND COMMENTS:** The process of adopting formal budget goals gives Council the opportunity to define its direction at the outset of the budget cycle. This process improves accountability by making the management staff and employees aware of Council's concerns and gives them the direction necessary to help achieve the goals. I recommend Council adopt the FY2017 budget goals by resolution, which will help us set the right course as we begin work on the upcoming budget.

**ATTACHMENTS:**

Attachment A: Resolution No. 2016-07, FY2017 Budget Goals

Attachment B: Resolution No. 2015-03, FY2016 Budget Goals

Attachment C: FY2017 Budget Calendar

**PROPOSED MOTION:**

Move to adopt Resolution No. 2016-07.

**CITY OF KODIAK  
RESOLUTION NUMBER 2016-07**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK APPROVING  
THE CITY COUNCIL'S BUDGET GOALS FOR FY2017**

WHEREAS, budget guidelines help ensure that the City's budget is prepared in a manner consistent with City Council desires; and

WHEREAS, the City Council discussed and selected the list of budget goals at their January 16, 2016 planning meeting; and

WHEREAS, management will use the listed budget goals as guidelines when developing the FY2017 budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following budget goals will be used in the development of the City of Kodiak's FY2017 budget:

**Revenue**

Revenues will continue to be estimated conservatively using an analytical and objective approach.

One-time revenues will be used only for one-time expenditures. The City will avoid using temporary revenues or grants to fund routine City services or positions.

Charges for Fees and Services will be reviewed and updated annually to ensure quality service delivery and adequate revenues.

**Operating Expenses**

General Fund operating (non-personnel) expenses for FY 2017 will be at a level consistent with FY 2016. Required increases will be justified to the City Manager in writing and, if approved, presented by department heads to the City Council for final consideration during budget presentations.

Review existing programs and services to assess how well budgeted performance indicators met goals and objectives.

City management will continue to examine ways to hold the line on expenditures without significant impact to level and quality of services provided to residents.

### **Personnel Goals**

There will be an increase in the number of employee full-time equivalents (FTEs) from the FY 2016 total of 126.15 to 128.15 due to the need to operate the City's new compost facility and meet permit requirements and operational needs.

Sections of the PR&R will continue to be reviewed and amended to improve practices that reflect recognized Human Resources standards.

### **General Fund**

Council will review ways to increase revenues in the General Fund to help offset increases in operating expenses, meet infrastructure needs, and increase the fund balance, per the plan outlined in "Setting the Course for the Future," 1/14/12.

General Fund revenues will be forecast conservatively and take into consideration possible state funding policies that may affect City revenues such as, community revenue sharing, shared fisheries and other shared business taxes, pension costs and liabilities, and the required allocation of sales tax.

The General Fund will be budgeted without a deficit through appropriations from the fund balance when/if necessary, and with a goal to maintain up to three months' operating reserves. Council may appropriate additional funds for capital projects.

### **Enterprise Funds**

The major enterprise funds will develop long-term plans to include maintenance and repairs, needed facility replacement or expansion, and a schedule for rate reviews.

Enterprise Funds will continue to conduct rate studies every five years and present them to the City Council for implementation.

The Shipyard will continue to maintain and achieve revenue increases on a cash flow basis through charges for services to meet debt payments and operational expenses without transfers from other funds. The business plan and marketing campaign for services will be evaluated yearly for its effectiveness to capture maximum revenues.

Ensure adequate revenues are established to continue to maintain and improve Harbor facilities that support fisheries and support sector services and activities.

### **Community Support**

The total amount available to fund non-profit requests will continue to follow the Council established level of funding which is based on 1% of General Fund revenues.

### **Capital**

Within resources available, the City will maintain capital assets and infrastructure at a level that is adequate to protect its investment, to minimize future replacement and maintenance costs, and to maintain existing service levels.



The City Manager and management staff will continue to develop and refine the City's formal five-year capital improvement plan (CIP) that identifies and ranks projects for capital and major maintenance projects. The City will utilize the planning document and develop policies and procedures identifying criteria and steps for implementation. Once complete, the capital budget will link to, and flow from, the multi-year capital improvement plan.

**Debt Service**

The City will not incur new debt without appropriate analysis to:

- Show impacts on rates or taxpayers, or
- Analyze financial capacity for proposed capital projects, or
- Determine if the debt is required for projects mandated by the state or federal government, needed for economic development, environmental, aesthetic or quality of life, or health and safety improvements.

**Quality of Life**

The City will provide adequate services that meet the community needs, priorities, challenges and opportunities with consideration given to the condition of the economy, the composition of the population, technology, legal or regulatory issues, intergovernmental issues, and physical or environmental issues.

**Economic Development**

The City will continue to promote economic development to help ensure a sustainable and healthy economy for Kodiak.

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Adopted:

**CITY OF KODIAK  
RESOLUTION NUMBER 2015-03**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK APPROVING  
THE CITY COUNCIL'S BUDGET GOALS FOR FY2016**

WHEREAS, budget guidelines help ensure that the City's budget is prepared in a manner consistent with City Council desires; and

WHEREAS, the City Council discussed and selected the list of budget goals at their January 31, 2015 planning meeting; and

WHEREAS, management will use the listed budget goals as guidelines when developing the FY2016 budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following budget goals will be used in the development of the City of Kodiak's FY2016 budget:

**Revenue**

Revenues will continue to be estimated conservatively using an analytical and objective approach.

One-time revenues will be used only for one-time expenditures. The City will avoid using temporary revenues or grants to fund routine City services or positions.

Charges for Fees and Services will be reviewed and updated annually to ensure quality service delivery and adequate revenues.

**Operating Expenses**

General Fund operating (non-personnel) expenses for FY 2016 will be at a level consistent with FY 2015. Required increases will be justified to the City Manager in writing and, if approved, presented by department heads to the City Council for final consideration during budget presentations.

Review existing programs and services to assess how well budgeted performance indicators met goals and objectives.

City management will continue to examine ways to hold the line on expenditures without significant impact to level and quality of services provided to residents.

### **Personnel Goals**

There will be no increase in the number of employee full-time equivalents (FTEs) of 126.15, providing that revenues remain consistent with FY 2015, and there are no changes in operational needs.

Sections of the PR&R will be reviewed and amended to implement the classification and compensation plan consistent with budgetary resources and improve practices that reflect recognized Human Resources standards.

### **General Fund**

Council will review ways to increase revenues in the General Fund to help offset increases in operating expenses, meet infrastructure needs, and increase the fund balance, per the plan outlined in "Setting the Course for the Future," 1/14/12.

General Fund revenues will be forecast conservatively and take into consideration possible state funding policies that may affect City revenues such as, community revenue sharing, shared fisheries and other shared business taxes, pension costs and liabilities, and the required allocation of sales tax.

The General Fund will be budgeted without a deficit through appropriations from the fund balance when/if necessary, and with a goal to maintain up to three months' operating reserves. Council may appropriate additional funds for capital projects.

### **Enterprise Funds**

The major enterprise funds will develop long-term plans to include maintenance and repairs, needed facility replacement or expansion, and a schedule for rate reviews.

Enterprise Funds will continue to conduct rate studies every five years and present them to the City Council for implementation.

The Shipyard will achieve a breakeven point, including adequate revenues through charges for services to meet debt payments and operational expenses without transfers from other funds. The business plan and marketing campaign for services will be refined and evaluated yearly for its effectiveness to capture maximum revenues.

Ensure adequate revenues are established to continue to maintain and improve Harbor facilities that support fisheries and support sector services and activities.

### **Community Support**

The total amount available to fund non-profit requests will continue to follow the Council established level of funding which is based on 1% of General Fund revenues.

### **Capital**

Within resources available, the City will maintain capital assets and infrastructure at a level that is adequate to protect its investment, to minimize future replacement and maintenance costs, and to maintain existing service levels.

The City Manager and management staff will develop and refine the City's formal five-year capital improvement plan (CIP) that identifies and ranks projects for capital and major maintenance projects. The City will utilize the planning document and develop policies and procedures identifying criteria and steps for implementation. Once complete, the capital budget will link to, and flow from, the multi-year capital improvement plan.

**Debt Service**

The City will not incur new debt without appropriate analysis to:

- Show impacts on rates or taxpayers, or
- Analyze financial capacity for proposed capital projects, or
- Determine if the debt is required for projects mandated by the state or federal government, needed for economic development, environmental, aesthetic or quality of life, or health and safety improvements.

**Quality of Life**

The City will provide adequate services that meet the community needs, priorities, challenges and opportunities with consideration given to the condition of the economy, the composition of the population, technology, legal or regulatory issues, intergovernmental issues, and physical or environmental issues.

**Economic Development**

The City will work jointly with the Kodiak Island Borough to facilitate community training in business development and expansion through assistance with the State of Alaska and develop a set of steps to identify barriers and opportunities to local business development.



CITY OF KODIAK

*Pat Mann*  
\_\_\_\_\_  
MAYOR

ATTEST:

*Michelle Shurovoff-Nelson*  
\_\_\_\_\_  
DEPUTY CITY CLERK

Adopted: February 12, 2015

**City of Kodiak**  
**DRAFT Budget Calendar FY 2017**

DATE	ITEM	BY
January 16, 2016	Review City Council Goals and prepare suggested changes	City Manager & City Council
February 11, 2016	City Council adopts Goals by Resolution	City Manager & City Council
February 23, 2016	City Council presentation FY2017 revenue projections	City Manager & Finance Director
March 2, 2016	Meeting of City Manager & Department Heads to distribute budget packets and provide overview of information in packets.	City Manager & Department Heads
March 31, 2016	Final day for departmental budget requests to be returned to Manager (via Finance Department)	Department Heads
April 11-15, 2016	City Manager & Finance Director reviews departmental budget with respective Department Heads.	City Manager/ Finance Director & Department Heads
4/28-29/2016	Distribute Manager's Budget to City Council	City Manager
May 1, 2016	Budget presentation to City Council by management staff	City Manager/ Department Heads & City Council
May 6, 2016	First reading of budget ordinance	City Manager/ Finance Director & City Council
May 27, 2016	Advertisement for overall City Council agenda including budget	Clerk
June 9, 2016	Second reading and public hearing of budget ordinance; adoption of budget	City Manager/ Finance Director & City Council
July 1, 2016	Budget Implementation	Finance Director
September 7, 2016	90 day Submittal to Distinguished Budget Presentation Awards Program - Government Finance Officers Association	Finance Director


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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager   
**Date:** February 11, 2016

**Agenda Item:** V. e. **Resolution No. 2016-08, Adopting the Federal Fiscal Year 2016 Federal Capital Needs and Issues List**

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**SUMMARY:** Each year the City identifies capital improvement projects important to the maintenance and/or improvement of the City's infrastructure as well as issues that are important to the City or larger community. The Council reviewed the draft outlining the proposed federal requests and issues at the January 26, 2016, work session. Resolution No. 2016-08 reflects that list which staff and the City's federal lobbyist recommend for approval.

**PREVIOUS COUNCIL ACTION:** Council adopts a resolution each year identifying the City's prioritized list of projects for federal funding assistance.

- February 12, 2015, Council adopted Resolution No. 2015-04, the City's list of federal capital projects and issues for federal fiscal year 2015
- January 26, 2016, Council reviewed proposed FFY2016 draft
- February 9, 2016, Council reviewed Resolution No. 2016-08 identifying the City's FFY2016 federal projects and issues and agreed to move the resolution forward for approval at the coming regular meeting

**DISCUSSION:** As mentioned above, the Council reviewed and discussed a list of proposed federal projects for FFY16 during the January 26 work session and again at the February 9 work session. Staff worked closely with the City's federal lobbyists, Brad Gilman and Sebastian O'Kelly, to articulate the list of projects and issues of the City, which he will promote this year in Washington, D.C.

Brad advised the City to once again include all transportation related projects in a broad-based request that the Alaska delegation advocate for a minimum guarantee from the Federal Highway Trust Fund revenues dedicated to infrastructure development or an increase in the allocation to the Transportation Alternatives Program be budgeted and available for dedicated infrastructure like sidewalks and other pedestrian improvements. This approach may garner enough support to create a revenue stream through these pieces of legislation to the City that could help offset losses of revenue from the state.

The resolution also contains a list of issues that the City has supported in past federal requests, like support by the Alaska delegation for the Karluk Lake Enrichment Project, for which a draft

Environmental Assessment (EA) was completed and released. A second issue includes limitations on harbor infrastructure projects by the Marine Mammal Protection Act. At issue is the 350-1150 meter exclusion zone radius for marine mammals. This is affecting coastal communities, costing projects additional time and money when neither is plentiful.

Two additional Clean Water Act issues have potential local impact. The EPA's Waters of the U.S. Rule and Fishing Vessel Discharge Rule. Federal permit requirements may soon be necessary for "other waters" where State and local governments have current jurisdiction.

Resolution No. 2016-08 reflects the prioritized list of funding for the City's main transportation related projects and other federal issues as outlined above for FFY16 and will be submitted to our Alaska delegation upon adoption by our lobbyist. These are not the only funding and policy issues the City will pursue in the coming year, but they are important because they benefit the community and region. The five issues included in the resolution will provide formality to the City's concerns and allow Brad Gilman and staff to promote the City's interests.

**ALTERNATIVES:** Council may adopt, amend, or reprioritize Resolution No. 2016-08. Staff recommends Council approve the resolution as submitted. The list reflects City needs and is based on advice from our federal lobbyist.

**FINANCIAL IMPLICATIONS:** The City and its residents will benefit if the City is successful in obtaining an additional transportation capital funding source to help offset losses of funding at the state level and by reducing reliance on local contributions. There are unknown financial implications to the City for the issues listed in the resolution.

**CITY MANAGER'S RECOMMENDATION AND COMMENTS:** I worked with Brad Gilman and Seb O'Kelly to scope the development of this year's resolution, which is different from past resolutions that identified specific capital projects and amounts. This resolution still reflects our needs and follows Brad's advice to advocate for set-aside type funding for local roads and sidewalks. It also lists all the key issues that the City has advocated for in the past and should keep an eye on during this congressional cycle. He helped develop the list and is comfortable with the capital requests and the issues. I recommend Council adopt the resolution.

**ATTACHMENTS:**

Attachment A: Resolution No. 2016-04 FFY16 Capital Requests and Issues

Attachment B: Resolution No. 2015-04 FFY15 Capital Requests and Issues

**PROPOSED MOTION:**

Move to adopt Resolution No. 2016-08.

**CITY OF KODIAK  
RESOLUTION NUMBER 2016-08**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK ADOPTING  
THE FEDERAL FISCAL YEAR 2016 FEDERAL CAPITAL NEEDS AND ISSUES LIST**

WHEREAS, the City of Kodiak uses a Capital Improvements Program planning process to identify the capital needs of the community; and

WHEREAS, this identification and planning process plays a vital role in directing the City's administration and is utilized as a long-range planning and policy setting tool for City infrastructure maintenance and enhancement; and

WHEREAS, the City of Kodiak is committed to paying its way, to the greatest extent possible, but the cost of some of the City's capital project needs are greater than resources available locally; and

WHEREAS, Kodiak City Council has identified capital project needs for submission to the Alaska Congressional Delegation for funding consideration due to their significance and/or magnitude; and

WHEREAS, changes may be required as to how capital funding contributions for smaller communities like Kodiak, Alaska can be made at the Federal level; and

WHEREAS, the City of Kodiak faces several issues generated by Federal legislation or rulemaking that are of importance to the City of Kodiak, Alaska, and which may adversely impact life in Kodiak by placing undue burdens on those who work and live in the community.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following projects and issues are high priorities for the community and are hereby adopted as the City of Kodiak Federal Fiscal Year 2016 prioritized federal capital project and issues list:

**1. Community Roads and Pedestrian Improvements**

The City of Kodiak is faced with a number of pressing infrastructure replacement and improvement projects that remain unfunded. The City is seeking funding for the critically needed rehabilitation of the Mill Bay Road, the major arterial road providing access to Kodiak's business district (\$3,500,000); the construction of parking areas to increase pedestrian safety and reduce congestion along Shelikof Street (\$1,565,000); and pedestrian and roadway improvements on the Kodiak waterfront to accommodate cruise ship passengers and local residents who are walking near the seafood plants and Kodiak's working piers (\$1,100,000). In prior years, the City has been able to seek a federal contribution to community road projects through a High Priority Project designation in legislation reauthorizing the Federal Highway Trust Fund ("Highway Bill"). The Congress has suspended this practice. The allocation of funds to the states has been curtailed due to the shortfall in federal gas tax revenues which make up the



Federal Highway Trust Fund. The State of Alaska's worsening revenue deficit has exacerbated the shortfall, reducing state funds available to communities to repair their roads and provide for pedestrian access. The City of Kodiak is requesting the Alaska Delegation's assistance in advocating for some minimum guarantee of Federal Highway Trust Fund revenue to be dedicated to road infrastructure owned by local governments, or an increase in the allocation to the Transportation Alternatives Program of funds for pedestrian improvements.

## **2. Karluk Lake Enrichment Project**

The Karluk Lake system, on the west side of Kodiak Island, is the largest producer of sockeye salmon in the Kodiak area, and supports a large portion of the area's commercial and subsistence sockeye fisheries. Since 2007, returns of adult sockeye to the Karluk system were extremely poor for a number of years. In order to bring the Karluk Lake ecosystem back to its earlier, higher level of production, the Kodiak Regional Aquaculture Association (KRAA) proposed to apply nutrients over the course of up to five years. This lake enrichment project follows established protocols for rehabilitating sockeye salmon rearing environments. Since Karluk Lake is within the Kodiak National Wildlife Refuge and a pre-statehood withdrawal, however, the Fish and Wildlife Service decided to perform a compatibility review and an environmental assessment. This process took over three years. Despite strong support from the Alaska Congressional Delegation and local residents and groups, the FWS completed its environmental assessment in January and selected the No Action alternative. The agency did not issue a compatibility decision, stating that sockeye salmon stocks within the Karluk system are within their historic levels.

While the Karluk Lake sockeye returns have improved since 2007, there remains a possibility that run trends can reverse and create hardship for local fisheries. The KRAA has been informed by FWS that the Environmental Assessment action alternative could be reconsidered if lake conditions deteriorate and the sockeye returns collapse again. The agency decided, however, not to make a compatibility determination. This is the key policy decision surrounding the proposal to add nutrients to Karluk Lake in the event of a collapse. Revisiting the issue could take two or more years if FWS has to engage in both an EA and compatibility review, thereby hampering KRAA's ability to respond quickly to changes in the productivity of the lake system. The City of Kodiak therefore is requesting support from the Alaska Congressional Delegation to advocate for a compatibility decision to resolve the policy question in advance of any sudden change in circumstances.

## **3. Impact of Sea Lions on Ferry Terminal Dock**

The State of Alaska has allocated funding to engage in a major project involving the City of Kodiak's Pier 1. The project began in October, 2014, but was suspended in November, 2014 over concerns about Stellar sea lions. The National Marine Fisheries Service required a 350 meter radius exclusion area as a permit condition for the project. Under this permit condition, work must stop each time a marine mammal enters the 350 meter radius. The State decided to suspend the project and seek a permit modification to allow for continuation of work when marine mammals enter the exclusion area. This was issued on September 30, 2015, forcing a one-year delay in the project. The Incidental Harassment Authority issued to the State by NMFS continues to require exclusion zones (350 meters for pile driving and 1150 meters for vibratory/extraction activities). The State is also required to fund marine mammal observers while these activities are underway. In 2014, the City of Sand Point faced a similar permit condition for the construction of docks and floats within its new harbor. This has become a recurring problem throughout coastal Alaska because the sea lions are following the fishing fleet back to the shore

facilities. It is costing major delays in important harbor infrastructure projects and hundreds of thousands of additional dollars in project costs without any finding that the construction projects are actually harming Stellar sea lions. The City of Kodiak continues to believe that the Marine Mammal Protection Act should be amended to allow communities greater flexibility to conduct marine infrastructure projects.

**4. EPA’s “Waters of the U.S.” Rule**

The Environmental Protection Agency and the U.S. Army Corps of Engineers is moving forward with a proposed “Waters of the United States” rule that would expand Federal permitting and other requirements to many waters currently regulated by State and Local governments. The proposed rule would also apply to private landowners. The key change being proposed would expand Clean Water Act coverage to “other waters” where there is a “significant nexus” to currently covered interstate waters, territorial seas and navigable waterways. That determination is meant to be “case-specific” but has not been fully defined and the concern is that “significant nexus” could be interpreted to include floodplains, certain man-made waterways and ditches, and self-contained water bodies such as ponds or temporary/isolated wetlands. Under this model, Alaska’s extensive acreage of wetlands would likely mean that wetlands and other water bodies, including small streams and tributaries, that are seemingly isolated and geographically far removed from any current CWA-covered waterway would fall under the new definition. The City of Kodiak feels that the proposed rule would add extra layers of bureaucracy to the efforts of Kodiak citizens to use their land and for the City to engage in future public works projects. The City is requesting that the Alaska Delegation support legislative initiatives to curtail this proposed rule.

**5. EPA’s Fishing Vessel Discharge Rule**

EPA has promulgated two rules to require commercial fishermen to obtain Clean Water Act incidental discharge permits as a condition for operating both small and large fishing vessels. The permits would cover ballast water, fish hold water, anchor chain mud, deck wash/runoff, bilge pump discharge, gray or “stick” water, laundry, shower, and galley sink water. The permits require burdensome reporting, monitoring, inspections and compliance activities – all subject to heavy fines and citizen lawsuits under the Clean Water Act for what seems to be minimal environmental protection. The Congress has imposed a three year moratorium preventing EPA from implementing the Small Vessel General Permit Rule and the Vessel General Permit Rule. Efforts are underway within the Congress to make the moratorium permanent. The City of Kodiak is requesting that the Alaska Delegation actively support a permanent moratorium.

CITY OF KODIAK

ATTEST:

\_\_\_\_\_  
MAYOR

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

Adopted:

**CITY OF KODIAK  
RESOLUTION NUMBER 2015-04**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK ADOPTING  
THE FEDERAL FISCAL YEAR 2015 FEDERAL CAPITAL NEEDS AND ISSUES LIST**

WHEREAS, the City of Kodiak uses a Capital Improvements Program planning process to identify the capital needs of the community; and

WHEREAS, this identification and planning process plays a vital role in directing the City's administration and is utilized as a long-range planning and policy setting tool for City infrastructure maintenance and enhancement; and

WHEREAS, the City of Kodiak is committed to paying its way, to the greatest extent possible, but the cost of some of the City's capital project needs are greater than resources available locally; and

WHEREAS, Kodiak City Council has identified capital project needs for submission to the Alaska Congressional Delegation for funding consideration due to their significance and/or magnitude; and

WHEREAS, changes may be required as to how capital funding contributions for smaller communities like Kodiak, Alaska can be made at the Federal level; and

WHEREAS, the City of Kodiak faces several issues generated by Federal legislation or rulemaking that are of importance to the City of Kodiak, Alaska, and which may adversely impact life in Kodiak by placing undue burdens on those who work and live in the community.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following projects and issues are high priorities for the community and are hereby adopted as the City of Kodiak Federal Fiscal Year 2015 prioritized federal capital project and issues list:

**1. Community Roads and Pedestrian Improvements**

The City of Kodiak is faced with a number of pressing infrastructure replacement and improvement projects that remain unfunded. The City is seeking funding for rehabilitation of the Mill Bay Road, the major arterial road providing access to Kodiak's business district (\$3,500,000); the construction of parking areas to remove pedestrian traffic and roadway congestion along Shelikof Street (\$1,650,000); and pedestrian and roadway improvements on the Kodiak waterfront to accommodate cruise ship passengers and local residents who are walking near the seafood plants and Kodiak's working piers (\$1,100,000). In prior years, the City has been able to seek a federal contribution to community road projects through a High Priority Project designation in legislation to reauthorize the Federal Highway Trust Fund ("Highway Bill"). The Congress has suspended this practice. The allocation of funds to the states has

been curtailed due to the shortfall in federal gas tax revenues which make up the Federal Highway Trust Fund. The State of Alaska's budget deficit has exacerbated the shortfall, reducing state funds available to communities to repair their roads and provide for pedestrian access. The City of Kodiak is requesting the Alaska Delegation's assistance in advocating for some minimum guarantee of Federal Highway Trust Fund revenue to be dedicated to road infrastructure owned by local governments, or an increase in the allocation to the Transportation Alternatives Program of funds for pedestrian improvements.

## **2. Karluk Lake Enrichment Project**

The Karluk Lake system, on the west side of Kodiak Island, is the largest producer of sockeye salmon in the Kodiak area, and supports a large portion of the area's commercial and subsistence sockeye fisheries. Since 2007, returns of adult sockeye to the Karluk system have been extremely poor, most likely due to over-escapement of spawning adults in earlier years. Continuing low returns will not only deprive local fisheries, low spawning escapements will also reduce the supply of marine-derived nutrients to the lake system. Thus, the system may remain in at a low state of productivity indefinitely into the future.

In order to bring the Karluk Lake ecosystem back to its earlier, higher level of production, the Kodiak Regional Aquaculture Association (KRAA) proposes to apply nutrients over the course of up to five years. This lake enrichment project follows established protocols for rehabilitating sockeye salmon rearing environments. Since Karluk Lake is within the Kodiak National Wildlife Refuge and a pre-statehood withdrawal, however, the Fish and Wildlife Service must perform a compatibility review and an environmental assessment. The FWS has completed a draft environmental assessment and will render a decision this year. The City is requesting the Delegation's active support for the enrichment project.

## **3. Impact of Sea Lions on Ferry Terminal Dock**

The State of Alaska and the federal government allocated funding to engage in a major project involving the rebuild of the City of Kodiak's Pier I where the state ferry *M/V Tustumena*, docks. The project was developed to replace the aging wooden structure at Pier I and to improve the limited uplands to better accommodate docking and loading of the *M/V Tustumena* the State's seagoing ferry that Kodiak depends heavily upon. The project is budgeted at \$11,000,000 for construction and utility work. Construction on the project began in October 2014, but was suspended in November over concerns about Stellar sea lions. The National Marine Fisheries Service required a 350 meter radius exclusion area as a permit condition for the project. Under this permit condition, work must stop each time a marine mammal enters the 350 meter radius. The State decided to suspend the project and seek a permit modification to allow for continuation of work when marine mammals enter the exclusion area. This is likely to delay resumption of the project until September 2015 or perhaps longer. A larger project involving Pier III in Kodiak was conditioned on a 1000 meter radius exclusion area. Last year Sand Point faced a similar permit condition for the construction of docks and floats within its new harbor. This has become a recurring problem throughout coastal Alaska because the sea lions follow the fishing fleet back to the shore facilities. It is costing major delays in important harbor infrastructure projects and hundreds of thousands of additional dollars in project costs without any finding that the construction projects are actually harming Stellar sea lions. The City of Kodiak feels strongly that NMFS should engage in a rulemaking procedure to allow for harbor projects

to move forward without the need for exclusion areas. The City requests the Delegation's assistance in exploring this issue with NMFS to identify a solution to this problem.

#### **4. EPA's "Waters of the U.S." Rule**

The Environmental Protection Agency and the U.S. Army Corps of Engineers is moving forward with a proposed "Waters of the United States" rule that would expand Federal permitting and other requirements to many waters currently regulated by State and Local governments. The proposed rule would also apply to private landowners. The key change being proposed would expand Clean Water Act coverage to "other waters" where there is a "significant nexus" to currently covered interstate waters, territorial seas and navigable waterways. That determination is meant to be "case-specific" but has not been fully defined and the concern is that "significant nexus" could be interpreted to include floodplains, certain man-made waterways and ditches, self-contained water bodies such as ponds or temporary/isolated wetlands. Under this model, Alaska's extensive acreage of wetlands would likely mean that wetlands and other water bodies, including small streams and tributaries, that are seemingly isolated and geographically far removed from any current CWA-covered waterway would fall under the new definition. The City of Kodiak feels that the proposed rule would add extra layers of bureaucracy to the efforts of Kodiak citizens to use their land and for the City to engage in future public works projects. The City is requesting that the Alaska Delegation support legislative initiatives to curtail this proposed rule.

#### **5. EPA's Fishing Vessel Discharge Rule**

EPA has promulgated two rules to require commercial fishermen to obtain Clean Water Act incidental discharge permits as a condition for operating both small and large fishing vessels. The permits would cover ballast water, fish hold water, anchor chain mud, deck wash/runoff, bilge pump discharge, gray or "stick" water, laundry, shower, and galley sink water. The permits require burdensome reporting, monitoring, inspections and compliance activities – all subject to heavy fines and citizen lawsuits under the Clean Water Act for what seems to be minimal environmental protection. The Congress has imposed a three year moratorium preventing EPA from implementing the Small Vessel General Permit Rule and the Vessel General Permit Rule. Efforts are underway within the Congress to make the moratorium permanent. The City of Kodiak is requesting that the Alaska Delegation actively support a permanent moratorium.

#### **6. Rural Subsistence Determination**

Under current requirements, Alaskan communities with of population of less than 2,500 are generally considered rural, making their residents eligible to qualify for subsistence harvest. Communities with populations between 2,500 and 7,000 may or may not be considered rural depending on other characteristics such as level of subsistence use, economic diversity, state of public infrastructure and transportation accessibility, among other criteria. With a population of roughly 6,200 people but possessing significant rural characteristics, the City currently qualifies as "rural" for purposes of the Rural Subsistence determination.

The Secretaries of Interior and Agriculture are currently reviewing the Rural Subsistence Determinations for Alaskan communities. The review is examining communities such as the City of Kodiak that fall within the 2,500 to 7,000 population window to see if they should keep that designation. The City wants to ensure that the largely non-resident and transient population at the U.S. Coast Guard Base – Kodiak is not factored into the population numbers and that the review continues to count the area’s geographic remoteness, reliance on subsistence consumption, high cost of living, and significant Native population as determinants in keeping a rural designation. The City is also concerned that that the new policy might consider aggregate populations from communities outside the City, which would then place it over the 7,000 population benchmark. The City of Kodiak requests that the Alaska Delegation communicate the need for the City of Kodiak classified as “rural”. The City of Kodiak believes its residents should remain permanently rural for purposes of ANILCA Title VIII, because Kodiak is a geographically and statistically remote archipelago and a community designated as frontier for many federal services.



CITY OF KODIAK

MAYOR

ATTEST:

DEPUTY CITY CLERK

Adopted: February 12, 2015

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager   
**Date:** February 11, 2016

**Agenda Item: V. f. Authorization of Fisheries Analyst Contract**

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**SUMMARY:** The City Council and Borough Assembly have worked with a fisheries analyst since 2011 to help track and respond to fisheries resource management issues important to the Kodiak area. The first analyst resigned in the fall of 2013. The joint fisheries work group and both the Council and Assembly approved a two year contract with McCarty and Associates in February of 2014. The contract allows for two-one year extensions if approved by all three parties. McCarty's contract expires in February 2016 and she indicated an interest in renewing the contract (Attachment C). Discussions continue on the Borough Assembly with a possible decision on February 4, 2016. Council can approve a one year contract extension if all parties agree. An extension document is attached (Attachment A).

**PREVIOUS COUNCIL ACTION:**

- January 30, 2014, City Council and Borough Assembly joint work session, reviewed the recommendation for a contract with McCarty and Associates and planned to bring the contract to both bodies' upcoming meetings for approval
- February 4, 2014, Council approved the Fisheries Analyst Contract at a special meeting
- January 16, 2016, Council discussed support for an extension of the contract
- February 9, 2016, Council discussed the contract extension

**DISCUSSION:** The City Council and Borough Assembly established a fisheries work group to hold meetings and work with the jointly contracted fisheries analyst on fisheries issues of importance to Kodiak. The joint fisheries work group is made up of three Council and three Assembly members and both managers. This group worked regularly with the first analyst hired for the position back in 2011, Denby Lloyd of Resource Consultancy.

When Lloyd resigned, the work group recommended his replacement in 2014 with McCarty and Associates for the position, and the Borough Manager worked with Ms. McCarty to develop the contract. A two year contract with the option for two-one year extensions was approved by both the City Council and Borough Assembly in February 2014. That contract expires on February 6, 2016, unless all parties agree to an extension. Ms. McCarty has indicated her interest in a contract extension (Attachment C). The Assembly is scheduled to discuss the contract again at their February 4, 2016 meeting, and the Council will review the contract and discuss the recommendation at this meeting. Once both groups



authorize the contract, it will become effective. The contract extension calls for the continuation of the \$5,000 per month fee plus reimbursement for authorized expenses. The City will pay half of all costs and the Borough will pay the other half, which has been the case for the past two years.

**ALTERNATIVES:** Council may approve, postpone, or not approve the contract extension (Attachment A).

**FINANCIAL IMPLICATIONS:** The cost for this professional service contract to the City is \$30,000 per year plus authorized expenses. Costs for this professional service are included in the Legislative section of the FY2016 budget so this award would be covered by the existing budget.

**CITY MANAGER'S RECOMMENDATION AND COMMENTS:** I have attended many of the meetings of the joint fisheries work group since 2010 and have seen the benefit of having advice provided from a professional fisheries analyst or consultant. Ms. McCarty has a broad-based knowledge of fisheries and aquaculture issues from her years of professional involvement across a spectrum of fisheries organizations and issues. I know the Assembly has not yet agreed to the contract extension as laid out in the existing contract, but hope to hear of their decision by the time we hold this meeting. If Council agrees to extend the contract, I recommend they authorize me to sign it for the City.

**ATTACHMENTS:**

Attachment A: One Year Extension of Contract with McCarty and Associates

Attachment B: Original contract with McCarty and Associates

Attachment C: Letter of Interest from Heather McCarty, dated December, 29, 2015

**PROPOSED MOTION:**

Move to authorize a one-year extension to the professional services agreement with McCarty and Associates for fisheries analyst consulting and related services, effective from February 12, 2016 through February 11, 2017, in the amount of \$30,000 per year plus authorized expenses for the City's share of the contract costs, with funds coming from the General Fund Legislative professional services account, and authorize the City Manager to execute the document for the City.

**EXTENSION TO CONTRACT WITH MCCARTY AND ASSOCIATES FOR  
PROFESSIONAL SERVICES AS A FISHERIES ANALYST**

CONTRACT EXTENSION: It is the intent of this document to formalize an agreed-upon one year extension to the Contract for Professional Services as a Fisheries Analyst (the "Contract") between the CITY OF KODIAK (the "City") and MCCARTY AND ASSOCIATES, dated February 12, 2016.

WHEREAS, the Contract provides for the Contractor to provide services as a fisheries analyst to the City for a term expiring on February 6, 2016; and

WHEREAS, the Contract provides for an option to extend services for two additional one year terms upon agreement from all parties; and

WHEREAS, the City Council of the City desires to extend the term of the Contract for an additional year from the date hereof, and the Contractor has agreed to such an extension.

NOW, THEREFORE, the parties agree as follows:

This Contract shall be extended for one year, from February 12, 2016 through February 11, 2017, per Sections 2.0, Terms, and 3.0, Fees, based on mutual consent.

All other terms and provisions of the Contract, as previously amended, shall remain unchanged.

DATED as of the date set forth above.

**CITY OF KODIAK**

**MCCARTY AND ASSOCIATES**

\_\_\_\_\_  
Aimée Kniazowski, City Manager

\_\_\_\_\_  
Heather McCarty, Owner

**Professional Services Agreement with  
McCarty and Associates  
for Fisheries Analyst Consulting and Related Services**

This **AGREEMENT**, made and entered into this **7<sup>th</sup>** day of **February, 2014** by and between the **KODIAK ISLAND BOROUGH**, organized under the laws of the State of Alaska, hereinafter referred to as the "**Borough**", the **CITY OF KODIAK**, organized under the laws of the State of Alaska, hereafter referred to as the "**City**" and **MCCARTY AND ASSOCIATES** a sole proprietor company authorized to do business in Alaska, with offices located at Juneau, Alaska, hereinafter referred to as the "**Contractor.**"

**WITNESSETH**

**WHEREAS**, the Borough and City wish to enter into a contract with an independent contractor to monitor, analyze and report on fisheries issues and policy developments that may impact or affect the economy and community in Kodiak, Alaska; and

**WHEREAS**, in response to a request for proposals, Contractor submitted a proposal asserting it is qualified to perform these services and able to do so in a timely manner;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

**1.0 DEFINITIONS**

1.1 "Agreement" shall mean this Professional Services Agreement, including:

Exhibit A – McCarty & Associates proposal dated January 21, 2014

Exhibit B – Borough and City's request for proposals

1.2 "Change Order" is an addition to, or reduction of, or other revision approved by the Borough and City in the scope, complexity, character, or duration of the services or other provisions of this Agreement.

1.3 "Borough" shall mean the Kodiak Island Borough, Alaska.

1.4 "Borough/City Fisheries Work Group" is a sub-committee of the Borough Assembly and City Council consisting of three Assembly members and three Council members (KIB Assembly Resolution FY2013-32).

1.5 "City" shall mean the City of Kodiak, Alaska.

1.6 "Contracting Officers" shall mean Borough Manager and the City Manager, and include any successor or authorized representatives.

1.7 "Contractor" shall mean McCarty and Associates.

1.8 "Fisheries Analyst Services" shall include monitoring, analyzing, and reporting to the Borough and City on fisheries issues and policy developments that may impact or affect the economy and communities with the City and the Borough, as further described in the Borough's and City's request for proposals (Exhibit B) and Contractor's proposal (Exhibit A).

**2.0 TERM OF AGREEMENT.** This Agreement shall take effect on February 7, 2014. This Agreement shall remain in full force and effect for two years expiring on February 6, 2016. This Agreement may be extended for two one year options to extend upon approval by the Borough, City and Contractor. This Agreement may be amended only in writing and upon compliance with all applicable statutes, ordinances, and regulations.

**3.0 FEES.** Contractor will be paid \$5,000 per month, at the beginning of each month, and reimbursed for reasonable travel-related costs including airfare, local transportation, lodging and per diem for meals based on the current US Government Services Administration (GSA) agency schedule. The Contractor will submit monthly invoices, detailing work and expenses incurred. The Borough and City will each pay one half of each accurate monthly invoice.

**4.0 SCOPE OF SERVICES.** The Borough, City, and Contractor have agreed upon a scope of work described in the Contractor's proposal, Exhibit A, to provide Fisheries Analyst Services based on approved standards and instructions [as specifically described in Exhibits A and B.] When available, Contractor will also attend local meetings of the Kodiak Fisheries Advisory Committee (KFAC) and the Kodiak Regional Aquaculture Association (KRAA). Attendance at other meetings may be requested by the Borough/City Fisheries Work Group. Additional Contractor fee for additional meetings (if any) must be agreed to, in writing, and approved by the Borough/City Fisheries Work group.

This Scope of Services can only be changed in writing pursuant to Section 25.0 of this Agreement.

**5.0 REPORT SCHEDULE.** Written quarterly reports shall be provided to the Borough and City within 30 days following the end of each calendar quarter. Contractor shall also report, written and/or oral, to the Borough/City Fisheries Sub-committee after each fisheries meeting attended and attend Borough/City Joint Work Sessions when requested by the Borough/City Fisheries Sub-committee. Joint work sessions are anticipated to occur on a quarterly basis.

**6.0 PERSONNEL/ORGANIZATION**

6.1 Key Personnel. Fisheries Analyst Services provided by the Contractor will be performed by:

**Heather McCarty**

6.2 Changes in Key Personnel. The Contractor shall give the Borough and City, through notice to the Contracting Officers, reasonable advance notice of any necessary substitution or change of key personnel and shall submit justification therefore in sufficient detail to permit the Borough and City to evaluate the impact of such substitution on this Agreement. No substitutions or other changes shall be made without the written consent of the Borough.

**7.0 STANDARD OF PERFORMANCE.** The Contractor agrees to use its best efforts to provide Fisheries Analyst Services. The Contractor accepts the relationship of trust and confidence established between it and the Borough and City by this Agreement. The Contractor covenants with the Borough and City to furnish its best skill and judgment. The Contractor shall provide all services in a competent manner.

**8.0 TIMELINESS OF PERFORMANCE.** Time is of the essence in this Agreement.

**9.0 COMPLIANCE WITH LAWS.** The Contractor shall be familiar with and at all times comply with and observe all applicable federal, state and local laws, ordinances, rules, regulations, and executive orders, all applicable safety orders, all orders or decrees of administrative agencies, courts, or other legally constituted authorities having jurisdiction or authority over the Contractor, the Borough, or the service which may be in effect now or during performance of the services.

**10.0 INDEMNITY.** The Contractor shall indemnify, defend, and hold harmless the Borough and City from and against any claim of, or liability for, negligent acts, errors, and omissions of the Contractor under this Agreement, including attorney fees and costs. The Contractor is not required to indemnify, defend, or hold harmless the Borough or City for a claim of, or liability for, its (the Borough or City, as applicable) independent negligent acts, errors, and omissions. If there is a claim of, or liability for, a joint negligent act, error, or omission of the Contractor

and the Borough and City, the indemnification, defense, and hold harmless obligation of the Contractor, and liability of the parties, shall be apportioned on a comparative fault basis. In this provision, "Contractor", "Borough" and "City" include the employees, agents, and contractors who are directly responsible, respectively, to each. In this provision, "independent negligent acts, errors, and omissions of the Borough and City means negligence other than in the Borough's and City's selection, administration, monitoring, or controlling of the Contractor, or in approving or accepting the Contractor's work.

**11.0 INSURANCE.** The Contractor understands that no Borough or City insurance coverage, including Workers' Compensation, is extended to the Contractor while completing the services described in this Agreement. The Contractor shall carry adequate (commercially reasonable coverage levels) insurance covering Workers' Compensation, general public liability, automobile, professional liability, and property damage including a contractual liability endorsement covering the liability created or assumed under this Agreement. The Contractor shall not commence work under this Agreement until the Contractor provides the Borough and City with certificates of insurance evidencing that all required insurance has been obtained. These insurance policies and any extension or renewals thereof must contain the following provisions or endorsements:

- a. Borough and City are additional insured thereunder as respects liability arising out of or from the work performed by Contractor.
- b. Borough and City will be given thirty (30) days prior notice of cancellation or material alteration of any of the insurance policies specified in the certificate.
- c. Insurer waives all rights of subrogation against Borough and City and their employees or elected officials.
- d. The insurance coverage is primary to any comparable liability insurance carried by the Borough and City.

Upon request, Contractor shall permit the Borough and City to examine any of the insurance policies specified herein. Any deductibles or exclusions in coverage will be assumed by the Contractor, for account of, and at the sole risk of the Contractor.

The minimum amounts and types of insurance provided by the Contractor shall be subject to revision at the Contracting Officers' request in order to provide continuously throughout the term of the Agreement a level of protection consistent with good business practice and accepted standard of the industry.

**12.0 GOVERNING LAW.** The laws of Alaska will determine the interpretation, performance and enforcement of this Agreement.

**13.0 OWNERSHIP OF WORK PRODUCTS.** Payment to the Contractor for services hereunder include full compensation for all work products and other materials produced by the Contractor pertaining to this Agreement.

The originals of all material prepared or developed by the Contractor or its employees, agents, or representatives hereunder, including documents, drawings, designs, calculations, maps, sketches, notes, reports, data, models, computer tapes, and samples shall become the property of the Borough and City when prepared, whether delivered or not, and shall, together with any materials furnished the Contractor and its employees, agents, or representatives by the Borough and City hereunder, be delivered to the Borough and City upon request and, upon termination or completion of this Agreement. Materials previously created and copyrighted by the Contractor included in this project will remain property of the Contractor. Copies will be made available to the Borough and City upon request. Materials purchased from and copyrighted by third parties are not included in this provision.

**14.0 PATENTS, TRADEMARKS, AND COPYRIGHTS.** The Contractor agrees to defend, indemnify, and save the Borough and City harmless from and against any and all claims, costs, royalties, damages and expenses of any kind of nature whatsoever (including attorneys' fees) which may arise out of or result from or be reasonably incurred in contesting any claim that the methods, processes, or acts employed by the Contractor or its employees in connection with the performance of services hereunder infringes or contributes to the infringement of any letter patent, trademark, or copyright. In case such methods, processes, or acts are in suit held to constitute infringement and use is enjoined, the Contractor, within reasonable time and at its own expense, will either secure a suspension of the injunction by procuring for the Borough and City a license or otherwise, or replace such method, process, etc., with one of equal efficiency.

**15.0 NONWAIVER.** No failure of the Borough, City or Contractor to insist upon the strict performance by the other of any of the terms of this Agreement or to exercise any right or remedy herein conferred, shall constitute a waiver or relinquishment to any extent of its rights to rely upon such terms or rights on any future occasion. Each and every term, right, or remedy of this Agreement shall continue in full force and effect.

**16.0 SAFETY/PERFORMANCE.** The Contractor shall comply with all federal and state statutes, ordinances, orders, rules, and regulations pertaining to the protection of workers and the public from injury or damage, and shall take all other reasonable precautions to protect workers and the public from injury or damage.

## **17.0 SUSPENSION OR TERMINATION.**

17.1 Fault Termination or Suspension. This Agreement may be terminated by any party upon ten (10) days written notice if another party fails substantially to perform in accordance with its terms. If the Borough or City terminates this Agreement, they will pay the Contractor a sum equal to the percentage of work completed and accepted that can be substantiated by the Contractor, offset by any amounts owed to the Borough or City. However, within the ten (10) day Notice of Intent to terminate the party in default shall be given an opportunity to present a plan to correct its failure.

17.2 Convenience Suspension or Termination. Any party may at any time terminate or suspend this Agreement upon 30 days' prior written notice to each of the other parties, for any reason including its own needs or convenience. In the event of a convenience termination or suspension for more than six (6) months, the Contractor will be compensated for authorized services and authorized expenditures performed to the date of termination or suspension. No fee or other compensation for the uncompleted portion of the services will be paid, except for already incurred indirect costs which the Contractor can establish and which would have been compensated but because of the termination or suspension would have to be absorbed by the Contractor without further compensation.

17.3 Activities Subsequent to Receipt of Notice of Termination or Suspension. Following receipt of a Notice of Termination or suspension and except as otherwise directed by the Contracting Officers, the Contractor shall:

- a. perform only work authorized under this Agreement through the termination or suspension date and to the extent specified in the Notice; and
- b. deliver in the manner, at the times, and to the extent directed by the Contracting Officers, work in progress, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of the work terminated or suspended by the Notice.

**18.0 EQUAL EMPLOYMENT OPPORTUNITY.** The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, physical handicap, sex, marital status, change in marital status, pregnancy, or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, or parenthood. The Contractor shall take affirmative action required by law to ensure that applicants are employed and that employees are treated during



employment without regard to their race, color, religion, national origin, ancestry, age, or marital status.

**19.0 NO ASSIGNMENT OR DELEGATION.** The Contractor may not assign, subcontract or delegate this Agreement, or any part of it, or any right to any of the money to be paid under it without written consent of the Contracting Officers.

**20.0 INDEPENDENT CONTRACTOR.** The Contractor shall be an independent contractor in the performance of the work under this Agreement, and shall not be an employee or agent of the Borough or of the City.

**21.0 PAYMENT OF TAXES.** As a condition of performance of this Agreement, the Contractor shall pay all federal, state and local taxes incurred by the Contractor and shall require their payment by any other persons in the performance of this Agreement.

**22.0 PRECEDENCE AND DIVISIBILITY.** The provisions of this Agreement shall fully govern the services performed by the Contractor. If any term, condition, or provision of this Agreement is declared void or unenforceable, or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable.

**23.0 ENTIRE AGREEMENT.** This Agreement contains the entire agreement between the parties as to the services to be rendered by the Contractor. All previous or concurrent agreements, representations, warranties, promises, and conditions relating to the subject matter of this Agreement are superseded by this Agreement.

**24.0 CLAIMS AND DISPUTES.** Venue for all claims and disputes under this Agreement, if not otherwise resolved by the parties, shall be in the appropriate Alaska State court in Anchorage or Kodiak, Alaska.

**25.0 CHANGES IN SCOPE OF WORK.**

25.1 General. Additional services not specifically provided for in this Agreement will not be compensated.

25.2 Changes in Scope of Work. The Contracting Officers may, at any time, by a written Change Order delivered to the Contractor, make changes to the scope of work, or authorize additional work outside the scope of work to the extent authorized by Borough and City appropriations.

25.3 Compensation to the Contractor. If any Change Order for which compensation is allowed under this Article causes an increase or decrease in the estimated cost of, or time required for, the performance of

any part of the work under this Agreement, or if such change otherwise affects other provisions of this Agreement, an equitable adjustment will be negotiated. Such an adjustment may be:

- a. in the estimated cost or completion schedule, or both;
- b. in the amount of fee to be paid; and
- c. in such other provisions of the Agreement as may be affected, and the Agreement shall be modified in writing accordingly.

25.4 Any claim by the Contractor for adjustment under this section must be asserted within fifteen (15) days from the day of receipt by the Contractor of the notification of change; provided, however, that the Contracting Officers, deciding that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this Agreement. Failure to agree to any adjustment shall be a dispute within the meaning of Section 2540 of this Agreement.

## **26.0 LIMITATION OF FUNDS.**

26.1 At no time will any provision of this Agreement make the Borough or City liable for payment for performance of work under this Agreement in excess of the amount that has been appropriated by the Borough Assembly (for the Borough) or City Council (for the City) and obligated for expenditure for purposes of this Agreement.

26.2 Change orders issued pursuant to Section 25 of this Agreement shall not be considered an authorization to the Contractor to exceed the amount allotted in the absence of a statement in the change order, or other modification increasing the amount allotted.

26.3 Nothing in this Section shall affect the right of the Borough and City under Section 17 to terminate this Agreement.

**27.0 PRIOR WORK.** For the purposes of this Agreement, work done at the request of the Borough and City before execution of this Agreement, if any, shall be deemed to be work done after its execution and shall be subject to all the conditions contained herein.

**28.0 NOTICES.** Any notices, bills, invoices, or reports required by the Agreement shall be sufficient if sent by the parties by electronic mail or by United States mail, postage paid, to the addresses noted below:

Kodiak Island Borough  
Attn: Borough Manager  
710 Mill Bay Road, Room 125  
Kodiak, AK 99615  
[bcassidy@kodiakak.us](mailto:bcassidy@kodiakak.us)

McCarty and Associates  
Attn: Heather McCarty  
1537 Pine Street  
Juneau, AK 99801  
[hdmccarty@gmail.com](mailto:hdmccarty@gmail.com)

City of Kodiak  
Attn: City Manager  
710 Mill Bay Road  
Kodiak, AK 99615  
[akniaziowski@city.kodiak.ak.us](mailto:akniaziowski@city.kodiak.ak.us)

IN WITNESS WHEREOF, the parties have executed this Agreement.

**Kodiak Island Borough**

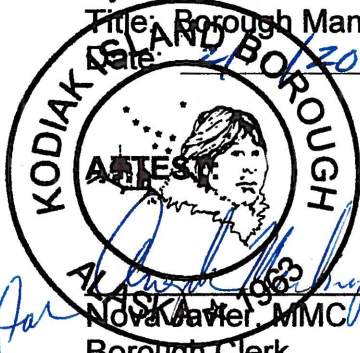
*Charles E. Cassidy Jr*

By: Charles E. Cassidy Jr  
Title: Borough Manager  
Date: 1/30/14

**McCarty and Associates**

*Heather D. McCarty*

By: Heather McCarty  
Title: Owner  
Date: 1/30/14



*Janet ...*  
Nov 1982  
Borough Clerk

(Borough seal)

**City of Kodiak**

*Aimée Kniazowski*

By: Aimée Kniazowski  
Title: City Manager  
Date: 2/9/14

**ATTEST:**

*Debra Marlax*

Debra Marlax, MMC  
City Clerk



(City seal)

December 29, 2015

Bud Cassidy, Borough Manager  
Kodiak Island Borough

Aimee Kniazowski, City Manager  
City of Kodiak

Dear Bud and Aimee:

As you know, the two-year contract between McCarty and Associates, the City and the Borough is in effect until February 6, 2016. The contract is renewable by mutual agreement of the parties to the contract, so I felt it was timely to communicate with you both about future plans.

I want to let you both know that I very much appreciate your help and encouragement, and that of your efficient and friendly staffs. I especially compliment both the City and the Borough on the careful and conscientious way your teams have supported the meetings of the Kodiak Fishery Work Group (KFWG) and the community roundtable forums. Their attention to detail and process is exemplary.

I also would like to formally request your consideration of renewing the contract. I believe the KFWG and the community of Kodiak have benefitted from the work we have collectively done at the North Pacific Council and in other forums. The community of Kodiak is clearly perceived as an example of how fishing-dependent communities can successfully interact with management bodies. We have had the good fortune of having intelligent and motivated co-chairs, and committed members of the KFWG; it has been a true pleasure to work with that group.

I am also pleased that the community has, with deliberation, agreed to a contract to do some important baseline fisheries-related economic data-gathering, which will lay the groundwork for further analysis of management plans.

Although not the only fisheries issue of importance to Kodiak, the outcome of the Council's Gulf Trawl Bycatch Management (GTBM) action will have a tremendous effect on the community. That action is really just beginning, and the next 18 months will clearly be a time of great need for the kind of unbiased information and analysis that I believe I can continue to provide.

Please let me know if you need something more formal from me, and what your joint process and timeline is for making a renewal decision. I am happy to appear before the City Council and/or the Borough Assembly if those bodies should wish to discuss this with me, and of course I am always available to you.

Best regards,

Heather McCarty

Cc: Major Pat Branson, City of Kodiak  
Major Jerrol Friend, Kodiak Island Borough  
John Whiddon, Co-chair, KFWG  
Rebecca Skinner, Co-chair, KFWG

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers

**From:** Aimée Kniazowski, City Manager

**Thru:** Mark Kozak, Public Works Director, Glenn Melvin PE, City Engineer

**Date:** February 11, 2016

**Agenda Item:** V. g. Authorization for Scope of Work for Monashka Pipeline Project No. 7038

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**SUMMARY:** This project provides for an internal inspection of the Monashka transmission line to assess condition and potential internal lining damage from high surge pressures both in negative and positive conditions. Transmission line modeling evaluation for the purpose of air relief and vacuum protection during the design of the Monashka Pumphouse showed that the transmission line is severely under protected from high surge pressures and vacuum conditions during full speed shut downs of the pumps. Evaluation of the potential routing of a second or replacement transmission line will also be evaluated. Staff recommends Council authorize this professional service contract with CH2M in the amount of \$199,200.

**PREVIOUS COUNCIL ACTION:** Council approved the budget for this project in the FY2016 budget.

**DISCUSSION:** This project was developed as a result of information learned during the design work on the Monashka Pumphouse project. As part of the pumphouse design the transmission line was evaluated to determine if pumping capacity could be increased at the new facility. Staff presented the findings and Council agreed on the pumphouse sizing. During the modeling of the transmission line it was discovered that the existing line is significantly under protected from high surge pressure and air relief during power failures with pumps running.

The Monashka transmission line and road design plans date back to 1971. Public Works Director Mark Kozak could not find dates on the plans indicating actual construction, but believes it started in 1972. The distance from the Monashka pumphouse to the existing water transmission lines at Pillar Creek is 19,050 feet or roughly 3.6 miles. The transmission line from Monashka is a single 24 inch ductile iron pipe connecting into two transmission lines at Pillar. There is an old 20 inch ductile iron (pre 1971) and a newer 24 inch ductile iron pipe (1996) that continues up the highway and then overland into the Upper Bettinger dam. Monashka is the primary source of the community's water, supplying almost 100 percent of the community's annual water supply. The Pillar Creek water system is rarely used; however, it is critical to the City's ability to meet existing federal standards and operate as a filtration avoidance community.



Ductile iron pipe design life is typically 50 plus years. In locations where Public Works has done work on the Monashka transmission line, the outside of the pipe has been in generally good condition. However, locations have been found where ductile iron pipe less than 20 to 25 years old has significant external corrosion even to the point of complete failure.

Ductile iron pipe for use in water systems is lined with a cement liner to protect the iron from the water. During a power outage that instantly shuts the pumps off, the water flow tends to surge back and forth in the pipe; this is referred to as water hammer. These surges create both extremely high pressure surges and at the same time create a vacuum within the line in other locations. Without adequate air relief and vacuum relief, these situations have significant potential to damage the internal lining or even break the line. In locations of lining damage, it is possible to have internal issues within the line that lead to failure of the line from inside the pipe.

Over many years of operating the line in this configuration, it is possible the lines may have significant internal lining damage. This project will allow for an internal inspection of the pipe in two predetermined locations. The locations will be identified based on the modeling of the higher spots where lack of air relief would create high negative pressure (vacuum) from the surges within the water line.

The Monashka transmission line is a critical piece of the community's infrastructure and is also a single point of potential failure that could dramatically affect the community. Pillar Creek system does not have the water or pumping (max 4 MGD) capacity to support the larger water demands of the processors during most processing times.

During the new Monashka pumphouse design, CH2M was asked to evaluate the capacity of the existing transmission line from Monashka to Pillar Creek to help determine the number of pumps and size of the new pumphouse. The evaluation determined the line had additional capacity (up to 14 MGD); however, the modeling showed the line was seriously under protected from extremely high pressure surge events both positive and negative. This is because of the lack of adequate air relief and vacuum relief during high flow times with complete power failure.

In order to do this work, Public Works will shut the Monashka water system off and supply the community from Pillar Creek. The timing is critical in order to meet the water demands of the community. Historically the last week of May and first two weeks of June is one of our lowest flow periods based on the processing needs. The field work for this project will be planned for that timeframe.

The line will be cut open and video inspected in both directions from each location. Once the inspection is completed, the line will be repaired and returned to service. Staff expects the shutdown to take two to three days.

The second part of this evaluation will look at potential routing of a second or replacement transmission line. The route evaluation will look at the challenges of crossing the large gulleys, bedrock, and avoidance of electrical transmission lines as well as State right-of-way concerns. It will also provide a rough cost estimate in order to aid future planning.

Once the internal transmission line report is complete, staff will evaluate the situation to determine how to manage this potential project in the future. It is important to remember that results and recommendation could be anywhere from the-line-is-in-good-condition to it-is-critical-that-we-do-something-right-away. Once the reports are complete, staff will schedule a discussion with the Council to be informed of the results.

**ALTERNATIVES:**

- 1) Approve the proposed scope of work for the initial phase of Monashka Transmission Line project, which is staff's recommendation. This evaluation is critical to protect this essential public service.
- 2) Postpone or do not approve the scope of work as proposed which is not recommended because of the potential for a serious condition to existing within the transmission line. Depending on the report assessment and recommendations the City might need to shift the entire Capital Improvement list and reprioritize projects if the needs to address serious transmission line issues are recommended.

**FINANCIAL IMPLICATIONS:** This project was funded in the FY2016 budget with a budget amount of \$205,000 in Project No. 7038. Therefore, the budgeted funds are adequate to authorize this work.

**LEGAL:** N/A

**STAFF RECOMMENDATION:** Staff recommends Council authorize the professional services contract with CH2M for the Monashka Transmission Line assessment and routing in the amount of \$199,200 with funds coming from the Water Capital Improvement fund Project Number 7038.

**CITY MANAGER'S COMMENTS:** As can be seen from the case laid out in this memo, the City must move forward with this assessment. Monashka is our main source of water and the lines are old and must be inspected/tested. Council recognized the need for this project when the FY2016 budget was approved. Therefore, I support staff's recommendation and request Council to authorize award of this contract to CH2M to perform the work as stated.

**ATTACHMENTS:**

Attachment A: CH2M Professional Service Proposal dated January 29, 2016

**PROPOSED MOTION:**

Move to approve the professional services contract with CH2M for the Monashka Transmission Line assessment and routing project in the amount of \$199,200 with funds coming from the Water Capital Improvement fund Project No. 7038.



CH2M ANC  
949 E. 36<sup>th</sup> Avenue  
Suite 500  
Anchorage, AK 99508

O +1 907 762 1500  
www.ch2m.com

January 29, 2016

Mr. Mark Kozak  
Public Works Director  
**CITY OF KODIAK**  
2410 Mill Bay Road  
Kodiak, AK 99615

***Subject: Engineering Services Proposal for Monashka Pipeline Assessment and Routing Study***

Dear Mr. Kozak:

CH2M HILL appreciates this opportunity to submit our proposal for the City of Kodiak's Monashka Pipeline Assessment. The Monashka pipeline is a critically important component of the City's water supply infrastructure. The cement mortar lined ductile iron pipeline was constructed in the early 1970s, and has been subjected to potential vacuum conditions at certain locations due to multiple sudden pump shutdowns from power outages and lack of adequate vacuum release valves along the line. It is possible that these events may have damaged the pipe lining resulting in damage/corrosion to the pipe wall itself over time.

We understand the City desires to assess the condition of this critical piece of infrastructure and determine if repairs or the installation of a new redundant pipeline is warranted to continue the assurance of long term water supply to the City. In addition, CH2M will conduct a preliminary routing study for a new pipeline including the development of a rough-order-of magnitude construction cost estimate that the City can utilize for budgetary purposes, however, since CH2M has no control over market conditions or bidding procedures, we cannot warrant that actual project economics will not vary from the estimate.

## **Proposed Scope of Services**

The following scope of services is based on our hydraulic analysis of the pipeline and discussion with City staff.

### **Task 1 Pipe Condition Assessment**

1. Perform a closed circuit television (CCTV) interior pipe examination of approximately 1,800 feet in at least two higher elevation locations (power outage negative pressure areas) through pipe openings; CH2M will perform the CCTV inspections and will also subcontract the excavation and cutting of the pipe at two locations and our subcontractor will perform all required traffic control, permitting, pipeline repair, backfill, and road surface restoration as required.
2. Obtain pipe coupons from pipe cut-outs for testing
3. Interview City staff and review project records for pipeline performance information;
4. Prepare draft and final report.

## Task 2 Pipe Routing Study

1. We will walk the entire alignment to document specific routing aspects of the potential new pipe alignment;
2. Obtain property and ROW maps, drawings, and other information;
3. Perform preliminary peak flow rate hydraulic analysis for pipe sizing (24-inch and 30-inch) and estimated number, location and size of air/vac valves;
4. Perform preliminary analysis for valve and vault heating options along the new alignment (such as overhead or buried power cable);
5. Determine required permits and permitting issues;
6. Prepare overall ROM estimate for pipeline design and construction.
7. Prepare draft and final report.

## Excluded Services

CH2M HILL does not propose to provide any service related to shut down/draining of the pipeline to support the inspection. We understand that City personnel will conduct these actions as required to support the inspection.

## Deliverables

1. Draft assessment report for City review
2. Draft routing report for City review
3. Final assessment report
4. Final routing report

## Project Team

We have assembled an Anchorage based team of CH2M HILL professionals to perform the requested services. Our proposed team members include:

Project Manager	Floyd Damron, P.E.
Project Engineer	Bud Alto, P.E.
Inspection Lead	Dan Hegwald
Senior Technical Consultant	Roger Beielser, P.E.
Senior Corrosion Engineer	Jerry Duppong
Senior Hydraulic Engineer	Darren Edwards, P.E.
Field Support Contractor/cost estimating	Brechan Construction Inc.

## Schedule

Field Inspection - We propose to mobilize our team to Kodiak in the latter part of May depending upon when the City's water may be supplied from the Pillar reservoir. We anticipate that two full field days will be required to complete the inspection at two locations that will be chosen well in advance of the field work. During this period we will interview City employees to gain as much information about the pipeline as possible. We assume two full field days will be required for the routing study.

Draft Reports - 30 days after completion of the field inspection and routing assessment.

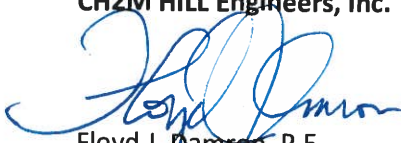
Final Reports – 30 days after receipt of draft report comments from the City.

<b>Engineering Lump Sum Fee Amount</b>		
Task 1	Field Work, Pipeline Assessment and Routing – CH2M	\$77,000
Task 2	Field Support - Brechan	\$31,300
Task 3	Pipeline Assessment Report	\$24,800
Task 4	Pipeline Routing Report	\$56,100
Task 5	Project Management, Contracts, and Accounting	\$10,000
<b>Total Lump Sum Amount</b>		<b>\$199,200</b>

Please let me know if you have any questions or would like to discuss this letter proposal. We look forward to this opportunity to once again serve the City of Kodiak.

Sincerely,

**CH2M HILL Engineers, Inc.**



Floyd J. Damron, P.E.  
VP and Senior Project Manager

C: Glenn Melvin/City Engineer  
Bud Alto/CH2M


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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers

**From:** Aimée Kniazowski, City Manager 

**Thru:** Mark Kozak, Public Works Director and Glenn Melvin, City Engineer

**Date:** February 11, 2016

**Agenda Item:** V. h. **Authorization of a Professional Services Contract for Construction Administration Services for Sanitary Sewer Lift Stations 1 and 2 Project No. 11-06/7509**

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**SUMMARY:** Council awarded the construction rehabilitation of Downtown Lift Stations 1 and 2 to Brechan Construction LLC on January 28, 2016. The next step is to secure a professional services contract with DOWL for engineering services during construction. The engineering required will be a combination of construction management services by DOWL, special inspections by the pump system manufacturer Smith & Loveless, and on-site monitoring by the engineering department. DOWL prepared an estimated scope of services that adequately covers the engineering services needed during construction. Staff recommends Council authorize award of a professional services contract with DOWL in the amount of \$31,040.

**PREVIOUS COUNCIL ACTION:** The City Council approved the project and budget in two phases. In FY2011 funds were requested to evaluate both Stations 1 and 2. At a later date, Council approved construction funds to replace or rehabilitate Stations 1 and 2. In FY2015 the two projects were combined into Project No. 7509. The City Council authorized the bid award to Brechan Construction LLC for \$1,048,600 at the January 28, 2016, meeting.

**DISCUSSION:**

The construction management portion of the project provided by DOWL includes the following tasks:

- Attend a pre-construction conference in person or via teleconference
- Answer contractor questions, perform submittal reviews, and perform office engineering needed to address design modifications
- Coordinate with the City and contractor to schedule site visits during key project milestones
- Create, review, and approve the briefing reports for submittal to the City
- Will inform the City of any perceived “Out of Scope” construction items

Chris Pletnikoff P.E. will be the coordination lead for the construction management efforts. He will review potential field changes, make recommendations, and coordinate with City staff. Chris will travel to Kodiak once near final completion to review construction progress. Chris will coordinate his travel with other Kodiak projects, allowing for travel time cost efficiencies.



**Field Inspection:** The City engineer will be available to provide on-site monitoring and inspection during the construction. He will coordinate with DOWL to assure the work is performed in accordance with the plans and the intent of the project design.

**Cost:** Contract management services typically cost ten to fifteen percent of the construction costs. DOWL HKM proposes to perform the CM services for this project on a time and materials basis with an estimated total cost of \$31,040, which is roughly three percent of the \$1,048,600 construction bid. A copy of DOWL HKM's proposal is presented (Attachment A). Having the City engineer available to perform the field monitoring and construction inspection of the project will save roughly \$50,000.

**ALTERNATIVES:**

- 1) Authorize the professional services contract with DOWL for work to be performed on a time and materials basis in the amount of \$31,040. Staff believes this alternative will best protect the City's \$1 million investment in this project and is recommended.
- 2) Do not perform construction management on this project. This alternative is not recommended because of the risk that materials and workmanship would not meet the design intent or ensure quality construction.

**FINANCIAL IMPLICATIONS:** The initial project funding was increased to cover construction, contingency, and construction management. The total project budget, including engineering, design, construction, contingency, and construction management totals \$1,475,000 with adequate funds to cover this award. With the City Engineer being able to provide most of the daily construction inspection we were able to reduce the overall amount of the construction management service contract from the increase budget amount.

**LEGAL:** N/A

**STAFF RECOMMENDATION:** Staff recommends Council authorize the professional services contract with DOWL for construction administration services for the Sanitary Sewer Lift Stations 1 & 2 project in the amount of \$31,040, with funds coming from the Water Capital Improvement Fund Project No. 11-06/7509.

**CITY MANAGER'S COMMENTS:** Construction management services help maximize this investment through the performance of various tasks throughout the construction cycle. Therefore, I support staff's recommendation that Council approve the professional services contract with DOWL for construction management services for the Sewer Lift Stations 1 & 2 project.

**ATTACHMENTS:**

Attachment A: DOWL Proposal dated January 27, 2016

**PROPOSED MOTION:**

Move to authorize the professional services contract with DOWL for construction administration services for the Sanitary Sewer Lift Stations 1 & 2 project in the amount of \$31,040, with funds coming from the Water Capital Improvement Fund, Project No. 11-06/7509, and authorize the City Manager to execute the necessary documents for the City.



January 27, 2016  
1124.60766.01

Mr. Mark Kozak, Public Works Director  
City of Kodiak  
2410 Mill Bay Road  
Kodiak, Alaska 99615

Subject: City of Kodiak, Downtown Sanitary Sewer Lift Stations 1 & 2  
Proposal for Engineering Services

Dear Mr. Kozak:

DOWL is pleased to submit this proposal to provide Construction Management Services in Kodiak for the Downtown Sanitary Sewer Lift Stations 1 & 2 project during the summer of 2016. We are looking forward to this project. This proposal outlines our proposed scope of services and fees for your review.

## SCOPE

In brief, this work involves retrofit and rehabilitation of Lift Stations 1 & 2 located in Downtown Kodiak. As part of the retrofit, small portions of the adjacent roadway will also require reconstruction. Therefore, new curb and gutter, sidewalk, and driveways will also be part of the project. Our scope will be to provide construction management services for the proposed improvements for both lift stations. This will include a minimum of three site visits and an office based project manager.

Our electrical and controls design sub-consultant, EDC, will also perform construction site inspections and provide construction management services. Their inspections will include two (1 day) trips to Kodiak for substantial and final inspections.

## SCHEDULE

Construction is expected to begin in early June and extend into early- to mid-August, for a total estimated construction period of eight weeks. In general, we expect a DOWL engineer to make three

site visits during this period. Following the site visit, the engineer will write and submit a brief report outlining the meetings attended and/or the construction activities observed.

### **POINTS OF CONTACT**

I will continue to be DOWL's primary point of contact with the City of Kodiak. I have designated Chris Pletnikoff, P.E. as the coordination lead for construction management efforts. Chris will review potential field changes, make recommendations, and coordinate with City of Kodiak staff. Chris will travel to Kodiak once near final completion to review construction progress. Chris will coordinate his travel with other Kodiak projects, allowing for travel time and costs efficiencies.

### **DAY-TO-DAY INSPECTION ACTIVITIES**

DOWL's team will perform the following duties:

- DOWL will coordinate with the City of Kodiak and Contractor to schedule the site visits during key project milestones.
- DOWL will attend a pre-construction conference in person or via teleconference.
- DOWL will answer contractor questions, perform submittal reviews, and perform office engineering needed to address design modifications.
- DOWL will inform the City of Kodiak regarding out-of-scope construction items.
- DOWL will create, review, and approve the briefing reports. You or your representative will receive a copy of these reports following approval.

### **FEE PROPOSAL**

DOWL proposes to provide the services as outlined above on a time and materials (T&M) basis. Our estimated fee for this work is \$31,040. This fee is based on an estimated three site visits (day trips) to the project site, and also include inspection services from our electrical design.

A monthly statement will be provided showing the approximate percentage completion of each of these phases. Payment will be expected within 30 days.

Mr. Mark Kozak, Public Works Director  
City of Kodiak  
January 27, 2016  
Page 3

Services performed by DOWL under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this agreement or in any report, opinion, and document or otherwise.

Thank you again for considering DOWL for these construction management services. We are looking forward to working with you on this project and will be happy to answer any additional questions you may have.

Sincerely,  
DOWL



Aaron Christie, P.E.  
Contract Manager

20160127.D60766.Kozak.ARC.gas

Attachments: As stated

This proposal is accepted, and DOWL is authorized to proceed with the work.

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City of Kodiak

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Date

**DOWL  
ESTIMATE FOR PROFESSIONAL SERVICES**

<b>PROJECT:</b>	<b>Downtown Lift Stations 1 &amp; 2</b>	WO#:	60766
		DATE:	1/20/2016
		Prepared by:	CCP
<b>CLIENT:</b>	City of Kodiak	Checked By:	ARC

<b>Phase</b>	<b>Basic Services</b>	<b>Total Fees</b>
		<i>(Rounded to 10's)</i>
Task 7	Inspection and On-Site Management (T&M)	\$20,170
Task 8	Construction Management (T&M)	\$10,870
	<b>Total for Basic Services:</b>	<b>\$31,040</b>

**DOWL  
ESTIMATE FOR PROFESSIONAL SERVICES**

<b>PROJECT:</b>	Downtown Lift Stations 1 & 2	WO#	60766
		DATE:	1/20/2016
<b>CLIENT:</b>	City of Kodiak	Prepared by	CCP

Task	Phase Description	Labor Category	Office Engineer C. Pletnikoff	On-site Eng./Inspect.	Expenses	TOTALS
		Hourly Rate	\$120.00	TBD	10% Markup	
<i>Task 7</i>	<i>Inspection and On-Site Management (T&amp;M)</i>					
	Mobilization, Demobilization and Travel		2	4		
	Site Visit/Field Engineering (Assuming 3, 12hr days)			36		
	Inspection Report/Document Coordination/QA/QC		6	3		
	Electrical & Controls Systems Subconsultant					
	CM Services & Inspection - Two (1 day) trips for Final Inspection				\$11,385.00	
	Reimbursable Expenses					
	Plane Tickets				\$1,320.00	
	Per Diem (Assuming \$68/day)				\$224.40	
	Vehicle (Gas & Rental, Assume \$80 day)				\$264.00	
	<i>Subtotal - Hours</i>		8	43		51
	<i>Subtotal - Costs</i>		\$960.00	\$6,020.00	\$0.00	\$13,193.40
						\$20,173

DOWL  
ESTIMATE FOR PROFESSIONAL SERVICES

<b>PROJECT:</b>	Downtown Lift Stations 1 & 2	WO#	60766
		DATE:	1/20/2016
<b>CLIENT:</b>	City of Kodiak	Prepared by	CCP

Task	Labor Category	Contract Manager	Office Engineer	Technician	Admin Asst	Expenses	TOTALS
	Hourly Rate	A. Christie \$180.00	C. Pletnikoff \$120.00	\$85.00	\$85.00	10% Markup	
<b>Task 8</b>	<b>Construction Management (T&amp;M)</b>						
	Project Management	2	4		2		
	Project Budgeting, Schedule, Planning and Coordination	2	4				
	Preconstruction Meeting	2	2				
	Submittal Review/Contractor Coordination	2	4	2	2		
	Change Orders/DCVR's	2	2	2	2		
	Coordination with Onsite Inspector Contractor & City Coordination	6	12				
	Record Documents						
	Record Drawing Documentation/Production	2	8	12	1		
	QA/QC	2	4	6			
	<b>Subtotal - Hours</b>	20	40	22	7		89
	<b>Subtotal - Costs</b>	\$3,600.00	\$4,800.00	\$1,870.00	\$595.00	\$0.00	\$10,865

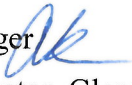


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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Aimée Kniazowski, City Manager   
**Thru:** Mark Kozak, Public Works Director, Glenn Melvin P.E., City Engineer  
**Date:** February 11, 2016

**Agenda Item:** V. i. **Authorization of Professional Services Contract for Dam Safety Inspections, Project No. 05-03/7039**

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**SUMMARY:** State of Alaska Department of Natural Resources (ADNR) regulation requires that Hazard Class I or II dams have Periodic Safety Inspection (PSI) performed by a qualified engineer. All Hazard Class I and II dams must be inspected every three years. Staff recommends Council authorize the award of a Professional Services contract to Golder Associates to perform the City's required periodic dam safety inspections in the amount of \$48,985.

**PREVIOUS COUNCIL ACTION:** The Council approved the last PSI contract with Golder Associates in February 2013. In the FY2016 budget, Council approved the funding needed for this required project in the amount of \$60,000.

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

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

The last inspections were completed in May 2013. The Certificates to Operate the dams require that these inspections take place on or before the last inspection date. We would intend to have these inspections completed in early May 2016.

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

**ALTERNATIVES:**

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

**FINANCIAL IMPLICATIONS:** Golder has provided a proposal to perform the required PSI in the amount \$48,985, which is less than the \$60,000 approved for the project in the FY2016 budget. The PSI is on the Public Works Capital Improvement list so the funding can be identified every three years. These inspection requirements will continue at three year intervals unless a change occurs in the regulations.

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

**STAFF RECOMMENDATION:** Staff recommends Council authorize a professional services contract with Golder Associates in the amount of \$48,985 for dam safety inspections with funds coming from the Water Improvement Fund Periodic Safety Inspection account, Project No. 05-03/7039.

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

**ATTACHMENTS:**

Attachment A: Golder Associates Proposal dated January 26, 2016

**PROPOSED MOTION:**

Move to authorize a professional services contract with Golder Associates in the amount of \$48,985 for dam safety inspections with funds coming from the Water Improvement Fund, Periodic Safety Inspection account, Project No. 05-03/7039 and authorize the City Manager to sign the documents on the City’s behalf.



January 26, 2016

P1523549

Mr. Mark Kozak  
 City of Kodiak  
 2410 Mill Bay Road  
 Kodiak, Alaska 99615

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

Dear Mr. Kozak:

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

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

## 1.0 SCOPE OF WORK

This PSI work will include a comprehensive review and update of the PSI Baseline Report, and will be done in compliance with the "Guidelines for Cooperation with the Alaska Dam Safety Program," prepared by the Dam Safety and Construction Unit, Alaska Department of Natural Resources (ADNR Dam Safety), dated June 2005. As required in Attachment A of the ADNR Dam Safety "Certificate of Approval to Operate a Dam" for the above dams, this work will include:

- Incorporating all ADNR comments and recommendations from the 2013 PSI review.
- Completing a visual inspection checklist (VIC) for each dam using the most current form provided by the ADNR.
- Photographing and documenting of key elements of the dams, appurtenant works, and any unusual observations that could affect the safety of the dams.
- Reviewing any monitoring data and updating summaries, tables or figures in the PSI.
- Updating the 'Conclusions and Potential Issues' Section of the PSI.

PSI Kodiak Dams

Golder Associates Inc.  
 2121 Abbott Road, Suite 100  
 Anchorage, AK 99507 USA  
 Tel: (907) 344-6001 Fax: (907) 344-6011 www.golder.com



Golder Associates: Operations in Africa, Asia, Australasia, Europe, North America and South America

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## 1.1 Task 1 – Record Review

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

- The 2007 Baseline PSI Report.
- The 2010 and 2013 Supplemental PSI Reports.
- The current Operations and Maintenance (O&M) Manual. This manual will need to be modified as a minimum to include the upgrades to the Monashka dam complex and any new procedural changes in the operation of that system.
- The current monitoring data.
- The current EAP.
- Any other newer documents that were not available when the 2013 Supplemental PSI Report was submitted.

Most of this historic data is already in our files; however, documents and data collected since the last PSI in 2013, such as inspection data, monitoring data, maintenance data, and additional documents from ADNR Dam Safety, will need to be provided by the City of Kodiak at least two weeks prior to the field inspection to allow Golder time for review.

## 1.2 Task 2 – Field Inspection

Prior to the site visit, we will prepare a health and safety plan. After completing the review of the record documents, a field inspection will be performed by two professional engineers, Mr. Christopher Valentine and Mr. Rupert Tart. They are both experienced with dam safety, design, construction, and regulations and together have performed the previous three PSIs for the City of Kodiak's dams.

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

The inspection of the dams will include the following:

- Visual inspection of all dam features and appurtenances, including slopes, control structures, pumps, and pipelines as applicable. Photographic documentation for comparison to previous inspection photos.
- Review and documentation of the site conditions using the Alaska Dam Safety Visual Inspection Checklist (VIC) of each dam.
- Review of the weir monitoring records.
- Operation and documentation of all control valves.
- Review of downstream areas within the zone of potential inundation.
- Discuss operations and maintenance with maintenance personnel.
- This task will also include surveying the alignment and elevation of the five monuments at the Upper Bettinger Dam. Our current plans are to have the field survey performed by a local licensed surveyor (to be determined). The costs of this survey are not included because in the past the City has paid the surveyor directly.

### 1.3 Task 3 – Analysis and Report

The results of our field inspection and record review will be presented in an updated Baseline Report, and will include the following, separated by dam complex:

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

The initial draft version of the report and updated O&M manual will be issued in electronic PDF format for review by the City of Kodiak within three weeks after completing the field inspection.

To meet the ADNR Dam Safety schedule, a second draft report will be issued in electronic PDF format to both the City of Kodiak and ADNR Dam Safety after receiving comments on the initial draft from the City of Kodiak, and within 30 days following the field inspection.

## 2.0 SCHEDULE

We will be prepared to begin our review of the record documents following our notice to proceed (NTP), which is anticipated to be received on or before April 2016. The field inspection will be scheduled in the late spring on a short-notice basis to optimize the weather conditions for the field observations. Dry weather is helpful for observation and evaluation of possible seeps adjacent to the dam structures.

As detailed in Section 1.3 of this proposal, our draft report will be submitted to the City of Kodiak and the ADNR Dam Safety within 30 days following completion of the field visual inspection. Three hard copies of the final report that have been sealed and certified by the engineer who conducted the PSI will be submitted to the City of Kodiak within two weeks after receiving ADNR Dam Safety's comments.

## 3.0 COST

This work will be completed for an estimated cost of \$48,985, which will be billed on a time and material basis in accordance to our attached 2016 rate schedule. The cost breakdown for each task is shown on the attached spreadsheet. These estimated costs will not be exceeded without your prior authorization.

The cost estimate assumes that no documentation or participation by Golder will be needed for the Emergency Action Plan (EAP) review and exercise ADNR Dam Safety has requested. If additional work beyond that described in our scope is necessary or if the modifications of the EAP or the O&M Manual are more complex than we have estimated, we may request your approval of additional funds.

#### 4.0 CLOSING AND WORK AUTHORIZATION

If you are in agreement with our scope of work, the attached terms and conditions, and estimated costs, please acknowledge your approval by signing in the space provided in the attached Agreement for Consulting Services.

Thank you for the opportunity to submit this proposal. Please contact us at (907) 344-6001 if you have any questions or would like to discuss this proposal.

#### GOLDER ASSOCIATES INC.



Christopher A. Valentine, PE  
Senior Project Engineer



Rupert G. Tart, Jr., PE  
Principal and Senior Consultant

Attachments: Cost Estimate  
Golder Associates Inc. 2016 Rate Schedule  
Golder Associates Inc. Agreement for Consulting Services

CAV/RGT/mlp



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

Task & Subtask Description	Name, Rate & Projected Hours								Golder Costs				Subcontractor or Direct Costs			TASK TOTAL	
	GOLDER ASSOCIATES								Labor	Estimated Misc. Expenses (Estimated as 7% of labor)	Total Golder Labor & Expense	No. Unit Rate	Subcontractor or Direct Cost	Markup	Total Subcontractor or Direct Cost plus Markup		
Billing Level	Sr. Practice Leader	Practice Leader	Senior Consultant	Sr. Engr/Geo	Sr. Project Engr/Geo	Project Engineer	Staff Engineer	Engr/Geo								Drafter / Engr. Tech	Secretary
Billing Rate	\$250	\$230	\$190	\$165	\$140	\$120	\$100	\$90	\$105	\$90					15%		
Review Past PSI Reports, Records, EAP and O&M Manual					40												
<b>TASK TOTAL</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>40</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 7,600</b>	<b>\$ 532</b>	<b>\$ 8,132</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 8,132</b>
<b>1. Record Review</b>																	
Site Visit Expenses																	
Airfare (ANC to Kodiak)						32											
Airfare (SEA to ANC)																	
Car Rental																	
Room and Board																	
<b>TASK TOTAL</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 12,480</b>	<b>\$ 874</b>	<b>\$ 13,354</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 13,354</b>
<b>2. Field Inspection</b>																	
Draft Reports Preparation																	
Finalize Reports																	
<b>TASK TOTAL</b>	<b>12</b>	<b>2</b>	<b>32</b>	<b>4</b>	<b>48</b>	<b>16</b>	<b>4</b>	<b>20</b>	<b>1</b>	<b>\$ 17,570</b>	<b>\$ 1,230</b>	<b>\$ 18,800</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 18,800</b>
<b>3. Analysis and Report</b>																	
<b>TASK TOTAL</b>	<b>14</b>	<b>0</b>	<b>36</b>	<b>0</b>	<b>64</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$ 21,670</b>	<b>\$ 1,517</b>	<b>\$ 23,187</b>	<b>\$ 50</b>	<b>\$ 8</b>	<b>\$ 8</b>	<b>\$ 58</b>	<b>\$ 23,244</b>
<b>GRAND TOTAL =</b>															<b>\$ 48,985</b>		





**GOLDER ASSOCIATES INC.**  
**ANCHORAGE, ALASKA**  
**PROFESSIONAL RATE SCHEDULE FOR CALENDAR YEAR 2016**

Invoices from Golder Associates Inc. include all labor charges, other direct costs, and costs associated with in-house services. Charges include only those services directly attributable to the execution of the work. Time spent when traveling in the interest of the work will be charged in accordance with the hourly rates. Rates for Professional services related to expert testimony, including time spent in depositions and the preparation and presentations of testimony, are available upon request.

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

<b>Billing Level</b>	<b>Personnel Category</b>	<b>Hourly Rate (U.S.\$)</b>
C8	Sr.Practice/Program Leader	\$250
C7	Practice/Program Leader	\$230
C6	Senior Consultant	\$190
C5	Senior Engineer/Scientist	\$165
C4	Senior Project Engineer/Scientist	\$140
C3	Project Engineer/Scientist	\$120
C2	Staff Engineer/Scientist	\$100
C1	Engineer/Scientist	\$90
D3	Senior Draftsperson	\$105
D2	Staff Draftsperson	\$85
D1	Draftsperson	\$70
T3	Senior Technician	\$100
T2	Staff Technician	\$90
T1	Technician	\$70
B3	Senior Admin Support	\$90
B2	Staff Admin Support	\$80
B1	Admin Support	\$70

Other direct costs, including materials, travel, subsistence, and subcontractor costs, will be invoiced at cost plus a minimum general and administrative fee of 15%.

Non-labor direct project costs listed below will be billed at the following rates:

<b>SERVICE</b>	<b>RATE</b>
CAD/GIS Computers	\$20/hour
Color Photocopies	\$0.15/page
Color Plotter (D&E size)	\$12/plot
Vehicle (local use)	Government Rate

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

City of Kodiak \_\_\_\_\_ ("CLIENT")

and GOLDER ASSOCIATES INC. ("GOLDER") agree that the following terms and conditions will apply to any services, including subsequent services and changes, (collectively "Services") to be provided by GOLDER relating to Proposal No. P1523549, dated January 26, 2016 (collectively the "Agreement"):

## 1. STANDARD OF CARE

Services performed by GOLDER will be conducted in a manner consistent with that level of care and skill ordinarily exercised by other professionals currently practicing under similar conditions in the same locality, subject to the time limits and financial, physical or other constraints applicable to the Services. No warranty, express or implied is made.

## 2. INVOICES AND PAYMENT TERMS

- A. Unless otherwise specified in any proposal, GOLDER will submit monthly invoices to CLIENT and a final bill upon completion of Services. CLIENT shall notify GOLDER within ten (10) days of receiving an invoice of any dispute with the invoice and the parties shall promptly resolve any disputed items. Full payment is due prior to delivery of GOLDER's final deliverable. Payment on undisputed invoice amounts is due upon receipt of invoice by CLIENT and is past due thirty (30) days from the date of the invoice. CLIENT agrees to pay a finance charge of one and one-half percent (1-1/2%) per month (18% per annum), or the maximum rate allowed by law, on past due accounts. If payment remains past due sixty (60) days from the date of the invoice, then GOLDER shall have the right to suspend or terminate all Services under this Agreement, without prejudice or penalty. CLIENT will pay all reasonable demobilization and other suspension or termination costs. CLIENT agrees to pay attorneys' fees, legal costs and all other collection costs incurred by GOLDER in pursuit of past due payments.
- B. Where the cost estimate for the Services is "not to exceed" a specified sum, GOLDER shall notify CLIENT before each limit is exceeded, and shall not continue to provide Services beyond such limit unless CLIENT authorizes an increase in the amount of the limitation. If a "not to exceed" limitation is broken down into budgets for specific tasks, the task budget may be exceeded without CLIENT authorization as long as the total limitation is not exceeded.

## 3. CHANGES

CLIENT and GOLDER recognize that it may be necessary to modify the scope of Services, schedule, and/or cost estimate proposed in this Agreement. Such changes shall change the Services, schedule, and/or the cost, as may be equitable under the circumstances. GOLDER shall notify CLIENT in a timely manner when it has reason to believe a change to the Agreement is warranted. GOLDER shall prepare a change order request outlining the changes to the scope, schedule, and/or cost of the project. CLIENT has a duty to promptly consider the change order request and advise GOLDER in a timely manner in writing on how to proceed. If after a good faith effort by GOLDER to negotiate modifications to the scope of Services, schedule, and/or cost estimate, an agreement has not been reached with the CLIENT, then GOLDER shall have the right to terminate this Agreement, without prejudice or penalty, upon written notice to the CLIENT.

## 4. DELAYS AND FORCE MAJEURE

- A. If site or other conditions prevent or inhibit performance of Services or if unrevealed hazardous materials or conditions are encountered, Services under this Agreement may be delayed. CLIENT shall not hold GOLDER responsible for damages or delays in performance caused by acts or omissions of CLIENT, its subcontractors, governmental authorities, regulatory agencies, civil or labor unrest, acts of God, nature, or terror, disruptions of the Internet, GOLDER's

electronic telecommunications or hosting services or any other events that are beyond the reasonable control of GOLDER. In the event of any such delays, the contract completion date shall be extended accordingly and CLIENT shall pay GOLDER for Services performed to the delay commencement date plus reasonable delay charges. Delay charges shall include personnel and equipment rescheduling and/or reassignment adjustments and all other related costs incurred including but not limited to, labor and material escalation, and extended overhead costs, attributable to such delays.

- B. Delays in excess of thirty (30) days within the scope of this Article shall, at the option of either party, make this Agreement subject to termination or to renegotiation.

## 5. INDEPENDENT JUDGMENTS OF CLIENT

If the Services include the collection of samples and data, then GOLDER's obligation to perform those Services is subject to CLIENT's assumption of all Subsurface Risks (such risks being more fully described in Article 12, Subsurface Risks). GOLDER will not be responsible for the independent conclusions, interpretations, interpolations or decisions of CLIENT, or others, relating to the Services. Under no circumstances do GOLDER's Services include making any recommendation, or giving any advice as to whether CLIENT should or should not proceed with any transaction regarding any site related to the Services. CLIENT assumes all responsibility and risk associated with decisions it makes based on the Services.

## 6. INDEMNIFICATION

- A. GOLDER agrees to indemnify, but not defend, CLIENT and its officers, directors, and employees from and against all claims, damages, losses or expenses arising from personal injury, death, or damage to third-party property, and for reimbursement of defense costs, to the extent that all such claims, damages, losses, expenses, or costs are finally determined to result directly from GOLDER's negligence. Such indemnification, as limited by Article 7, Limitation of Liability, shall be CLIENT's sole and exclusive remedy against GOLDER.
- B. CLIENT shall, at all times, defend, indemnify and save harmless GOLDER and its subcontractors, consultants, agents, officers, directors and employees from and against all claims, damages, losses and expenses (including but not limited to reasonable attorneys' fees, and court and arbitration costs), arising out of or resulting from the Services of GOLDER, including but not limited to claims made by third parties, or any claims against GOLDER arising from the acts, errors or omissions of CLIENT, its employees, agents, contractors and subcontractors or others. To the fullest extent permitted by law, such indemnification shall apply regardless of breach of contract or strict liability of GOLDER. Such indemnification shall not apply to the extent that such claims, damages, losses or expenses are finally determined to result directly from GOLDER's negligence.

## 7. LIMITATION OF LIABILITY

- A. CLIENT shall immediately notify GOLDER in writing of any deficiencies or suspected deficiencies arising directly or indirectly from GOLDER's negligent acts, errors or omissions. Failure by CLIENT to notify GOLDER shall relieve GOLDER of any further responsibility and liability for such deficiencies. To the extent permitted by law, CLIENT and GOLDER agree that all liability arising directly or indirectly from this Agreement or the Services of GOLDER shall expire no later than one (1) year from the date of GOLDER's acts, errors, or omissions or prior to the last date allowed in the applicable statute of limitation, whichever occurs first in time.
- B. CLIENT agrees to limit the liability of GOLDER, its affiliates, and their respective employees, officers, directors, agents, consultants and subcontractors ("GOLDER Group") to CLIENT, its employees, officers, directors, agents, consultants and subcontractors, whether in contract, tort, or otherwise, which arises from GOLDER's acts, negligence, errors or omissions, such that the total aggregate liability of the GOLDER Group to all those named shall not exceed Fifty Thousand

Dollars (\$50,000) or GOLDER's total fee for the Services rendered under this Agreement, whichever is greater.

- C. Neither party shall be responsible to the other for lost revenues, lost profits, cost of capital, claims of customers, loss of data or any other special, indirect, consequential or punitive damages.

## 8. INSURANCE

- A. GOLDER maintains insurance coverage with the following limits:

(i) Workers' Compensation in compliance with statutory limits

(ii) Automobile Liability  
Combined Single Limit \$1,000,000

(iii) Commercial General Liability:  
Each Occurrence \$1,000,000  
General Aggregate \$2,000,000

(iv) Professional Liability Insurance  
Any One Claim \$1,000,000  
Policy Aggregate \$3,000,000

- B. CLIENT shall not require GOLDER to sign any document or perform any Service which in the judgment of GOLDER would risk the availability or increase the cost of its Professional or Commercial General Liability insurance.

## 9. PROFESSIONAL WORK PRODUCT

- A. The Services provided by GOLDER are intended for one time use only. All documents, including but not limited to, reports, plans, designs, boring logs, field data, field notes, laboratory test data, calculations, and estimates and all electronic media prepared by GOLDER are considered its professional work product (the "Documents"). GOLDER retains all rights to the Documents.
- B. CLIENT understands and acknowledges that the Documents are not intended or represented by GOLDER to be suitable for reuse by any party, including, but not limited to, the CLIENT, its employees, agents, subcontractors or subsequent owners on any extension of a specific project not covered by this Agreement or on any other project, whether CLIENT's or otherwise, without GOLDER's prior written permission. CLIENT agrees that any reuse unauthorized by GOLDER will be at CLIENT's sole risk and that CLIENT will defend, indemnify and hold GOLDER harmless from any loss or liability resulting from the reuse, misuse or negligent use of the Documents.

## 10. DATA AND INFORMATION

CLIENT shall provide to GOLDER all reports, data, studies, plans, specifications, documents and other information ("Project Information") which are relevant to the Services. GOLDER shall be entitled to rely upon the Project Information provided by CLIENT or others and GOLDER assumes no responsibility or liability for the accuracy or completeness of such. CLIENT waives any claim against GOLDER, and agrees to defend, indemnify and hold GOLDER harmless from any claim or liability for injury or loss allegedly arising from errors, omissions, or inaccuracies in the Project Information. GOLDER will not be responsible for any interpretations or recommendations generated or made by others, which are based, whole or in part, on GOLDER's data, interpretations or recommendations.

## 11. RIGHT OF ENTRY

CLIENT will provide for the right of entry for GOLDER, its subcontractors, and all necessary equipment in order to complete the Services under this Agreement. If CLIENT does not own the site,

CLIENT shall obtain permission and execute any required documents for GOLDER to enter the site and perform Services. It is understood by CLIENT that in the normal course of work some surface damage may occur, the restoration of which is not part of this Agreement.

## 12. SUBSURFACE RISKS

- A. Special risks occur whenever engineering or related disciplines are applied to identify subsurface conditions. Even a comprehensive sampling and testing program implemented in accordance with a professional Standard of Care may fail to detect certain conditions. The environmental, geological, geotechnical, geochemical, hydrogeological and other conditions that GOLDER interprets to exist between sampling points may differ from those that actually exist. Furthermore, CLIENT recognizes that, passage of time, natural occurrences, direct or indirect human intervention at or near the site may substantially alter discovered conditions.
- B. Subsurface sampling may result in damage or injury to underground structures or utilities and unavoidable contamination of certain subsurface areas not known to be previously contaminated such as, but not limited to, a geologic formation, the groundwater, or other hydrous body. GOLDER will adhere to the standard of care during the conduct of any subsurface investigation. When the Services include subsurface sampling, CLIENT waives any claim against GOLDER, and agrees to defend, indemnify and hold GOLDER harmless from any claim or liability for injury, loss, or expense (including but not limited to legal fees) which may arise as a result of alleged or actual cross-contamination caused by any subsurface investigation or any damage or injury to underground structure, formation, body, or utilities.

## 13. DISPOSAL OF SAMPLES, MATERIALS AND CONTAMINATED EQUIPMENT

- A. All samples obtained pursuant to this Agreement remain the property and responsibility of CLIENT. Uncontaminated soil and rock samples or other specimens may be disposed of thirty (30) days after submission of the work product due pursuant to the Proposal. Upon written request, GOLDER will store uncontaminated samples for longer periods of time or transmit the samples to CLIENT for a mutually acceptable charge.
- B. All contaminated samples and materials (containing or potentially containing hazardous constituents), including, but not limited to soil cuttings, contaminated purge water, and/or other environmental wastes obtained pursuant to this Agreement remain the property and responsibility of CLIENT and shall be returned to CLIENT for proper disposal. All laboratory and field equipment that cannot readily and adequately be cleansed of its hazardous contaminants shall become the property and responsibility of CLIENT. All such equipment shall be charged and turned over to CLIENT for proper disposal. Alternate arrangements to assist CLIENT with proper disposal of such equipment, materials and samples may be made at CLIENT's direction and expense. In such event, CLIENT agrees to have a representative available to sign all certifications, manifests, and other documents reasonably required by GOLDER and associated with the transportation, treatment and disposal, or handling of hazardous substances, waste or materials from the project property site, and derived from GOLDER's performance of the Services, including investigation derived wastes. If such CLIENT representative is unavailable and GOLDER is required to execute any such documents on CLIENT's behalf, CLIENT acknowledges that GOLDER shall be acting only as offeror or agent on behalf of CLIENT. It is understood and agreed that GOLDER is not, and has no responsibility as, a handler, generator, operator, treater, storer, arranger, transporter, or disposer of hazardous substances, waste or materials found or identified at or around the project site property. CLIENT agrees to waive any claim against GOLDER and to defend, indemnify and hold GOLDER harmless from and against any claims, losses, damages, expenses (including, but not limited to, legal fees), and liabilities of any type arising out of the discovery and disposal of any alleged or actual hazardous substances, wastes or materials found or identified at or around the project site property.

#### 14. CONTROL OF WORK AND JOB-SITE SAFETY

- A. GOLDER shall be responsible only for its activities and that of its employees and subcontractors. GOLDER's Services under this Agreement are performed for the sole benefit of the CLIENT and no other entity shall have any claim against GOLDER because of this Agreement or the performance or nonperformance of Services hereunder. GOLDER will not direct, supervise or control the work of other consultants and contractors or their subcontractors. GOLDER does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any other contractor, subcontractor, supplier or other entities furnishing materials or performing any work on the project.
- B. Insofar as job site safety is concerned, GOLDER is responsible only for the health and safety of its employees and subcontractors. Nothing herein shall be construed to relieve CLIENT or any other consultants or contractors from their responsibilities for maintaining a safe job site. GOLDER shall not advise on, issue directions regarding, or assume control over safety conditions and programs for others at the job site. Neither the professional activities of GOLDER, nor the presence of GOLDER or its employees and subcontractors, shall be construed to imply that GOLDER controls the operations of others or has any responsibility for job site safety.

#### 15. PUBLIC RESPONSIBILITY

CLIENT has a duty to comply with applicable codes, standards, regulations and ordinances, with regard to public health and safety. While GOLDER performs the Services it will endeavor to alert CLIENT to any matter of which GOLDER becomes aware and believes requires CLIENT's immediate attention to help protect public health and safety, or which GOLDER believes requires CLIENT to issue a notice or report to certain public officials, or to otherwise comply with applicable codes, standards, regulations or ordinances. If CLIENT decides to disregard GOLDER's recommendations in these respects, (i) GOLDER shall determine in its sole judgment if it has a duty to notify public officials, and (ii) GOLDER has the right immediately to terminate this Agreement upon written notice to the CLIENT and without penalty.

#### 16. NOTIFICATION AND DISCOVERY OF HAZARDOUS MATERIALS

- A. Prior to commencing the Services and as part of Project Information defined in Article 10, Data and Information, CLIENT shall furnish to GOLDER all documents and information known to CLIENT that relate to past or existing conditions of the site and surrounding area, including the identity, location, quantity, nature or characteristics of any hazardous materials or suspected hazardous materials or subterranean utilities. GOLDER may rely on such information and documents. CLIENT hereby warrants that, if it knows or has any reason to assume or suspect that hazardous materials may exist at the project site, it has so informed GOLDER.
- B. CLIENT acknowledges that if unanticipated hazardous materials or suspected hazardous materials are discovered on the project site property or on properties surrounding or adjacent to such site, it is CLIENT's responsibility, and not GOLDER's, to inform the owner of any affected property not owned by CLIENT of such discovery. CLIENT also recognizes that any such discovery may result in a significant reduction of the property's value. CLIENT waives any claim against GOLDER and agrees to defend, indemnify and hold harmless GOLDER from any claim or liability for injury or loss of any type arising from the discovery of hazardous materials or suspected hazardous materials on the project property site or on surrounding property, whether or not owned by CLIENT. CLIENT agrees that discovery of unanticipated hazardous materials shall constitute a changed condition for which GOLDER shall be fairly compensated.

#### 17. TERMINATION

Either party may terminate this Agreement as a result of a material breach of the other party if the other party does not commence and continue to cure the breach within thirty (30) days of receipt of written notice of the breach from the non-breaching party. In the event of termination, GOLDER shall

be paid for Services performed to the termination notice date, reasonable termination expenses, and a portion of its anticipated profits not less than the percentage of the contract services performed as of the termination notice date. GOLDER may complete such analyses and records as are necessary to complete its files and may also complete a report on the Services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs of GOLDER in completing such analyses, records and reports.

## 18. DISPUTES

- A. All disputes, claims, and causes one party makes against the other, at law or otherwise, including third party or "pass-through" claims for indemnification and/or contribution, which amount to a claim of more than \$50,000 shall be initiated, determined, and resolved by arbitration in accordance with the American Arbitration Association and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, any claims by GOLDER against CLIENT involving failure to make payment pursuant to Article 2, Invoices and Payment Terms, as well as an alleged misappropriation or misuse of GOLDER's Intellectual Property pursuant to article 19, or confidential information may be resolved through any legal or equitable means or any form of alternative dispute resolution.
- B. In the event that one party makes a claim against the other, at law or otherwise, and then fails to prove such claim, then the prevailing party shall be entitled to all costs, including attorneys' fees incurred in defending against the claim.

## 19. INTELLECTUAL PROPERTY

- A. If the Services require GOLDER to provide CLIENT with the right to use or access proprietary GOLDER software, programs, information management solutions, hosting services, technology, designs, information or data ("GOLDER Products"), GOLDER grants CLIENT during the term of the project a non-exclusive, non-transferable, non-assignable license to use the GOLDER Products for CLIENT's internal purposes, solely in connection with the Services. Except for this limited license, GOLDER expressly reserves all other rights in and to the GOLDER Products.
- B. GOLDER's Right to Use CLIENT Materials - If the Services require CLIENT to provide GOLDER with the right to use or access proprietary CLIENT software, programs, technology, information or data ("CLIENT Products"), CLIENT grants GOLDER a perpetual, non-exclusive, non-transferable, non-assignable, royalty free world-wide license to use and access the CLIENT Product as necessary to provide CLIENT with Services.
- C. Intellectual Property General - GOLDER shall own all Intellectual Property (as hereinafter defined) associated with the Services and the GOLDER Products, together with any modifications, updates or enhancements to said Intellectual Property. GOLDER grants no right or license to such Intellectual Property to CLIENT except as expressly provided in this Agreement. CLIENT conveys to GOLDER any interest in any such Intellectual Property rights that, notwithstanding the foregoing, would otherwise be deemed by law to vest in CLIENT. "Intellectual Property" includes patents, patent applications, trademarks, trademark applications, copyrights, moral rights or other rights of authorship and applications to protect or register the same, trade secrets, industrial rights, know-how, privacy rights and any other similar proprietary rights under the laws of any jurisdiction in the world. GOLDER may use and publish the CLIENT's name and give a general description of the Services rendered by GOLDER for the purpose of informing other clients and potential clients of GOLDER's experience and qualifications.
- D. GOLDER shall use reasonable efforts to provide the Services without infringing on any valid patent or copyright and without the use of any confidential information that is the property of others; provided, however, reasonable efforts of GOLDER shall not include a duty to conduct or prepare a patent or copyright search and/or opinion. If GOLDER performs its Services in a manner consistent with the above, then to the fullest extent permitted by law, CLIENT shall



indemnify, defend and hold harmless GOLDER and its officers, directors, agents and employees against all liability, cost, expense, attorneys' fees, claims, loss or damage arising from any alleged or actual patent or copyright infringement resulting from the Services under this Agreement.

## 20. INFORMATION MANAGEMENT

- A. CLIENT acknowledges that electronic media is susceptible to unauthorized modification, deterioration, and incompatibility and therefore CLIENT cannot rely upon the electronic media versions of the Documents. In the event of any discrepancy, GOLDER's hardcopy shall prevail.
- B. Some GOLDER Products may be offered to CLIENT via the Internet and some GOLDER Products may utilize wireless radio communications. Atmospheric, meteorological, topographical and other conditions can affect the performance of any wireless device, software or technology (including, but not limited to information management solutions, hosting services, ftp and extranet services), just as application size, traffic, bottlenecks and other conditions can affect Internet access and upload and download speeds. CLIENT acknowledges that these types of conditions and other similar conditions are beyond the reasonable control of GOLDER and that GOLDER makes no representations or guarantees that CLIENT will be able to access any particular GOLDER Product at any given time without any error or interruption.

## 21. MISCELLANEOUS


- A. This Agreement supersedes all other agreements, oral or written, and contains the entire agreement of the parties. No cancellation, modification, amendment, deletion, addition, waiver or other change in this Agreement shall have effect unless specifically set forth in writing signed by the party to be bound thereby. Titles in this Agreement are for convenience only.
- B. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns provided that it may not be assigned by either party without consent of the other. It is expressly intended and agreed that no third party beneficiaries are created by this Agreement, and that the rights and remedies provided herein shall inure only to the benefit of the parties to this Agreement.
- C. CLIENT acknowledges and agrees that GOLDER can retain subconsultants, who may be affiliated with GOLDER, to provide Services for the benefit of GOLDER. GOLDER will be responsible to CLIENT for the Services and work done by all of its subconsultants and subcontractors, collectively to the maximum amount stated in Article 7 Limitation of Liability. CLIENT agrees that it will only assert claims against and seek to recover losses, damages or other liabilities from GOLDER and not GOLDER's affiliated companies. To the maximum extent allowed by law, CLIENT acknowledges and agrees it will not have any legal recourse, and waives any expense, loss, claim, demand, or cause of action, against GOLDER's affiliated companies, and their employees, agents, officers and directors.
- D. No waiver of any right or remedy in respect of any occurrence on one occasion shall be deemed a waiver of such right or remedy in respect of such occurrence on any other occasion.
- E. All representations and obligations (including without limitation the obligation of CLIENT to indemnify GOLDER in Article 6 and the Limitation of Liability in Article 7) shall survive indefinitely the termination of the Agreement. CLIENT acknowledges that it may not use GOLDER's name or any reference to the Services in any press release or public document without the express, written consent of GOLDER.
- F. Any provision, to the extent found to be unlawful or unenforceable, shall be stricken without affecting any other provision of the Agreement, so that the Agreement will be deemed to be a valid and binding agreement enforceable in accordance with its terms.

- G. All questions concerning the validity and operation of this Agreement and the performance of the obligations imposed upon the parties hereunder shall be governed by the laws of Georgia unless the law of another jurisdiction must apply for this Agreement to be enforceable.
- H. All notices required or permitted to be given hereunder, shall be deemed to be properly given if delivered in writing via facsimile machine, e-mail, regular mail, hand delivery or express courier addressed to CLIENT or GOLDER, as the case may be, at the addressee set forth in the Proposal Acceptance Form in regard to the CLIENT, and as listed on the Proposal in regard to GOLDER, with postage thereon fully prepaid if sent by mail or express courier.
- I. CLIENT represents and warrants that the individual signing the Proposal Acceptance Form is an authorized representative of CLIENT and has authority to bind the CLIENT.

**22. AUTHORIZATION TO PROCEED**

By signing below, CLIENT hereby authorizes GOLDER to proceed with the Services outlined in the Proposal and in accordance with this Agreement, which includes terms relating to *payment, limitation of liability, insurance and indemnity*, among many other important provisions. CLIENT also represents that any "purchase order" type document which CLIENT may issue subsequent to executing this Agreement, shall be for administrative or accounting purposes only, and that this Agreement shall supersede any such terms or conditions attached thereto in governing the performance of the Services.

**GOLDER ASSOCIATES INC.**

  
 \_\_\_\_\_  
 Signature  
 Steven L. Anderson, PE  
 \_\_\_\_\_  
 Name  
 Associate and Senior Geotechnical Consultant  
 \_\_\_\_\_  
 Title

\_\_\_\_\_ I have authority to bind the corporation.

**CLIENT:**

\_\_\_\_\_  
 (Name)  
 \_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Name  
 \_\_\_\_\_  
 Title

\_\_\_\_\_ I have authority to bind the corporation.

Please address invoices to:	Please address deliverables & notices* to: Same as invoices: Yes / No, address to:
ATTN:	ATTN:

*\*All notices required or permitted to be given hereunder shall be in writing and shall be delivered in person, sent by facsimile machine or mailed, properly addressed and stamped with the required postage to the intended recipient.*

P1523549 - January 26, 2016

