

City of Kodiak Regular Council Meeting Agenda for July 14, 2016
7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)

- I. Call to Order/Roll Call**
 - Invocation/Pledge of Allegiance

- II. Previous Minutes**
 - Approval of Minutes of the June 21, 2016, Special Meeting and June 23, 2016, Regular Council Meeting1

- III. Persons to Be Heard**
 - a. Public Comments (limited to 3 minutes) (486-3231)

- IV. Unfinished Business**
 - a. None

- V. New Business**
 - a. First Reading, Ordinance No. 1354, Amending Kodiak City Code 14.04.010; Regarding the Adoption of Building Codes14
 - b. First Reading, Ordinance No. 1355, Authorizing a Memorandum of Agreement With the Alaska Marine Highway System Regarding Joint Use of Pier I, and a Supplemental Agreement No. 1 With the Alaska Marine Highway System for the Lease of Office Space and a License for Use of Pier II.....24
 - c. First Reading, Ordinance No. 1356, Authorizing a Lease to Kodiak Maritime Museum and Art Center of a 2,000+ Square Foot Portion of Alaska Tidelands Survey No. 49 Located in St. Paul Harbor for the Thelma C Display and Rescinding Ordinance No. 1340.....92
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 - e. Resolution No. 2016–24, Expressing a Deep Sense of Urgency for the Alaska State Legislature to Take Immediate Action During the Fifth Special Session of the 29th Legislature to Pass All Necessary Fiscal Legislation Required to Provide for a Fair, Balanced, and Sustainable State Budget.....120
 - f. Resolution No. 2016–25, Authorizing the Issuance of a Permit to the Filipino American Association of Kodiak for the Use of Public Property to Host Its Philippine Consulate Outreach Program124
 - g. Resolution No. 2016–26, Appropriating \$165,000 From the Cargo Terminal Fund to the Cargo Development Capital Project Fund to Pay for Additional Construction and Project Management Services Needed in the Pier III Replacement, Project No. 11-07/8024130
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 - j. Authorization of Amendment No. 9 to the Professional Services Contract for Pier III Project Management With ARCADIS US Inc.....156
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- VI. Staff Reports**

- a. City Manager
- b. City Clerk

VII. Mayor's Comments

VIII. Council Comments

IX. Audience Comments (limited to 3 minutes) (486-3231)

X. Adjournment

DRAFT

**MINUTES OF THE SPECIAL COUNCIL MEETING
OF THE CITY OF KODIAK
HELD TUESDAY, JUNE 21, 2016
IN THE KODIAK CITY CONFERENCE ROOM**

I. MEETING CALLED TO ORDER

Mayor Pat Branson called the meeting to order at 5:31 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Charles E. Davidson, Gabriel T. Saravia, and John B. Whiddon were present and constituted a quorum. Councilmember Richard H. Walker was absent. City Manager Aimée Kniazowski and City Clerk Debra Marlar were also present.

II. PUBLIC COMMENTS ON AGENDA ITEM ONLY

None

III. EXECUTIVE SESSION

a. Discussion of Pacific Pile & Marine Request for Mediation

Councilmember Davidson moved to enter into executive session pursuant to AS 44.62.310(c)(1) to discuss matters, the immediate knowledge of which would clearly have an adverse effect upon the finances of the City, specifically Pacific Pile & Marine Request for Mediation.

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

The Council entered into executive session at 5:33 p.m.

The Mayor reconvened the special meeting at 7:35 p.m.

IV. ADJOURNMENT

Councilmember Whiddon MOVED to adjourn the meeting.

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

The meeting adjourned at 7:35 p.m.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Minutes Approved:

DRAFT

**MINUTES OF THE REGULAR COUNCIL MEETING
OF THE CITY OF KODIAK
HELD THURSDAY, JUNE 23, 2016
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Pat Branson called the meeting to order at 7:35 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Charles E. Davidson, Gabriel T. Saravia, and John B. Whiddon were present and constituted a quorum. Councilmember Richard H. Walker was absent. City Manager Aimée Kniazowski, City Clerk Debra L. Marlar, and Deputy Clerk Michelle Shuravloff-Nelson were also present.

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

II. PREVIOUS MINUTES

Councilmember Whiddon MOVED to approve the minutes of the June 7, 2016, special meeting and June 9, 2016, regular meeting as presented.

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

III. PERSONS TO BE HEARD

a. Proclamation: Declaring Filipino American Heritage Month

Councilmember Arboleda read the proclamation, which recognizes Filipino Americans for their vital contributions to our community and urges citizens to participate in festivities celebrating the rich heritage and traditions of the Philippine Islands.

James Portillo Fil-AM Second Vice President and Mary Guiles-Hawver, President accepted the proclamation. Mr. Portillo stated it was an honor and privilege to accept the proclamation on behalf of Fil-Am. He said it is the 118th anniversary of the Philippines' independence.

Ms. Guiles-Hawver provided an update on upcoming events stating the Fil-Am Consulate will be in Kodiak on August 21 through August 22 at the Teen Center, and the Induction Ball is on October 22, 2016, at the Afognak building.

b. Public Hearing on Resolution No. 2016–19, Amending Sections 8, 11, and 12 of the Schedule of Fees, Charges, and Tariffs

The City sets its fees and charges for various services by a resolution of the Council. The proposed changes to fees pertaining to general, library, and parks and recreation services are proposed to take effect on July 1, 2016.

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

c. Public Hearing on Resolution No. 2016–20(SUB), Amending Section 9, Harbor Fees, of the Schedule of Fees, Charges, and Tariffs and Authorizing Implementation of a Five-Year Rate Structure

The City sets its fees and charges for various services by a resolution of the Council. The proposed changes to fees pertain to the harbor facilities replacement and maintenance costs. The fees are proposed to take effect beginning on July 1, 2016, and occur annually until July 1, 2020.

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

Patrick O'Donnell said he was not opposed to a rate increase but expressed concern regarding the minimal public notice for the proposed harbor rate increases. He referred to the Northern Economics study and stated he supports their alternative rate concept to help bring the rates closer in comparison for all vessel sizes. He said there is discrepancy in the slips available and vessel size charges per foot.

There being no further public testimony, the Mayor closed the public hearing and reopened the regular meeting.

d. Public Comments

None

IV. UNFINISHED BUSINESS

a. Continued Second Reading and Public Hearing, Ordinance No. 1351, Levying Taxes and Appropriating Funds for the Expenses and Liabilities of the City of Kodiak for the Fiscal Year Commencing on the First Day of July 2016 and Ending on the Thirtieth Day of June 2017

Mayor Branson read Ordinance No. 1351 by title, which provides for the adoption of the City of Kodiak's FY2017 budget. The budget document, which supports the ordinance, estimates all sources of revenue the City anticipates receiving between July 1, 2016, and June 30, 2017. The budget document also establishes an operating and capital expenditure plan for FY2017 that is based on staff's assessment of operational and community needs and the Council's FY2017 budget goals. Staff made the FY2017 budget presentation to Council at a special budget work session on May 7, 2016.

[Clerk's Note: Councilmember Arboleda moved to adopt Ordinance No. 1351 at the June 9, 2016, regular meeting.]

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, and Whiddon in favor. Councilmember Walker was absent. The motion passed.

V. NEW BUSINESS

a. **Resolution No. 2016–19, Amending Sections 8, 11, and 12 of the Schedule of Fees, Charges, and Tariffs**

Mayor Branson read Resolution No. 2016–19 by title. The City sets its fees and charges for various services by a resolution of the Council. Staff completed the review and submitted a list of proposed changes to fees pertaining to the General Services, Library, and Parks & Recreation departments. Changes are proposed to take effect on July 1, 2016.

Councilmember Arboleda MOVED to adopt Resolution No. 2016–19.

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

b. **Resolution No. 2016–20(SUB), Amending Section 9, Harbor Fees, of the Schedule of Fees, Charges, and Tariffs and Authorizing Implementation of a Five-Year Rate Structure**

Mayor Branson read Resolution No. 2016–20(SUB) by title. Harbor rates have not been adjusted since July 2011. The initial Resolution No. 2016–20 authorized a five-year rate plan that would have increased moorage and other harbor services 18.5 percent in FY2017 and would have implemented an annual inflationary increase based on Producer Price Index (PPI) each year thereafter. The proposed increase was recommended by the City’s consultant Northern Economics. The Port & Harbor Advisory Board (PHAB) and staff supported Northern Economics recommendation. At the work session on June 21, 2016, the Council requested a substituted resolution reflecting a six percent increase in Harbor rates each year for five years. The new rates would be effective July 1, 2016, which is the beginning of FY2017.

Councilmember Davidson MOVED to adopt Resolution No. 2016–20(SUB).

Councilmember Whiddon MOVED to postpone Resolution No. 2016–20(SUB) until such time the Council can further discuss the rate options.

Councilmember Whiddon said he would like to give the public more time to review and comment on the increases.

Councilmember Davidson said the Council paid approximately \$40,000 to Northern Economics for the study, and he feels the study was thorough. He said the funds need to be increased and collected to pay for the maintenance of the harbor facilities.

Councilmember Saravia said the rate increases for the harbor facilities are similar to the increased rates for the ice rink. He said six percent is a reasonable increase.

Councilmember Whiddon clarified he is not opposed to increased harbor rates; he would like to explore further options, and suggested a fee increase by October would be a more feasible option. He reiterated he would like to postpone the vote to give the public the opportunity to provide feedback.

Councilmember Bishop said he does not support adopting Resolution No. 2016–20(SUB) at this time.

Councilmember Arboleda said she supports Councilmembers Whiddon and Bishop to postpone the resolution.

Councilmember Davidson said postponing the adoption of the resolution will cost the City approximately \$140,000 of potential revenue, which can accrue interest in the bank.

Councilmember Whiddon said he had a concern that the PHAB’s membership was not all present to discuss Northern Economics recommendation.

Councilmember Saravia said it went before the PHAB and the majority supported Northern Economics recommendation by vote, which indicated their role had been fulfilled. And he said the fishing season is ongoing for the next few months and the delay until the end of the summer would not be helpful. He stated he feels increased revenue needs to occur for maintenance of the harbor for the users.

The roll call vote on the postponement was Councilmembers Arboleda, Bishop and Whiddon in favor. Councilmember Davidson and Saravia opposed. Councilmember Walker was absent. The motion to postpone failed. Councilmember Davidson requested to change his vote to the prevailing side after the roll call was announced. With Councilmember Davidson’s vote change, the motion to postpone passed.

Under Clerk’s Comments later on the agenda the following occurred:

The City Clerk explained that after reviewing Robert’s Rules of Order, Councilmember Davidson could not change his vote to the prevailing side after the roll call unless unanimous consent was granted by the Council without discussion.

Mayor Branson requested a verbal unanimous consent for the postponement of Resolution No. 2016–20(SUB). The Council voiced unanimous consent.

The Clerk also explained that a Councilmember who voted on the prevailing side had the opportunity to move for reconsideration as long as the motion was made before the present meeting adjourned.

c. Resolution No. 2016–21, Authorizing the Issuance of a Permit to the American Legion Post 17 for Use of Public Property in Conjunction With Fourth of July Celebration

Mayor Branson read Resolution No. 2016–21 by title. Resolution No. 2016–21 permits American Legion Post 17 to close and use City streets for its annual Fourth of July parade. Street clo-

tures for the parade will take place on Monday July 4, 2016, from 11 a.m. to 12:30 p.m. The parade will begin at the St. Paul Harbor spit, turn left onto Marine Way heading to Rezanof Drive. From Rezanof Drive, the parade will turn onto Center Avenue making its way to Marine Way again and ending at Oscar's Dock. As Rezanof Drive, which is a state roadway, is part of the parade route, the American Legion will receive a separate authorization for closure from the State Department of Transportation (DOT).

Councilmember Bishop MOVED to adopt Resolution No. 2016–21.

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

d. Resolution No. 2016–22, Authorizing the Issuance of a Permit to the High School Tennis Team for the Use of Public Property for Its Tennis Clinic Fundraiser

Mayor Branson read Resolution No. 2016–22 by title. The high school tennis coach, Steve Johnston, requested the use of Baranof Park tennis courts to run tennis clinics and lessons as a fundraiser from June 23rd through October 31st. The tennis team is a high school sport that is completely self-funded. The team raises money to cover the cost of travel and other costs associated with tennis.

Councilmember Arboleda MOVED to adopt Resolution No. 2016–22.

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

e. Authorization of Bid Award for FY2017 Petroleum Products

Each year the Public Works Department issues bids for the City's petroleum products. Bids were opened on June 9, 2016, for FY2017 petroleum products. Two bids were received. Petro Marine Services was the lowest bidder for all petroleum products.

Councilmember Davidson MOVED to authorize the bid award of the City's FY2017 petroleum products to Petro Marine Services for Diesel Ultra Low Sulfur at \$2.105, Gasoline at \$2.175, Heating Fuel #2 at \$2.105, and Heating Fuel #1 at \$2.205 per gallon with funds coming from each department's FY2017 fuel line items.

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

f. Authorization of Professional Services Agreement for Demolition of Existing Structure for New Fire Station, Project No. 15-06/6015

In 2015 Stantec performed a condition assessment of the old library building and prepared a construction cost estimate to restore and upgrade the building for general City use as office space. Stantec presented the condition assessment and cost estimate to Council at the February 23, 2016, work session. At the meeting it was discussed and determined that based on the poor condition of the library building, the cost of improvements to the building would approach the cost

of new construction. It was also pointed out that the old library building, if left in place, would present a major challenge to developing the site for future construction of a new fire station. After Council discussion, staff was given direction that the old library should be removed. The Manager and staff recommend moving forward with the process to have the building removed. The first step is to contract for professional services to prepare the engineering drawings and specifications and assist with bid document preparation for the demolition project.

Councilmember Arboleda MOVED to authorize a professional services agreement for engineering services for demolition of the existing structure (old library building) and authorize the City Manager to enter into a design contract with Stantec in the amount of \$31,238 with funds coming from the Building Improvement Fund, New Fire Station Project, Project No. 15-06/6015.

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

g. Authorization of Professional Services Agreement for Land Survey of New Fire Station, Project No. 15-06/6015

Request for a professional services agreement for surveying services is needed to prepare the engineering drawings and specifications to publicly bid the demolition of the old library building. Stantec is the City's design consultant for the project and has surveyors on staff, but staff recommends hiring a local surveyor because of local knowledge of the City and to save the cost to bring surveyors over from Anchorage.

Councilmember Bishop MOVED to approve a professional services agreement with Kodiak Land Surveying in the amount of \$31,960 for land surveying services related to the new Kodiak fire station project with funds coming from the Building Improvement Fund, new fire station project, Project No. 15-06 /6015, and authorize the City Manager to execute the agreement for the City.

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

h. Authorization of a Five-Year Lease for Folder Insert Machine

The Finance Department currently processes approximately 2,000 utility bills per month, approximately 200 payroll checks biweekly, and 1,000 sales tax forms per quarter, plus miscellaneous mailers that are processed through the City Administration, City Clerks, and other City departments. To efficiently fold and insert these mailings into envelopes, the Finance Department utilizes office equipment designed to fold these mailers and insert them into envelopes. The current folder/insertor has ceased working properly and attempts to revive it have proven unsuccessful. The Finance Department and IT staff researched new equipment for purchase or lease to replace the existing machine.

Councilmember Arboleda MOVED to authorize a five-year lease agreement for a folder insert machine with Mail Finance Inc./NeoPost USA Inc. for a total of \$15,679.80; FY2017 (year 1) at \$1,983.96 and FY2018-2021 for a total of \$13,695.84, with funds coming from the General Fund Finance Department Finance-Utilities-Equipment Rental account.

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

i. Authorization of Professional Services Contract for FY 2016 Audit

Each year the City Council retains a qualified professional audit 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. The City's contract for these services was awarded on March 28, 2013, for FY 2013, FY 2014, and FY 2015. The Request for Proposal was for a three-year contract with two one-year extensions. City Charter Section V-21, *Independent annual audit*, states the following: "The council shall designate a certified public account or accountants who shall make an independent audit..." Therefore, the Finance Department is recommending authorization of a professional services contract with BDO, Inc. for audit services for FY2016 for \$66,500.

Councilmember Davidson MOVED to authorize a professional services contract for audit services with BDO, Inc. for FY2016 for \$66,500 with funds coming from the Finance Department's operating budget professional services line item and authorize the City Manager to sign the contract on behalf of the City.

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

j. Authorization of Program Agreement with Alaska Public Entity Insurance Agreement

The City receives its property, casualty, liability, and Workers' Compensation coverage through its membership in the Alaska Public Entities Insurance (APEI) pool since the City joined APEI in 2010. In June 2015 Council directed staff to work with the City's broker to get quotes for FY2017 to compare rates and benefits between the two municipal insurance pools. The City's broker presented quotes to Council at the June 7 work session. The Manager and broker recommended accepting the quote from APEI and Council concurred.

Councilmember Bishop MOVED to authorize the City Manager to sign the three-year APEI Intent to Remain document on behalf of the City.

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

VI. STAFF REPORTS

a. City Manager

Manager Kniazowski said the FY2017 State budget is still in progress and the Governor has called a special session. She said the wood amendments at the Compost Site have arrived, and the building to store them is in progress. She said the construction of the lift stations will be in August. She noted upcoming retirements of long-term employees. City Building Official Doug Mathers' last day of work is June 24, 2016. She also stated Lt. Ellis' last day of work is June 30

and he has provided the oversight of the corrections and dispatch programs at KPD; she commented they will both be missed. She said she met with Michael Powers, KIB Manager regarding the Building Inspection Program MOA and they will continue to communicate the next steps as more information becomes available. She said they plan to have monthly Manager's meetings. She mentioned she understands the KIB Assembly will be discussing consolidation of the local governments in the near future. She said the Pacific Pile & Marine mediation date is scheduled for July 26. She shared she will be on medical leave next week.

b. City Clerk

City Clerk Marlara explained the rules for changing a vote and moving to reconsider a vote. She informed the public of the next scheduled Council work session and regular meeting. She announced the date of the first Marijuana Committee meeting and the upcoming Fisheries Work Group meeting. She said nomination petitions will be available by July 25, 2016, in the City Clerk's Office for two three-year Council seats, and the petitions may be filed at the Clerk's office between August 1 and August 15.

VII. MAYOR'S COMMENTS

Mayor Branson congratulated Mr. Heiberg, Mr. Mathers, and Mr. Ellis on their retirement. She thanked Parks and Recreation staff for the flowers and arrangements in the downtown area and commented that Sargent Park looks great. She wished the citizens a happy Independence Day.

VIII. COUNCIL COMMENTS

Councilmember Davidson congratulated and thanked the retirees. He encouraged people to attend the Fourth of July parade sponsored by the American Legion.

Councilmember Arboleda wished Councilmember Walker well during his surgery. She said the Marijuana Committee will meet on June 27, 2016. She wished the public a happy Fourth of July.

Councilmember Whiddon said the NPFMC left Kodiak last week. He said the parade sponsored by Alaska Whitefish trawlers and Groundfish Databank was a success, and he stated he was proud to be from Kodiak. He spoke about the analysis that will be discussed at the NPFMC meetings in December. He announced the FWG meeting dates.

Councilmember Saravia wished Mayor Branson a good trip. He thanked those retiring for their years of service.

Councilmember Bishop said the discussion and varying opinions during the meeting provide for better outcomes. Said the KIB Marijuana Committee had their first meeting. He wished Mr. Mathers and Mr. Ellis a good retirement.

IX. AUDIENCE COMMENTS

Rob Schuberger called in and said he thinks the library should be turned into a grocery store.

Mayor Branson asked the City Manager to respond. Manager Kniazowski said there are contamination issues with the library building, and it will need to be demolished. She shared the City's services do not include the operation of a grocery store, but it is a viable option for a private entity to consider.

X. ADJOURNMENT

Councilmember Davidson MOVED to adjourn the meeting.

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

The meeting adjourned at 8:55 p.m.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK


Minutes Approved:

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NEW BUSINESS

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Aimée Kniaziowski, City Manager 

Thru: Mark Kozak, Public Works Director and Doug Mathers, Building Official

Date: July 14, 2016

Agenda Item: V. a. **First Reading, Ordinance No. 1354, Amending Kodiak City Code 14.04.010; Regarding the Adoption of Building Codes**

SUMMARY: The State of Alaska adopted new construction codes. As a deferred jurisdiction we are required to adopt codes that meet or exceed the states adopted codes. The Joint Building Code Review Committee met numerous times to discuss, review, and amend the proposed codes. The Joint Building Code Review Committee and staff recommend Council adopt the new codes as discussed below.

PREVIOUS COUNCIL ACTION: On February 28, 2013, Council adopted Ordinance No. 1305, amending City Code Title 14 and adopting the most recent building codes.

DISCUSSION: The State of Alaska adopted the 2014 NEC on March 6, 2015, and the 2012 UPC on Sept 2014. AHFC adopted the 2012 IRC as their construction standard on April 1, 2016. As a deferred jurisdiction, the City is required to adopt codes that meet or exceed the state's adopted codes. The Joint Building Code Review Committee began meeting in January 2016 and met a total of five times finalizing their recommendations in April 2016. They voted unanimously to recommend adopting the 2012 Uniform Plumbing Code, and the 2014 National Electrical Code. There are also a few minor housekeeping changes to the 2012 International Residential Code.

The Joint Building Code Review Committee is made up of six members. The members are John Butler, Ed Mahoney, Scott Arndt, Kyle Crow (Borough Assembly Representative), Bill Barton and Randy Bishop (City Council Representative).

ALTERNATIVES:

- 1) The Joint Building Code Review Committee recommends adoption of the new codes with the recommended amendments made by the Committee. Staff recommends this alternative, because it is consistent with the City's requirement as a deferred jurisdiction.
- 2) Council could adopt a portion of or some amendments to the codes as recommended by the Joint Building Code Review Committee. This is not recommended in order to maintain consistent application of codes.

- 3) Council could choose not to adopt the new codes as recommended by the Joint Building Code Review Committee and staff. This is not recommended, since it could affect the City's deferred status with the State Fire Marshal office and ISO rating, which could affect insurance costs.

FINANCIAL IMPLICATIONS: Adoption of the new codes will increase residential construction cost due to new structural requirements. The implementation cost will be minimal to the department and that cost is included in the FY2017 budget.

LEGAL: N/A

STAFF RECOMMENDATION: Staff recommends the Council pass Ordinance No. 1354 in the first reading and advance to the second reading and public hearing at the next regular meeting.

CITY MANAGER'S COMMENTS: I support the work the Joint Building Code Review Committee and the Building Officials put into the review and recommendations to adopt the updated plumbing, electrical codes, and minor changes to the 2012 international residential code. I recommend Council support their recommendations by passing Ordinance No. 1354 in the first reading.

ATTACHMENTS:

Attachment A: Ordinance No. 1354

Attachment B: Memo from Building Official and PW Director to the City Manager

Attachment C: City 2016 Building Code Adoption

PROPOSED MOTION:

Move to pass Ordinance No. 1354 in the first reading and advance to the second reading and public hearing at the next regular or special Council meeting.

**CITY OF KODIAK
ORDINANCE NUMBER 1354**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AMENDING
KODIAK CITY CODE 14.04.010; REGARDING THE ADOPTION OF BUILDING
CODES**

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

Section 1: Subsection (b) of Kodiak City Code 14.04.010 is hereby amended to read as follows:

(b) 2012 International Residential Code for one- and two-family dwellings with the following revisions:

(1) R105.2, Work exempt from permit #10, is modified by striking out “are not attached to a dwelling and do not serve the exit door required by Section R311.4.”

(2) R301.2.1.1 is modified by adding to the end of the section:

The following may be built to Seismic design category D2 with 110 MPH wind speed in B and C wind exposure areas provided that the house was permitted before the adoption of the 2012 Residential Building Code.

One permit only. An addition that is not more than 15% of the total gross square foot area of the existing building that the addition will be attached to. Roof pitch is a maximum of 5/12 or less. One story additions may be built on a piling foundation provided existing building has a piling foundation.

Other exempt structures in section R105.2 titled Work exempt from permit.

(3) R311.7.5.1, Riser height, is modified as follows:

The maximum riser height shall be 8 inches (203mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch-diameter (102 mm) sphere.

(4) R311.7.5.2, Tread depth, is modified as follows:

The minimum tread depth shall be 9 inches (228mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread’s leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

- (5) R313.1, Townhouse automatic fire sprinkler systems, and R313.2, One and two family dwellings automatic fire sprinkler systems, are modified by changing the word “shall” to “may.”
- (6) Chapter 11, Energy Efficiency. **Delete and replace with: The AHFC amended 2012 IECC and Bees is the energy standard for the IRC** ~~Exclude this chapter.~~
- (7) Chapters 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33. Delete these chapters related to plumbing and replace with the 2009 Uniform Plumbing Code.
- (8) Chapters 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43. Delete these electrical chapters and replace with the 2011 National Electrical Code.
- (9) M2002.5, Boiler low-water cutoff, is modified by striking out the words “and hot water.”
- (10) Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1, R905.8.3.1 Add to exceptions, Exception #2 Ice barriers are not required on roofs that can achieve R-42 insulation factor at the top plate of an exterior wall.**

Section 2: Subsection (d) of Kodiak City Code 14.04.010 is hereby amended to read as follows:

- (d) **2012** ~~2009~~–Uniform Plumbing Code, as adopted with revisions in 8 AAC 63.010 ~~in effect as of February 23, 2011~~, Appendix Chapter B, Explanatory Notes on Combination Waste and Vent Systems.

Section 3: Subsection (f) of Kodiak City Code 14.04.010 is hereby amended to read as follows:

- (f) **2014** ~~2011~~–National Electric Code.
 - (1) New Section 300.4(I) is added to read as follows:
Thermoplastic type insulated conductors may not be installed when the working environment is below 20 degrees Fahrenheit.
 - (2) Section 410.16 is amended to read as follows:
Luminaries and Transformers in closets.

Section 4: This ordinance shall be effective on the date that is one month after its final passage and publication in accordance with Kodiak Charter Section 2–13.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:
Effective Date:



ATTACHMENT: A

BUILDING DEPARTMENT

710 MILL BAY ROAD, ROOM 208
KODIAK, ALASKA 99615

dmathers@city.kodiak.ak.us
thansen@city.kodiak.ak.us

TELEPHONE 907-486-8070
907-486-8072
FAX 907-486-8600

To: Aimee Kniazowski, City Manager
From: Douglas Mathers, Building Official
Thru: Mark Kozak, Public Works Director and Doug Mathers, Building Official
Date: June 10, 2016
Agenda Item: Adoption of New Construction Codes

The joint building code review committee began meeting in January 2016 and met a total of 5 times finalizing their recommendations in April 2016. The Joint Building Code Review Committee is made up of six members. They are John Butler, Ed Mahoney, Scott Arndt, Kyle Crow (Borough Assembly representative), Bill Barton and Randy Bishop (City Council Representative).

The Joint Building Code Review Committee voted unanimously to recommend adopting the 2012 Uniform Plumbing code, the 2014 National Electrical Code. There are also a few minor housekeeping changes to the 2012 International Residential Code.

Please see attachment of Kodiak City Code Title 14 for rewrite.

ATTACHMENT : C

A. The 2009 International Building Code, as adopted with revisions in [13 AAC 50.020](#), and including Appendix H, Signs, for all buildings except one- and two-family dwellings and residential accessory buildings; provided, that the following revisions to the 2009 International Building Code in [13 AAC 50.020](#) are not adopted: (1) the deletion in [13 AAC 50.020](#)(1) of Sections 103, 104.4, 104.6, 104.8, 105.4, 107.5, 108.4, 109.2, 109.5 and 110 to 115; and (2) the revisions in [13 AAC 50.020](#)(7), (8), (9), (10), (11), (16), (17), (66), (73), (74) and (77);

B. 2012 International Residential Code for One- and Two-Family Dwellings with the following revisions:

1. R105.2, Work exempt from permit, is amended to read as follows:

Building: #10. Decks not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above grade at any point.

2. R301.2.1.1, Wind limitations and wind design required, is amended to read as follows at the end of the section:

The following may be built to Seismic design category D2 with 110 MPH wind speed in B and C wind exposure areas provided that the house was permitted before the adoption of the 2012 Residential Building Code.

1) One permit only. An addition that is not more than 15% of the total gross square foot area of the existing building that the addition will be attached to. Roof pitch is a maximum of 5/12 or less. One story additions may be built on a piling foundation provided existing building has a piling foundation.

2) Other exempt structures in section R105.2 Work exempt from permit.

3. R311.7.5.1, Risers, is amended to read as follows:

The maximum riser height shall be 8 inches (203mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30

degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch-diameter (102 mm) sphere.

4. R311.7.5.2, Treads, is amended to read as follows:

The minimum tread depth shall be 9 inches (228mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).

5. R313.1, Townhouse automatic fire sprinkler systems, is amended to read as follows:

An automatic residential fire sprinkler system may be installed in townhouses.

6. R313.2, One- and two-family dwellings automatic fire sprinkler systems, is amended to read as follows:

An automatic residential fire sprinkler system may be installed in one- and two-family dwellings.

~~7. Chapter 11, Energy Efficiency. Remove.~~

7. Chapter 11- Delete and replace with. The AHFC amended 2012 IECC and Bees is the energy standard for the IRC

8. Chapters 24, 25, 26, 27, 28, 29, 30, 31, 32, and 33. Remove plumbing chapters related to the International Residential Code and insert the 2009 Uniform Plumbing Code.

9. Chapters 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43. Remove electrical chapters of the International Residential Code and insert the 2011 National Electrical Code.

10. M2002.5, Boiler low-water cutoff, is amended to read as follows:

All steam boilers shall be protected with a low-water cutoff control. The low-water cutoff shall automatically stop the combustion operation of the appliance when the water level drops below the lowest safe water level as established by the manufacturer.

Add #11. Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1, R905.8.3.1 Add to exceptions, Exception #2 Ice barriers are not required on roofs that can achieve R-42 insulation factor at the top plate of an exterior wall.

C. 2009 International Building Code Appendix J, Grading;

D. The 2009 2012 Uniform Plumbing Code, as adopted with revisions in [8 AAC 63.010](#) in effect as of February 23, 2011, Appendix Chapter B, Explanatory Notes on Combination Waste and Vent Systems; and Appendix Chapter H, Recommended Procedures for Sizing Commercial Kitchen Grease Interceptors;

E. The 2009 International Mechanical Code, as adopted with revisions in [13 AAC 50.023](#), except for the deletions in [13 AAC 50.023](#)(1) of Sections 103, 104, and 106 to 110 of the 2009 International Mechanical Code;

F. The 2011 2014 National Electrical Code.

1. 300.4, Protection Against Physical Damage, is amended to read as follows:

Where subject to physical damage, conductors, raceways, and cables shall be protected. Thermoplastic type insulated conductors may not be installed when the working environment is below 20° Fahrenheit.

2. 410.16 is amended to read as follows:

410.16 Luminaries and Transformers in Closets.


G. The 1997 Uniform Code for the Abatement of Dangerous Buildings;

H. The 1997 Uniform Housing Code; and

I. 2009 International Fuel Gas Code, Chapters 6 and 7.

They are adopted to regulate erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area, and maintenance of buildings or structures in the borough; to provide for the issuance of permits and collection of fees therefor; and to provide penalties for violations of these regulations. The building codes so adopted shall be interpreted, administered, and enforced with the local amendments hereinafter specifically set forth, by the borough building official, who is authorized to take such action as may be reasonably necessary to enforce the purposes of this section. The borough manager may appoint or authorize an assistant or agent to the building official if necessary to carry out the provisions of this section. [Ord. FY2013-09 §2, 2013; Ord. FY2009-12 §2, 2008; Ord. FY2006-02 §2, 2005; Ord. 02-08 §2, 2002; Ord. 99-04 §2, 1999; Ord. 97-05 §3, 1997; Ord. 92-11 §2, 1992; Ord. 91-13 §2, 1991; Ord. 91-01 §2, 1991; Ord. 88-18-O §3, 1988; Ord. 85-13-O §1, 1985; Ord. 84-61-O §10, 1984; Ord. 84-42-O §2, 1984. Formerly §15.04.010].

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager 
Thru: Lon White, Harbormaster
Date: July 14, 2016

Agenda Item: V. b. **First Reading, Ordinance No. 1355, Authorizing A Memorandum of Agreement With the Alaska Marine Highway System Regarding Joint Use of Pier I, and a Supplemental Agreement No. 1 With the Alaska Marine Highway System for the Lease of Office Space and a License for Use of Pier II**

SUMMARY: The City of Kodiak entered into an agreement with the State of Alaska, Alaska Marine Highway System (AMHS), authorizing the state to replace Kodiak's existing Pier I. The replacement project is scheduled for completion in July 2016, at which time Pier I will be ready for use again by AMHS vessels. Memorandum of Agreement (MOA) No. 2517S004 and Supplemental Agreement No.1, No. 2517S005, spell out the terms for AMHS's use of Pier I and II for the next five years. Staff recommends passing Ordinance No. 1355 in the first reading and advancing to second reading and public hearing at the next regular or special meeting. Once adopted the ordinance will allow for continued ferry service at Kodiak terminals.

PREVIOUS COUNCIL ACTION:

- On July 1, 2008, Council approved City Contract No. 131341, via Ordinance No. 1235, authorizing a five-year lease and dock agreement with AMHS. After the five-year term expired, the agreement was extended for two additional years as allowed per the agreement terms.
- January 2014, Council approved City Record No. 211200, a Memorandum of Agreement between the City of Kodiak and the State of Alaska authorizing Kodiak Ferry Terminal Improvements, State Project No. 68938 (*Dock Improvement MOA*).
- On May 20, 2015, Council authorized a 3rd one-year extension to the Pier 1 Dock License Agreement, because the replacement project was delayed due to the presence of Sea Lions at the project site.

DISCUSSION: The document referred to as the *Dock Improvement MOA*, defines the terms agreed to by the City of Kodiak and the State of Alaska for the replacement of Pier I ferry terminal. To summarize the agreement, the state was responsible for the design, construction and management for the replacement project. In exchange for the State funding and managing the project, the City of Kodiak is responsible for all future maintenance and operation costs for the facility once complete. Additionally, AMHS vessels conducting ferry service to and from Kodiak will not be charged for dockage or other related services at Pier I for the life of the facility. Per the agreement, the State will contribute funds for

maintenance of Pier I as follows: For the first three years after completion of the new facility, the State will contribute \$55,000 per year for maintenance. On year four and beyond the State will negotiate their maintenance contribution based on actual maintenance costs offset by revenues the City receives from other entities using the facility. The State will continue to rent office space in the Chamber Building at Pier I. The rental terms are spelled out in *Supplemental Agreement No. 2517S005*.

MOA No. 2517S004 is a Joint Use Agreement between the State and City of Kodiak that restates all the specific terms spelled out in the *Dock Improvement MOA* and includes terms spelled out in all previous *Dock License Agreements* between the State and City for the use of Pier I.

Supplemental Agreement No. 2517S005 defines the use and charges for services at Pier II by AMHS. Unlike Pier I, the use of Pier II by AMHS vessels is billable. AMHS will pay for dockage, security and other services at Pier II at preferential rates based on Kodiak Port Tariff No. 12.

ALTERNATIVES:

- 1) Pass Ordinance No. 1355 in the first reading and advance to second reading and public hearing. This will allow for continued ferry service at Kodiak terminals Pier I and II once the ordinance is adopted. This is staff's recommendation.
- 2) Do not pass Ordinance No. 1355 in the first reading and advance to second reading. This could interrupt ferry service to Kodiak and is not staff's recommendation.

LEGAL: The City Attorney worked with the Harbormaster and reviewed *MOA 2517S004* and *Supplemental Agreement No. 2517S005* and prepared Ordinance No. 1355.

STAFF RECOMMENDATION: Staff recommends adopting Ordinance No. 1355, allowing for continued ferry service at Kodiak terminals Pier I and II.

CITY MANAGER'S COMMENTS: It has taken the Harbormaster substantial time and effort to work with AMHS to bring these finalized agreements forward. The agreements allow continued use of both City Piers by AMHS. I recommend Council pass this ordinance in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

ATTACHMENTS:

- Attachment A: Ordinance No. 1355
- Attachment B: MOA No. 2517S004, Joint Use Agreement (Pier I terms)
- Attachment C: Supplemental Agreement No. 2517S005 (Pier II terms and charges)
- Attachment D: Dock Improvement MOA (Complete with Appendix)

PROPOSED MOTION:

Move to pass Ordinance No. 1355 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

JULY 14, 2016
Agenda Item V. b. Memo Page 3 of 3

**CITY OF KODIAK
ORDINANCE NUMBER 1355**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK
AUTHORIZING A MEMORANDUM OF AGREEMENT WITH THE ALASKA
MARINE HIGHWAY SYSTEM REGARDING JOINT USE OF PIER I, AND A
SUPPLEMENTAL AGREEMENT NO. 1 WITH THE ALASKA MARINE HIGHWAY
SYSTEM FOR THE LEASE OF OFFICE SPACE AND A LICENSE FOR USE OF PIER
II**

WHEREAS, in January 2014 the State of Alaska Marine Highway System (“AMHS”) and the City of Kodiak (“City”) entered into a Memorandum of Agreement providing for the replacement of Pier I with new Kodiak Ferry Terminal Dock Improvements (“Facility”); and

AMHS and the City have negotiated a Memorandum of Agreement (“Joint Use Agreement”) to memorialize their respective rights and responsibilities with respect to the Facility; and

WHEREAS, the City owns the property located on Lot 4-A, Block 18, New Kodiak Subdivision, as shown on Plat 76-31, Kodiak Recording District, which address is 100 Marine Way, Kodiak, Alaska; and

WHEREAS, AMHS desires to continue leasing office space at this property for the purpose of operating a terminal office and to license use of Pier II on a first-call, first-served basis for the docking of AMHS vessels, and the parties have negotiated a Supplemental Agreement No. 1 to the Joint Use Agreement (“Supplemental Agreement”) regarding these matters; and

WHEREAS, City Charter Article V-17 requires that any contract which by its terms will not be fully executed within five years and the sale or lease of any City property, real or personal, or the sale or other disposal of any interest therein, the value of which property, lease, or interest is more than \$30,000, shall be made only by ordinance; and

WHEREAS, the value of the City’s interests under the Joint Use Agreement and the Supplemental Agreement exceed \$30,000.

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

Section 1: The Council of the City of Kodiak hereby authorizes the Joint Use Agreement with AMHS for a term of 30 years, commencing on the effective date of this ordinance, retroactive to the date of the transfer of the Facility from the State of Alaska to the City, and the Supplemental Agreement for a term of one year commencing on the effective date of this ordinance, retroactive to July 1, 2016, plus four one-year optional renewals.

Section 2: The form and content of the Joint Use Agreement and the Supplemental Agreement between the City and AMHS hereby are in all respects authorized,

approved and confirmed, and the City Manager hereby is authorized, empowered and directed to execute and deliver the Joint Use Agreement and the Supplemental Agreement to AMHS 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 documents now before this meeting, and from and after the execution and delivery of said documents, 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 documents as executed.

Section 3: The Agreements authorized by this ordinance are subject to the requirements of City Charter Section V-17. Therefore, if one or more referendum petitions with signatures are properly filed within one month after the passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at 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:

MEMORANDUM OF AGREEMENT
No. 2517S004
Between
STATE OF ALASKA
Department of Transportation and Public Facilities
Alaska Marine Highway System
And
CITY OF KODIAK
Regarding
JOINT USE AGREEMENT RE FEDERAL-AID FACILITY

The State of Alaska, Department of Transportation and Public Facilities (DOT&PF), Alaska Marine Highway System (AMHS or State) and the City of Kodiak, Alaska (City) enter this Memorandum of Agreement (MOA or Agreement).

RECITALS

WHEREAS, DOT&PF is responsible for the planning, design, and construction of state transportation facilities, AS 44.42.020;

WHEREAS, the City is a home rule city and empowered to enter agreements with the State, AS 29.35.010(13);

WHEREAS, in January 2014, DOT&PF and the City entered a Memorandum of Agreement regarding Kodiak Ferry Terminal & Dock Improvements (Project #68938), which is attached as Appendix 1 (Dock Improvements MOA);

WHEREAS, the Federal Highway Administration (FHWA) participated in Project #68938 by furnishing federal-aid to the Project;

WHEREAS, the ferry terminal, the newly constructed dock, and ancillary improvements resulting from Project #68938 (the Facility) will serve as components of both the State and the National Highway Systems;

WHEREAS, the City and AMHS (the Parties) acknowledge that the Facility will serve as AMHS' principal terminal in Kodiak but recognize that, from time to time, they may enter supplemental agreements under which the City may provide office space, prescribed services, and the like to AMHS in exchange for negotiated compensation (Supplemental Agreements); and

WHEREAS, the Parties wish to memorialize the key elements of their agreement and their respective rights and responsibilities in relation thereto;

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, and intending to be legally bound, the Parties agree as follows:

TERMS OF AGREEMENT

I. Incorporation

The Parties agree the foregoing Recitals are true and correct and incorporate them into this Agreement by reference.

II. Term

This Agreement is effective once signed by both Parties and remains in continuous effect for the same duration as the Dock Improvements MOA, which is 30 years from *[insert date of transfer of ownership from DOT&PF to the City]*, plus any negotiated extensions. See Appendix 1, Part II, (A) and (B).

III. Facility Premises

The Facility, known as Pier 1, includes the entire dock constructed in DOT&PF Project #68938, the adjacent berth of suitable dimensions to accommodate current and future AMHS ferry vessels, and any additional area AMHS may reasonably require to comply with applicable security requirements. As a visual aid, Appendix 2 provides a general depiction of the Facility, which is shaded in dark gray and is generally indicated by arrows emanating from boxes labeled “Dock” and “Berth”. NOTE: The City only has jurisdiction over the tidelands it owns as depicted in Appendix 2.

IV. Purpose

The general purpose of this MOA is three-fold:

(A) First, it identifies the principal terms of the Parties’ rights and responsibilities regarding the Facility;

(B) Second, the MOA confirms the Parties’ intent that: (1) during the Term of this MOA, they may enter Supplemental Agreements and (2) they will append such Supplemental Agreements to this MOA so that all City-AMHS agreements regarding ferry-related services are appropriately organized and may be tracked throughout the life of the Facility; and

(C) Finally, the Agreement acknowledges the Parties’ intent that public ferry vessels belonging to entities other than AMHS are also entitled to the exclusive, priority use as addressed in Part V below.

V. Exclusive, Priority Use

(A) AMHS vessels and operations, and those of any other entity providing public ferry service, are entitled to exclusive, priority use of the Facility throughout the term of this Agreement. At the following times, the City will remove or cause to be removed any vessel or obstruction and terminate any use at the Facility if its presence interferes with the operations, safety, or schedule of AMHS or other public ferry operator or the well-being of their passengers or customers:

- a reasonable time prior to arrival of the ferry at the Facility;
- during the ferry's presence at the Facility; and
- a reasonable time following departure the ferry vessel from the Facility.

If opinions differ as to whether a competing vessel or use interferes with the operations, safety, or schedule of AMHS or another public ferry service or the well-being of their passengers or customers, the opinion of ferry vessel's master shall be conclusive.

(B) In the case of conflict between AMHS' exclusive, priority use and such use by another public ferry service, AMHS' entitlement to exclusive, priority use shall prevail.

(C) As used in this Agreement, the term "public ferry vessel" means a ship that is owned or demise (bareboat) chartered by the government of the United States, by a State or local government and transports passengers and, perhaps, their vehicles between points that make up a continuing highway.

VI. No Facility Rental, Costs, or Fees

(A) The City shall not assess any rental, cost, or fee on AMHS, another public ferry, or their passengers or customers in connection with use of the Facility. This prohibition is effective throughout the life of the Facility.

(B) Notwithstanding subpart (A), AMHS will provide the City with an annual financial contribution to help offset the cost of performing Right-of-Way, Operations, and Maintenance Obligations, as more fully addressed in Part VI of the Dock Improvements MOA that is attached as Appendix 1.

VII. Facility Maintenance, Parking, & Security

(A) The City is responsible for fulfilling all obligations identified in Part VI(A)-(B) of the Dock Improvements MOA. *See* Appendix 1.

(B) At no cost to the State, the City will furnish parking along Marine Way or an area immediately adjacent to the Facility to permit transaction of business at the terminal and to accommodate passenger vehicles for ferry staging purposes and for arrival and departure of passengers.

(C) Prior to the AMHS vessel arrival and while an AMHS vessel is present at the Facility, AMHS will fulfill all requirements regarding vessel and facility security as required by the Maritime Transportation Security Act of 2002, as codified in 46 U.S.C. Chapter 701, its implementing regulations, and any related or successor legislation and regulations.

VIII. AMHS Use of Reasonable Care

(A) AMHS will use and occupy the Facility in a safe and reasonable manner for lawful purposes only.

(B) If an AMHS vessel damages a component of the Facility as a result of negligent vessel operation, the State will be responsible for the cost of restoring the component to the same condition that existed prior to the damage. The State is not liable for any other harm, loss, or injury to the City stemming from the dock damage. The State is not responsible for damage caused by others.

IX. Indemnification

The City shall indemnify, hold harmless, and defend the State from and against any claim of, or liability for, negligent acts, errors or omissions of the City arising in connection with this Agreement. The City is not required to indemnify the State for a claim of, or liability for, the independent negligence of the State. If there is a claim of, or liability for, the joint negligent error or omission of the City and the independent negligence of the State, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "City" and "State," as used within this article include the employees, agents, and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the State's monitoring, approving, or accepting the City's services.

X. Insurance

(A) Without limiting the City's indemnification obligation, the City shall purchase and maintain in force at all times during the performance of services in connection with this Agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the City's policy contains higher limits, the State will be entitled to coverage to the extent of such higher limits. The City shall provide the State with current Certificates of Insurance showing evidence of the coverage required under this section of the Agreement. The Certificate Holder shall show as: State of Alaska, DOT&PF, POB 112500, Juneau, AK 99811-2500.

(B) The City shall provide and maintain, for all employees engaged in work in connection with this Agreement, coverage as required by AS 23.30.045 and any other statutory obligations including but not limited to U.S.L. & H. Act requirements. The policy must waive subrogation against the State.

(C) The City shall provide commercial general liability insurance or its equivalent with limits not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence

and annual aggregates where generally applicable. The State of Alaska shall be named as additional insured.

(D) All insurance shall be considered to be primary and non-contributory to any other insurance carried by the State through self-insurance.

(E) At periodic intervals, the State will review the adequacy of insurance coverages and policy limits under this Agreement. If the State reasonably concludes that the type or amount of insurance is not adequate, it will notify the City, which will promptly revise the type or amount of insurance as requested by the State.

XI. Notification

When any written notice, request, direction, or other communication is necessary, the Parties will deliver it in person, by certified mail, or by email addressed to the party for whom it is intended, as follows:

AMHS: General Manager
 7559 N Tongass Hwy
 Ketchikan, AK 99901
 Ph: 907/228-7250
 Current addressee: john.falvey@alaska.gov

City: City Manager
 City of Kodiak
 710 Mill Bay Road, Room 216
 Kodiak, AK 99615
 Ph: 907/785-3804
 Current addressee: manager@city.kodiak.ak.us

XII. Miscellaneous Provisions

(A) Each Party represents and warrants to the other that (i) it is duly organized, validly existing and in good standing under the laws under which it is organized; (ii) it has the power and authority to enter into this Agreement and to perform fully its obligations hereunder; (iii) the individual executing this Agreement on its behalf has the authority to do so; (iv) the obligations created by this Agreement, insofar as they purport to be binding on it, constitute legal, valid and binding obligations enforceable in accordance with their terms; and (v) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder.

(B) This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns, if any.

(C) This Agreement shall not be construed as creating the relationship of principal-agent, master-servant, partnership, or joint venture between the Parties. Neither Party shall have

authority to make any statements, representations, or commitments of any kind or to take any action that is binding on the other, except as explicitly provided herein or authorized by the other Party in writing.

(D) Neither Party may assign any portion of this Agreement or any benefits or rights arising under the Agreement without the written consent of the other.

(E) No supplement, modification, or amendment of this Agreement is binding unless executed in a writing signed by the authorized representative of the Party to be bound thereby. No provisions of this Agreement may be waived unless done in writing and signed by the authorized representative of the Party to be charged therewith. Waiver of any one provision shall not be deemed to be a waiver of any other provision

(F) Waiver by a Party of any default by the other will not be deemed a waiver of rights concerning any subsequent default.

(G) The headings used in this Agreement are for convenience only and shall not be deemed to limit or affect any of the provisions of the Agreement.

(H) This Agreement shall not be construed as conferring any legal rights, privileges, or immunities or as imposing any legal duties or obligations on any person or persons other than the parties named in this Agreement.

(I) The City is not an intended beneficiary of any contracts between AMHS and any contractors, subcontractors or consultants or any other third parties, and has no contractual rights with respect to such contracts or any provisions thereof, unless expressly stated otherwise.

(J) This Agreement has been jointly negotiated and drafted by the parties, and both parties have had the ability and opportunity to consult with legal counsel prior to signature. The Agreement shall not be construed for or against either party.

(K) This agreement is governed by the laws of the State of Alaska. All claims arising in connection with this agreement shall be brought in Superior Court in Juneau, Alaska, and no other.

(L) If a court of competent jurisdiction holds any portion of this Agreement invalid, the invalid portion will be severed and will not affect the validity of the remainder.

(M) The provisions of this MOA constitute the whole of the agreement between the Parties with respect its subject matter; no separate understandings or side agreements exist.

Dated: _____

ALASKA MARINE HIGHWAY SYSTEM

By: _____
Capt. John F. Falvey, Jr. General Manager

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____ __, 2016, by Capt. John F. Falvey, Jr., General Manager of the Alaska Marine Highway System, on behalf of the Alaska Marine Highway System.

Notary Public in and for Alaska
My commission expires: _____

Dated: _____

CITY OF KODIAK

By: _____
City Manager

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____ __, 2016, by Aimée Kniaziowski, City Manager of the City of Kodiak, an Alaska municipal corporation, on behalf of the City.

Notary Public in and for Alaska
My commission expires: _____

Acknowledgment of the Kodiak City Council

BE IT REMEMBERED that on the ____ day of _____, 2016 at a regular meeting, of the City of Kodiak Assembly of the City of Kodiak, a home rule city established under Alaska law, granted its approval of the foregoing instrument.

Dated: _____
_____ Clerk, City of Kodiak

SUPPLEMENTAL AGREEMENT NO. 1
No. 2517S005
Between
STATE OF ALASKA
Department of Transportation and Public Facilities
Alaska Marine Highway System
And
CITY OF KODIAK
Regarding
Joint Use Agreement re Federal-Aid Facility
(Office Lease and Pier II Dock License)

The State of Alaska, Department of Transportation and Public Facilities (DOT&PF), Alaska Marine Highway System (AMHS or State) and the City of Kodiak, Alaska (City) enter this Supplemental Agreement to Memorandum of Agreement No. 2517S004.

RECITALS

WHEREAS, the City is a home rule city and empowered to enter agreements with the State, AS 29.35.010(13);

WHEREAS, state law authorizes DOT&PF to cooperate, coordinate, and enter agreements with local government entities in exercising its powers and duties, AS 44.42.020(a)(6);

WHEREAS, DOT&PF's marine division, AMHS, is responsible for managing and operating State ferries and related facilities, AS 44.42.020(a)(7);

WHEREAS, in State DOT&PF Project #68938, DOT&PF demolished the existing timber ferry dock in Kodiak and constructed a new steel and concrete dock facility in its place through use of federal-aid (Facility);

WHEREAS, the Facility will serve as AMHS' principal terminal in Kodiak;

WHEREAS, to fulfill its public transportation function based at the Facility, AMHS will periodically require additional, offsite dock space to augment space available at the Facility and it will require office space to enable its staff to carry out administrative functions related to its ferry service in Kodiak; and

WHEREAS, the City possesses additional dock space at its Pier II and available office space in Kodiak;

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, and intending to be legally bound, the Parties agree as follows:

TERMS OF AGREEMENT

1. **Incorporation:** The Parties agree the foregoing Recitals are true and correct and incorporate them into this Agreement by reference.

2. **Term:** The term of this Agreement is five (5) years, consisting of an initial term commencing on the effective date of Ordinance No. 1355, retroactive to July 1, 2016, and expiring on June 30, 2017, with four (4) individual one-year renewal options. Renewal options will automatically renew unless the State provides written notice of termination no less than seven days prior to the renewal date. The City or AMHS may terminate this agreement before expiration of the prescribed term, provided it first serves 90-days advance written notice upon the other party.

3. **Leased Office Premises:** The City leases to AMHS that portion of the building (approximately 800 square feet) located on Lot 4-A, Block 18, New Kodiak Subdivision, as show on Plat 76-31, Kodiak Recording District, 100 Marine Way (Office Premises), which includes the manager's office, ticket office and passenger waiting room, subject to all prior easements, conveyances and restrictions of record. As tenant, AMHS and its patrons are also entitled to use the adjacent, City-owned and handicapped-equipped public restrooms.

4. **Licensed Use of Pier II:** Kodiak Pier II, commonly known as the City Dock, is a multi-use dock available on a first-call, first-serve basis. The City shall permit AMHS vessels to berth at Pier II any date that the Pier is available. City officials will work with AMHS prior to publication of AMHS' annual schedule and at other times to reserve dock space and enable scheduled ferry service.

5. Pier II Responsibilities:

(A) **Parking:** The City shall designate an area on or immediately adjacent to Pier II to accommodate parking for a minimum of fifty vehicles awaiting loading upon the State ferries at no cost to the State. Owners of vehicles or equipment left in the staging area longer than four hours before or after a port call will be charged storage at the City's published rates.

(B) **Maintenance:** The City shall provide all necessary maintenance and snow removal services to keep safe and free from hazard all exterior areas utilized by the State and its employees and passengers at Pier II.

(C) **Security:** Per 33 CFR, Part 105 Maritime Facilities Security and USCG approved AMHS and Port of Kodiak security plans, the City and State will execute their respective security duties per approved vessel and facility security plans. When docking is complete, the AMHS vessel security officer (VSO) shall be responsible for AMHS vessel and adjacent shore side facility security unless otherwise agreed upon in a written Declaration of Security (DoS). The VSO will ensure security measures are implemented per the USCG approved AMHS vessel and facility Security Plan. Screening of passengers, baggage, vehicles, carry-ons, etc. will be the responsibility of the State.

6. Compensation:

(A) Office Premises: Annual rent for building space shall be \$16,242.94 payable in monthly installments of \$1,353.57. Rent shall increase one percent (1%) per year thereafter. Rent does not include garbage generated by the AMHS vessels or building utilities.

(B) Utilities and Janitorial: The State shall pay under separate meter electricity costs for the Office Premises. The State shall pay twenty-five percent (25%) of the building’s heating oil costs and janitorial services for the space it occupies, which the City will document through furnished invoices. However, the State shall have the option to do its own janitorial work in lieu of paying the building janitorial service. Sewer and water for the premises will be provided by the City and is included in the annual rent. AMHS will arrange for disposal of the garbage generated by their vessels and office. On an as-needed basis, AMHS will pay \$50.00 per useage for each AMHS vessel that requires potable water at Pier I and Pier II.

(C) Pier II Dockage: The State shall pay 50% of the City’s published 2016 through 2020 terminal tariff rates. AMHS rates are defined in Table I below. In the event severe weather or unexpected emergencies make it unsafe to depart, AMHS may remain at the dock up to a total of 48 hours without additional charge. Dockage longer than 48 hours will be charged at 100% of the 2016 terminal tariff rate. In the event that Pier II was previously reserved for another vessel, the ferry shall leave the Pier. The terminal tariff rates charged to AMHS can only be changed by invoking the amendment provision in this agreement [17 – Miscellaneous Provisions (E)].

Year	TUSTUMENA 296ft x	KENNICOTT 382ft x	TUSTUMENA Per 12 Hours	KENNICOTT Per 12 Hours
2016	\$1.15	\$1.30	\$340.40	\$496.60
2017	\$1.20	\$1.40	\$355.20	\$534.80
2018	\$1.25	\$1.50	\$370.00	\$573.00
2019	\$1.30	\$1.60	\$384.80	\$611.20
2020	\$1.30	\$1.60	\$384.80	\$611.80

Fees will be paid by the State upon billing in triplicate, payable monthly in arrears.

(D) Pier II Security: When Pier I and II facility security is necessary to comply with applicable law or regulations, AMHS will compensate the City in accordance with the following fee schedule:

- MARSEC Level 1: \$65/per port call (Pier II Only)
- MARSEC Level 2: \$65/man hour, \$90/man hour overtime

MARSEC Level 3: \$65/man hour, \$90/man hour overtime

7. **Pier II Physical Damage:** The State will repair any physical damage to Pier II that is directly attributable to AMHS operations. Alternatively, if the City repairs the damage, the State will reimburse the City for documented reasonable costs that it has incurred as a proximate result of the damage. However, the State is not responsible for damages caused by others nor is it responsible for reimbursing the City for any costs incurred regarding damage caused by others. If the City believes the State has damaged the facility, it must promptly notify the State of any such damages as soon as practicable. Repairs made by the state must be approved in advance by the City. For repairs made by the city, an itemized invoice shall accompany any request for reimbursement.

8. **Freight Charges:** The City will not assess any fee for vehicles, cargo, or passengers moving across Pier II to and from the State ferries, irrespective of any contrary language contained in the Kodiak terminal tariff.

9. **Equipment:** All equipment of whatsoever nature that the State installs shall continue to be the property of the State and may be removed by the State at the expiration of this Supplemental Agreement.

10. **Line Handling:** AMHS is responsible for arranging line handling for its vessels that call at Pier I and Pier II.

11. **Other Duties of the State:** The State shall:

(A) Use and occupy the Office Premises and Pier II in a careful and proper manner and for lawful purposes only.

(B) Not assign this Supplemental Agreement, not sublease the Office Premises, nor any part thereof without the written consent of the City. However, if the State requests consent, the City shall not unreasonably withhold it.

(C) Leave the Office Premises at termination of this Supplemental Agreement in reasonable condition, less normal wear and tear.

(D) Following receipt of reasonable notice, permit the City to enter upon the Office Premises at all reasonable times to examine their condition.

(E) Not alter the exterior appearance of the Office Premises without written consent of the City but may post signs identifying the building as the ferry ticket office or terminal.

(F) Not alter components of the Pier II (bull rails, fender, etc.) unless plans are approved by the City. Plans shall be submitted to the City harbormaster and City engineer for approval prior to the start of any modification.

(G) Coordinate with the Kodiak Chamber of Commerce to ensure that the public restrooms adjacent to the leased area are available for use by the general public whenever the building is open to the public. Since the State is not leasing the area comprising the public restroom, it is not responsible for maintenance, repair, or liability in connection with the same. Also, the City will defend, indemnify, and hold the State harmless regarding any injury, damage, claim, or the like arising from use of the public restroom facilities by a person who is not in the building in furtherance of a passenger-carrier relationship or other business relations with AMHS.

(H) The State shall have control of only that portion of Pier II that its vessel occupies plus a staging area adjacent to the same location as designated by the City harbormaster. The City will provide sufficient space at Pier II to enable the State to properly implement its vessel security plan.

12. Other Duties of the City: The City shall:

(A) Not unreasonably withhold any approval the State may require in connection with this Supplemental Agreement.

(B) Maintain Pier II in good repair and usable condition during the term of this agreement and any renewal or extension thereof;

(C) Maintain the leased Office Premises in compliance with all applicable laws, regulations and codes.

(1) If any part of the Office Premises becomes untenable, a proportionate part of the rent shall be abated and suspended to the extent of untenability until the City restores the Office Premises to a tenable condition. The State's decision shall be controlling as to whether the premises are tenable. In addition, if the City fails to correct any violation or remedy any untenable condition within a reasonable time, the State shall have the option of hiring competent workmen, with the City bearing the cost of all materials and labor.

(2) If a substantial portion of the Office Premises are untenable for more than 30 days, the State may elect to terminate the lease. This 30 day period shall not be so restrictively construed that the State is bound to remain in the leased facility if the State's business cannot be safely executed. If warranted due to unsafe condition, the State is free to move elsewhere. If the premises are made tenable again within this 30 day period, the State will return to the facility for occupancy. The State may also choose to recover any excess costs, over the abated lease payments, occasioned by relocation due to unsafe condition

13. Indemnity: The City shall indemnify, hold harmless, and defend the State from and against any claim of, or liability, for negligent acts, errors or omissions of the City arising in connection with this Supplemental Agreement. The City is not required to indemnify the State for a claim of, or liability for, the independent negligence of the State. If there is a claim of, or

liability for, the joint negligent error or omission of the City and the independent negligence of the State, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "City" and "State," as used within this paragraph include the employees, agents, and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the State's monitoring, approving, or accepting the City's services.

14. Insurance:

(A) Without limiting the City's indemnification obligation, the City shall purchase and maintain in force at all times during the performance of services in connection with this Supplemental Agreement the following policies of insurance. Where specific limits are show, it is understood that they shall be the minimum acceptable limits. If the City's policy contains higher limits, the State will be entitled to coverage to the extent of such higher limits. The City shall provide the State with current Certificates of Insurance showing evidence of the coverage required under this section of the Supplemental Agreement. The Certificate Holder shall show as: State of Alaska, DOT&PF, POB 112500, Juneau, AK 99811-2500.

(B) The City shall provide and maintain, for all employees engaged in work in connection with this Supplemental Agreement, coverage as required by AS 23.30.045 and any other statutory obligations including but not limited to U.S.L. & H. Act requirements. The policy must waive subrogation against the State.

(C) The City shall provide commercial general liability insurance or its equivalent with limits not less than One Million Dollars (\$1,000,000.00) combined single limit per occurrence and annual aggregates where generally applicable. The State of Alaska shall be named as additional insured.

(D) All insurance shall be considered to be primary and non-contributory to any other insurance carried by the State through self-insurance.

(E) The State shall provide and maintain insurance on its own improvements and contents in the Office Premises, as well as broad form casualty and marine liability coverage provided through the State's comprehensive self-insurance program administered by the Division of Risk Management.

15. Non-appropriation of Funds: The fiscal year for the State of Alaska is a twelve-month period beginning July 1 and ending June 30 of the following calendar year. Lease payments from the State are subject to annual appropriation of funds by the Alaska State Legislature. After the initial fiscal year of the lease, the State has the right to terminate this lease in whole, or in part, if:

(A) The Alaska State Legislature fails to appropriate funds budgeted for continuation of this lease; or

(B) The Legislature fails to appropriate funds to the occupying agency(s) that results in a material alternation or discontinuance, in whole or in part, of the occupying agency(s)' programs. The termination of the lease for fiscal necessity and non-appropriation of funds under this section shall not cause any penalty or liability to be charged to the State, and shall not constitute a breach or an event of default by the State.

16. Notice: When any written notice, request, direction, or other communication is necessary, the Parties will deliver it in person, by certified mail, or by email addressed to the party for whom it is intended, as follows:

AMHS: General Manager
7559 N Tongass Hwy
Ketchikan, AK 99901
Ph: 907/228-7250
Current addressee: john.falvey@alaska.gov

City: City Manager
City of Kodiak
710 Mill Bay Road, Room 216
Kodiak, AK 99615
Ph: 907/785-3804
Current addressee: manager@city.kodiak.ak.us

17. Miscellaneous Provisions:

(A) Each Party represents and warrants to the other that (i) it is duly organized, validly existing and in good standing under the laws under which it is organized; (ii) it has the power and authority to enter into this Supplemental Agreement and to perform fully its obligations hereunder; (iii) the individual executing this Agreement on its behalf has the authority to do so; (iv) the obligations created by this Supplemental Agreement, insofar as they purport to be binding on it, constitute legal, valid and binding obligations enforceable in accordance with their terms; and (v) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder.

(B) This Supplemental Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns, if any.

(C) This Supplemental Agreement shall not be construed as creating the relationship of principal-agent, master-servant, partnership, or joint venture between the Parties. Neither Party shall have authority to make any statements, representations, or commitments of any kind or to take any action that is binding on the other, except as explicitly provided herein or authorized by the other Party in writing.

(D) Neither Party may assign any portion of this Supplemental Agreement or any benefits or rights arising under the Agreement without the written consent of the other.

(E) No supplement, modification, or amendment of this Supplemental Agreement is binding unless executed in a writing signed by the authorized representative of the Party to be bound thereby. No provisions of this Agreement may be waived unless done in writing and signed by the authorized representative of the Party to be charged therewith. Waiver of any one provision shall not be deemed to be a waiver of any other provision.

(F) Waiver by a Party of any default by the other will not be deemed a waiver of rights concerning any subsequent default.

(G) The headings used in this Supplemental Agreement are for convenience only and shall not be deemed to limit or affect any of the provisions of the Agreement.

(H) This Supplemental Agreement shall not be construed as conferring any legal rights, privileges, or immunities or as imposing any legal duties or obligations on any person or persons other than the parties named in this Agreement.

(I) The City is not an intended beneficiary of any contracts between AMHS and any contractors, subcontractors or consultants or any other third parties, and has no contractual rights with respect to such contracts or any provisions thereof, unless expressly stated otherwise.

(J) This Supplemental Agreement has been jointly negotiated and drafted by the parties, and both parties have had the ability and opportunity to consult with legal counsel prior to signature. The Agreement shall not be construed for or against either party.

(K) This Supplemental Agreement is governed by the laws of the State of Alaska. All claims arising in connection with this agreement shall be brought in Superior Court in Juneau, Alaska, and no other.

(L) If a court of competent jurisdiction holds any portion of this Supplemental Agreement invalid, the invalid portion will be severed and will not affect the validity of the remainder.

(M) The provisions of this Supplemental Agreement constitute the whole of the agreement between the Parties with respect its subject matter; no separate understandings or side agreements exist.

Dated: _____

ALASKA MARINE HIGHWAY SYSTEM

By: _____
Capt. John F. Falvey, Jr. General Manager

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on _____, 2016, by Capt. John F. Falvey, Jr., General Manager of the Alaska Marine Highway System, on behalf of the Alaska Marine Highway System.

Notary Public in and for Alaska
My commission expires: _____

Dated: _____

CITY OF KODIAK

By: _____
City Manager

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me on , 2016, by Aimée Kniazowski, City Manager of the City of Kodiak, an Alaska municipal corporation, on behalf of the City.

Notary Public in and for Alaska
My commission expires: _____

Acknowledgment of the Kodiak City Council

BE IT REMEMBERED that on the _____ day of _____, 2016 at a regular meeting, of the Council of the City of Kodiak, a home rule city established under Alaska law, granted its approval of the foregoing instrument.

Dated: _____

Clerk, City of Kodiak

JAN 23 2014
KCO

MEMORANDUM OF AGREEMENT
Between
STATE OF ALASKA
Department of Transportation and Public Facilities
And
CITY OF KODIAK
Regarding
KODIAK FERRY TERMINAL & DOCK IMPROVEMENTS
State Project #68938

(Revised December 12, 2013)

The State of Alaska, Department of Transportation and Public Facilities (DOT&PF) and the City of Kodiak, Alaska (City) enter this Memorandum of Agreement (MOA or Agreement).

RECITALS

WHEREAS, DOT&PF is responsible for the planning, design, and construction of state transportation facilities, AS 44.42.020;

WHEREAS, this Agreement concerns improvements to the Pier 1 ferry terminal in Kodiak, which forms part of the state highway system;

WHEREAS, state law authorizes DOT&PF to cooperate, coordinate, and enter agreements relating to highways with local government entities, AS 19.05.040(10), AS 44.42.020(a)(6);

WHEREAS, the City is a home rule city and empowered to enter agreements with the State, AS 29.35.010(13);

WHEREAS, Congress has authorized a high priority earmark as a source of federal funding for the planning, design, and new construction of an AMHS terminal and approach in Kodiak;

WHEREAS, the terminal will serve as a component of the National Highway System;

WHEREAS, DOT&PF has conducted a reconnaissance of possible sites for a new ferry facility and has consulted the City regarding this subject;

WHEREAS, DOT&PF and the City (the Parties) agree that demolition of the existing Kodiak ferry dock, or Pier 1 Dock, and replacement with a newly constructed dock is the preferred option for utilization of the federal funding;

WHEREAS, DOT&PF and the Federal Highway Administration (FHWA) share responsibilities concerning proper management and administration of the federal funding appropriated to the state for highway construction;

WHEREAS, DOT&PF acknowledges that the City need not provide a “local match,” or financial contribution, for construction of this project;

WHEREAS, the Parties are committed to collaborate in working toward the timely, successful completion of this project;

WHEREAS, the Kodiak City Council has adopted, Ordinance No. 1312, which authorizes the City to enter this Agreement;

WHEREAS, the Parties wish to memorialize the key elements of this project and their respective rights and responsibilities in relation thereto;

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, and intending to be legally bound, the Parties agree as follows:

TERMS OF AGREEMENT

I. Incorporation

The Parties agree the foregoing Recitals are true and correct and incorporate them into this Agreement by reference.

II. Term

(A) This Agreement is effective once signed by both Parties and expires either: (1) in a manner consistent with a finding of the DOT&PF Commissioner that public need and the best interests of State no longer support use of the facility that is the subject of this Agreement as a public ferry facility or (2) the day following the 30-year anniversary of the date on which DOT&PF transfers ownership of the Project to the City per Part V of this Agreement, whichever occurs first.

(B) If this Agreement does not otherwise expire per Part II(A)(1), then, before the 30-year expiration under Part II(A)(2), the Parties agree to negotiate in good faith for an extension of this Agreement if the facility remains in serviceable condition and if it is cost effective for the State to continue use of this existing facility rather than construct a new ferry facility in Kodiak.

III. Project Purpose and Scope

(A) The purpose of this project is to provide a new terminal facility in Kodiak, which consists of a new dock and associated improvements that are dedicated to serving Alaska Marine Highway System (AMHS) vessels and operations, as well as those of any other entity providing public ferry service. The Parties acknowledge that, following project completion, DOT&PF will

transfer ownership of the constructed facility to the City and the City will own, operate, and maintain the facility in accordance with this Agreement.

(B) This project consists of planning, designing and constructing improvements to Kodiak's Pier 1 dock to provide a facility compatible with AMHS vessels and operations, while maintaining dock functionality for non-AMHS vessels. These improvements are expected to include demolition of the existing Pier 1 timber dock, construction of a new dock in the same location as the demolished dock using a steel substructure and concrete decking, sheet pile retaining wall abutment, vessel fendering and mooring system, purser's shelter, covered walkway, security fencing, and upgrades to the fuel and water systems. As shorthand, the Parties will refer to this collective planning, design, and construction effort as "the Project."

(C) The current scope, schedule, cost estimates and site plan for the Project are attached as Appendix A.

IV. Design, Construction, & Ownership of Project

(A) DOT&PF's principal Project obligations are to:

- (1) Submit necessary Project requests in the State capital budgeting process and obtain legislative authority to spend the appropriated funding;
- (2) Provide the federal match share consistent with departmental policy, *see* P&P #09.01.040 – Local Match for CIP;
- (3) Perform each of the following Project phases, which it will initiate only after receiving appropriate federal authorization:
 - Phase 2: Design;
 - Phase 3: Right-of-way acquisition/certification; and
 - Phase 4: Construction;
- (4) Prepare Plans, Specifications, and Estimate (PS&E) package;
- (5) Administer all aspects of Project procurement and resulting contracts;
- (6) Develop the Project with DOT&PF staff and/or contracted professional services;
- (7) Seek City review, comment, and, if applicable, approval on appropriate subjects, which may include:
 - Project design at 35% and 95% stages of completion;
 - PS&E package final review prior to advertisement;
 - Construction change orders prior to approval;
- (8) Acquire all necessary rights of way in the name of the City of Kodiak;
- (9) Pay all appropriate costs, fees, and expenses from appropriated Project monies;
- (10) Comply with applicable statute, regulations, codes, and standards regarding administration, design, and construction of the Project.

(B) The City's principal Project obligations are to:

- (1) Provide a sufficient number of qualified personnel at no cost to the Project as needed to work with DOT&PF regarding Project development and administration, including any legal claims that might arise;
- (2) Promptly review, comment on, and, if applicable, approve or reject any matter that DOT&PF submits for the City's consideration;

- (3) Authorize DOT&PF and its contractors to conduct Project-related work on City property and provide DOT&PF with construction easements and such other interests as required to satisfy the needs of Project construction, operations, maintenance, and right-of-way certification.
- (4) Inspect the Project prior to Project closeout.

V. Final Inspection & Transfer of Ownership

(A) The City may participate in DOT&PF's final inspection of the Project. However, DOT&PF shall solely determine when the Project reaches substantial completion, as well as the suitability of contractor's work. As used in this Agreement, "Substantial completion" means the point at which:

- (1) The newly constructed dock and appurtenant structures, approaches, utilities, fencing, signage, markings, cameras, and safety/security features (Facility) are installed and completed, with the exception of minor punch list items;
- (2) AMHS and the public can safely and effectively use the Facility without further delays, impediments, or disruptions; and
- (3) DOT&PF's Project team issues a letter to the contractor acknowledging that the Project has reached substantial completion.

(B) Following substantial completion and DOT&PF's determination upon final inspection that contractor's work is complete and satisfactory, DOT&PF will transfer title and right-of-way, operations, and maintenance responsibilities for the Facility to the City, which the City will promptly accept. On or before the transfer, DOT&PF will provide the City with "as built" drawings of the Facility.

VI. City's Right-of-Way, Operations, and Maintenance Obligations

(A) Upon DOT&PF's transfer of the Facility to the City, the City will acquire and perform responsibilities imposed by federal and state statute, regulation, procedures, policies, guidelines, and agreements, to the extent that they apply to the operation and maintenance of the Facility, including the following:

- (1) The obligations identified in:
 - (a) 23 U.S.C. Chapters 1-5 (*Highways*) and its implementing regulations;
 - (b) 23 C.F.R. §1.23 (*Right-of-Way*);
 - (c) 23 C.F.R. §1.27 (*Maintenance*),
 - (d) 23 CFR Part 710 (*Right-of-Way and Real Estate*), and
 - (e) 23 C.F.R. Part 645 (*Utilities*);
 - (f) The governing version of Stewardship and Oversight Agreement between FHWA and DOT&PF (current copy attached as Appendix B);
 - (g) This Memorandum of Agreement; and
 - (h) This "Flow-Down" Clause: That is, to the extent federal statute, regulation, procedure, policy, guideline, or agreement imposes a continuing obligation on DOT&PF regarding the Facility irrespective of DOT&PF's transfer to the City, the City assumes toward DOT&PF all obligations and responsibilities that DOT&PF owes to FHWA in connection with the Facility.

- (2) State highway requirements *see, e.g.*, AS 19.25.010 *et seq.* (*Utilities, Advertising, Encroachments, & Memorials*), 17 AAC 15.011 *et seq.* (*Utility Permits*), DOT&PF Utility Manual, and DOT&PF Right-of-Way Manual. (The City may access these manuals on DOT&PF's website: <http://www.dot.alaska.gov/>);
- (3) Maritime Transportation Security Act of 2002, as codified in 46 U.S.C. Chapter 701, and its implementing regulations; and
- (4) The obligation to operate and maintain the Facility throughout the term of this Agreement .

(B) In particular, the City's Facility responsibilities include the activities identified immediately below. Except as provided in Part VI(C), the City will fulfill these responsibilities at its own expense and without reimbursement from DOT&PF:

- (1) Planning, scheduling, administration, and logistics of Facility maintenance activities;
- (2) Parties agree to a coordinated security plan;
- (3) Riprap slope protection, including erosion control, to as-built conditions;
- (4) Snow and ice control and associated tasks as may be required for the safe and timely passage of public users of the ferry terminal and dock;
- (5) Maintaining signs and their replacement, including posts and foundations, when damaged, unreadable, or worn out;
- (6) Maintaining dock and fender structures in a proper, serviceable condition, including panels, piles, cathodic protection components, bull rails, hand rails, cleats, bollards, ladders, gates, fencing, and overhead and navigational lights; and
- (7) Removal of debris, rubbish, and dead animals.

(C) To help offset the City's cost of performing certain Maintenance Items, the Parties further agree that AMHS will provide the City with an annual contribution. The amount of AMHS' annual contribution will be derived in the following manner:

- (1) On or before January 2 of the calendar year in which the Facility is expected to commence operation, and on or before every January 2 thereafter while AMHS' contribution commitment remains in effect, the City will provide AMHS with a projected budget that identifies anticipated Maintenance Items for the ensuing fiscal year, *i.e.*, July 1-June 30, associated costs for each anticipated Item, and anticipated revenue the City expects to generate during that fiscal year through public use of the Facility as permitted by Part VIII of this Agreement.
- (2) During the first three fiscal years in which the facility is in operation, AMHS will provide the city with the "AMHS Contribution" which for the first three years will be \$55,000 annually. Beginning in the fourth fiscal year AMHS and the City will negotiate the "AMHS Contribution" for that year prior to the beginning of said year. At the conclusion of each fiscal year, but no later than the ensuing August 31, the City will provide AMHS with an itemized list of actual Maintenance Items performed during that fiscal year, the associated costs for each Item actually performed, and supporting documentation that demonstrates such performance and costs. Additionally, the City will provide AMHS with an accounting of the revenue it generated during that fiscal year from public use of the Facility.
- (3) If the City's actual cost of performing Maintenance Items during a fiscal year exceeds the actual revenues generated from public use of the Facility for that year plus the State's

contribution, then the City is responsible for those excess costs without further contribution from AMHS.

Conversely, if the City's actual cost of facility maintenance during a fiscal year is less than the actual revenues generated from public use of the facility for that year plus the appropriate "AMHS Contribution" then the City will promptly reimburse AMHS the calculated excess amount.

As used in this paragraph "Maintenance Items" means the tasks identified in Part VI (B) (3)-(6).

(D) Notwithstanding paragraphs (A) - (C) of this Part VI, if an AMHS vessel damages a dock component at the Facility as a result of vessel operation, DOT&PF will be responsible for the cost of restoring the damaged component to the same condition that existed prior to the damage; DOT&PF will not be liable for any other harm, loss, or injury stemming from the dock damage.

VII. Use by AMHS Vessels, Passenger, & Vehicles

(A) AMHS vessels and operations, and those of any other entity providing public ferry service, are entitled to priority use of the Facility throughout the term of this Agreement. At the following times, the City will remove or cause to be removed any vessel and terminate any use at the Facility if its presence interferes with the safety or schedule of an AMHS vessel or the well-being of its passengers or customers:

- prior to arrival of an AMHS vessel at the Facility;
- during an AMHS vessel's presence at the Facility; or
- prior to departure of an AMHS vessel's from the Facility.

If opinions differ as to whether a competing vessel or use interferes with an AMHS vessel, passengers, or customers, the AMHS vessel master's opinion shall be conclusive.

(B) The City shall not assess any fee on AMHS or any other entity providing public ferry service, their passengers, or customers for use of the Facility. This prohibition is effective throughout the life of the Facility.

(C) Notwithstanding paragraph (B) of this Part VII, the Parties acknowledge they are free to negotiate for provision of services by the City to AMHS, *e.g.*, office lease, provision of potable water, removal of shipboard trash, disposal of vessel sewage, etc., for which the City may receive an agreed fee. The Parties will document such service agreement, if any, by written contract.

VIII. Revenue

(A) Excluding AMHS, as well as any other entity providing public ferry service, their respective passengers and customers, the City may assess a reasonable fee on those who use the Facility. If the City assesses any such fee, it shall segregate this revenue and use it for no other purpose than the maintenance or future replacement of the Facility.

(B) The City shall maintain this segregated revenue fund throughout the term of the MOA. The fund is subject to periodic audit by DOT&PF.

IX. Indemnification

(A) The City shall hold DOT&PF, the State, its officers, employees, and agents (collectively, “the State”) harmless from and defend and indemnify the State for liability, claims, demands, fines, penalties, and causes of action arising in connection with this MOA, the Project, and/or the Facility. The City’s duty to defend and indemnify shall apply regardless of whether it is also alleged that the State’s acts or omissions contributed to the injury (including injury to personal property, real property or persons, including fatal injury).

(1) Notwithstanding the foregoing, the City shall have no obligation to hold harmless and indemnify the State to the extent the State is determined to be liable for its own acts or omissions, except that to the maximum extent allowed by law, the City shall hold the State harmless from and indemnify the State for liability, claims, or causes of action arising from an alleged defect in the design or construction of any facility transferred to the City pursuant to this MOA, regardless of negligence or other fault, if such liability, claim, or cause of action arises out of an incident that occurs more than two years after the DOT&PF transfers ownership and maintenance responsibilities for the facility.

(2) Neither liability, claims, or causes of action arising from injuries that occurred prior to the date of substantial completion, nor liabilities imposed by or claims or causes of action arising from or asserted under AS 46.03.822, shall be governed by this paragraph.

(3) The City’s obligation to indemnify does not apply to damage to the Facility for which DOT&PF is responsible under Part VI(D).

(B) DOT&PF shall add a special provision to its bid documents for the design and construction of the Facility requiring the City to be listed as an additional insured in all instances where the successful bidder would be required to add the DOT&PF as an additional insured. The City shall have the right to enforce these provisions against the successful bidder.

X. Cancellation Remedies

(A) If the City requests cancellation of any professional services, consultant or construction contracts entered into by DOT&PF, the City shall be responsible for those costs not accepted for reimbursement by FHWA, amounts for which FHWA expects reimbursement, and any other costs or expenses incurred by the City or DOT&PF in the Project to the date of cancellation or related to finalizing cancellation and Project termination.

(B) If DOT&PF is the primary cause of the cancellation, DOT&PF shall bear those costs not accepted for reimbursement by FHWA, amounts for which FHWA expects reimbursement, and any other costs or expenses incurred by DOT&PF in the Project to the date of cancellation or related to finalizing cancellation and Project termination.

(C) If it is determined that the cancellation was caused by third parties or circumstances beyond the control of DOT&PF or the City, the Parties shall meet in good faith to negotiate a fair and equitable allocation of responsibility for those costs not accepted for reimbursement by FHWA, amounts for which FHWA expects reimbursement, and any other costs or expenses

incurred in the Project to the date of cancellation or related to finalizing cancellation and Project termination.

(D) The foregoing remedies are in addition to any other remedies referenced in this MOA, and do not bar or limit the Parties from resorting to any other remedy available at law or equity.

XI. Breach of Contract Provisions

(A) If DOT&PF provides written notice to the City stating that it is in violation of any of the terms, conditions, or provisions of this Agreement, the City shall have thirty days from the date of such notice to remedy the violation; or, if the remedy requires more than thirty days to complete, the City shall promptly take responsive action necessary to achieve a satisfactory remedy as close as possible to the 30th day from DOT&PF's initial notice.

(B) The City's failure to cure a violation that is remediable within thirty days or its failure to take responsive action necessary to promptly resolve a violation that is not remediable within thirty days constitutes a breach of this MOA. If the City is in breach, DOT&PF may elect to terminate the MOA. In addition, the City's breach may adversely affect the viability of current and future municipal capital projects. *See* 17 AAC 05.175(l).

(C) If the City breaches its right-of-way, operations, or maintenance obligations concerning the Facility, appropriate remedies include:

- (1) City reimbursement of all federal and state funds expended on the Project in connection with this MOA;
- (2) City reimbursement of DOT&PF for any direct and indirect costs it has incurred in fulfilling any of City obligations addressed in this MOA; and,
- (3) DOT&PF withholding of its approval of City federal-aid projects until the City cures its breach and fulfills any related obligations.

XII. Notification

When any written notice, request, direction, or other communication is necessary, the Parties will deliver it in person, by certified mail, or by email addressed to the party for whom it is intended, as follows:

DOT&PF: Regional Director
 DOT&PF, SE Region,
 6860 Glacier Hwy, MS-2506
 Juneau, Alaska 99811-2506
 Ph: 907/465-1762
 Current addressee: al.clough@alaska.gov

DOT&PF: General Manager
 DOT&PF, Alaska Marine Highway System,
 7559 N Tongass Highway
 Ketchikan, Alaska 99901

Ph: 907/228-7255
Current addressee: john.falvey@alaska.gov

City: City Manager
City of Kodiak
710 Mill Bay Road, Room 216
Kodiak, AK 99615
Ph: 907/785-3804
Current addressee: manager@city.kodiak.ak.us

XIII. Miscellaneous Provisions

(A) Each Party represents and warrants to the other that (i) it is duly organized, validly existing and in good standing under the laws under which it is organized; (ii) it has the power and authority to enter into this Agreement and to perform fully its obligations hereunder; (iii) the individual executing this Agreement on its behalf has the authority to do so; (iv) the obligations created by this Agreement, insofar as they purport to be binding on it, constitute legal, valid and binding obligations enforceable in accordance with their terms; and (v) it is under no contractual or other legal obligation that shall in any way interfere with its full, prompt and complete performance hereunder.

(B) The City agrees to provide reasonable access to the Project and to relevant Project documents to any authorized representatives of DOT&PF or the U.S. Government. The City further agrees to cooperate in good faith with inquiries and requests for information relating to the Project and its obligations under this MOA.

(C) This Agreement inures to the benefit of and is binding upon the Parties and their respective successors and permitted assigns, if any.

(D) This Agreement shall not be construed as creating the relationship of principal-agent, master-servant, partnership, or joint venture between the Parties. Neither Party shall have authority to make any statements, representations, or commitments of any kind or to take any action that is binding on the other, except as explicitly provided herein or authorized by the other Party in writing.

(E) Neither Party may assign any portion of this Agreement or any benefits or rights arising under the Agreement without the written consent of the other.

(F) No supplement, modification, or amendment of this Agreement is binding unless executed in a writing signed by the authorized representative of the Party to be bound thereby. No provisions of this Agreement may be waived unless done in writing and signed by the authorized representative of the Party to be charged therewith. Waiver of any one provision shall not be deemed to be a waiver of any other provision.

(G) Waiver by a Party of any default by the other will not be deemed a waiver of rights concerning any subsequent default.

(H) If either Party is, due to an event of Force Majeure, rendered unable, in whole or in part, to perform its obligations under this Agreement, such party shall be freed from such obligations, so long as and to the extent that Party is necessarily and directly affected by the Force Majeure. The date of delivery or performance of the affected obligation shall be extended by a period of time reasonably necessary to overcome the effects of such delay and, if necessary, the scheduled services shall be revised in respect of such delay. The Parties shall cooperate in good faith to overcome and to mitigate the effects of an event of Force Majeure. As used in this Agreement, an event of "Force Majeure" means any unforeseeable event which is beyond the control, and without the fault or negligence, of the Party affected, including war, revolution, invasion, insurrection, riot, civil commotion, sabotage, military or usurped power, lightning, explosion, fire, storm, drought, flood, earthquake, epidemic, quarantine, strikes, acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required, inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities. A lack of funds does not constitute an event of Force Majeure.

(I) The headings used in this Agreement are for convenience only and shall not be deemed to limit or affect any of the provisions of the Agreement.

(J) This Agreement shall not be construed as conferring any legal rights, privileges, or immunities or as imposing any legal duties or obligations on any person or persons other than the parties named in this Agreement.

(K) The City is not an intended beneficiary of any contracts between the DOT&PF and any contractors, subcontractors or consultants or any other third parties, and has no contractual rights with respect to such contracts or any provisions thereof, unless expressly stated otherwise.

(L) This Agreement has been jointly negotiated and drafted by the parties, and both parties have had the ability and opportunity to consult with legal counsel prior to signature. The Agreement shall not be construed for or against either party.

(M) If a court of competent jurisdiction holds any portion of this Agreement invalid, the invalid portion will be severed and will not affect the validity of the remainder.

(N) The provisions of this MOA constitute the whole of the agreement between the Parties with respect its subject matter; no separate understandings or side agreements exist.

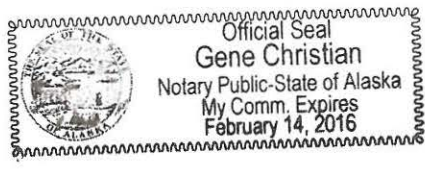
Dated: 1-6-14

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES – Alaska Marine Highway System

By: [Signature]
Captain John F. Falvey, General

Manager

SUBSCRIBED AND SWORN TO before me this 6th day of January, 2014



[Signature]
Notary Public in and for Alaska
My commission expires: 2/14/16

Dated: 1/9/14

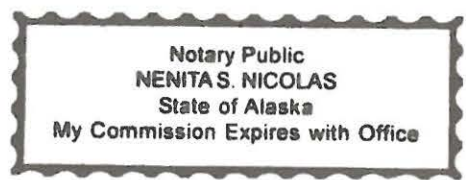
CITY OF KODIAK

By: [Signature]
Aimee Kniazowski, City Manager

SUBSCRIBED AND SWORN TO before me this 9th day of January 2014

State of Alaska
Third Judicial District

[Signature]
Notary Public in and for Alaska
My commission expires: with office



Acknowledgment of the Kodiak City Council

BE IT REMEMBERED that on the 12 day of December, 2013 at a regular meeting, of the City of Kodiak ~~Assembly~~ ^{Council} of the City of Kodiak, a home rule city established under Alaska law, granted its approval of the foregoing instrument.

Dated: 1/23/14

[Signature]
Clerk, City of Kodiak

Kodiak Ferry Terminal and Dock Improvements Project

State Project No.: 68938

Appendix A

Scope, Schedule, Estimate

Scope

This project will consist of planning, designing and constructing improvements to Kodiak's Pier 1 dock to provide a facility compatible with AMHS vessels and operations. These improvements are expected to include demolition of the existing Pier 1 timber dock, construction of a new dock in the same location as the demolished dock using a steel substructure and concrete decking, sheet pile retaining wall abutment, vessel fendering and mooring system, purser's shelter, covered walkway, security fencing, and upgrades to the fuel and water systems.



STIP page attached thru Amendment #6 (2013)



**Federal Highway Administration, Alaska Division
and
Alaska Department of Transportation & Public Facilities
Stewardship and Oversight Agreement**



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INTRODUCTION

Purpose

The purpose of this Joint Stewardship and Oversight Agreement (Agreement) is to provide a roadmap to effectively and efficiently manage the Federal-Aid Highway Program (FAHP) both in terms of program and project delivery. It formalizes the roles and responsibilities of the Federal Highway Administration (FHWA), Alaska Division and the Alaska Department of Transportation (DOT&PF) in administering the FAHP, and outlines authorities, and assures accountability.

The Agreement outlines a risk-based approach for FHWA and DOT&PF to manage the public funds and to ensure the FAHP is delivered in accordance with federal laws and regulations. The approach includes a Strategic Planning Process, Strategic Stewardship and Oversight, and performance indicators/measures.

Through this Agreement, DOT&PF accepts responsibility as the project approval authority for delegated activities in accordance with Section 106 of Title 23, United States Code (USC). FHWA retains overall responsibility for the FAHP and this Agreement does not preclude FHWA from accessing or reviewing any federal-aid program and/or project at any time.

Background

The United States Congress (Congress) has charged FHWA with administering the FAHP under Title 23 of the United States Code (USC), Title 23 of the Code of Federal Regulations (CFR), and other associated laws and regulations. Section 106 of Title 23 USC, requires the agencies to enter into an agreement that documents the delegation of responsibilities. With the passage of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU), stewardship evolved to cover all aspects of the FAHP including financial integrity, local agency project delivery, and other mainstream FAHP program elements. With the changes in the law, Congress tasked both agencies with managing the FAHP through stewardship and oversight to accomplish national, state and local goals of maintaining a national highway network, improving its operation and safety, and providing for national security while protecting and improving the environment. In addition to the changes brought through SAFETEA-LU, current efforts require both agencies to ensure accountability and transparency in managing the FAHP.

FHWA is charged with stewardship and oversight responsibilities for all federal highway funded programs, regardless of project approval authorities assumed by DOT&PF. FHWA must conduct activities to ensure that DOT&PF implementation of the FAHP conforms to established laws, regulations, and policies; and that DOT&PF is carrying out its roles and responsibilities according to established agreement with FHWA.

Stewardship and oversight, as outlined in this document, are exercised through program management and project level activities. FHWA and DOT&PF have defined stewardship and oversight as follows:

Stewardship is the efficient and effective management of the public funds that have been entrusted to the FHWA.

Oversight is the act of ensuring that the federal highway program is delivered in accordance with applicable laws, regulations and policies.

DOT&PF and FHWA will work in partnership to deliver the FAHP to ensure integrity, value, quality, accountability, and transparency for system stakeholders and its customers. In order to meet this outcome, the agencies will implement strategies and employ a variety of tools to assess and effectively monitor the overall health of the FAHP to enhance the transportation system within the State of Alaska.

AGENCY ROLES AND RESPONSIBILITIES

Overview

In an effort to enhance the continuing partnership between FHWA and DOT&PF, this Agreement focuses on the individual and joint agency roles and responsibilities. More specific details about DOT&PF and FHWA's roles, responsibilities, and performance measures for each program area are described in the respective program overviews and are summarized in Appendix A: Program Responsibility List; Appendix B: Project Responsibilities List; and, Appendix C: List of Measures.

Roles and Responsibilities

Federal Highway Administration (FHWA)

FHWA will maintain overall responsibility for the FAHP within the parameters of 23 USC 106, except for the assignment of environmental responsibilities under SAFETEA-LU Sections 6004 (23 USC 326).¹ In addition, FHWA is ultimately responsible for ensuring financial integrity and compliance with applicable federal laws and regulations. FHWA remains accountable to the public and Congress for the FAHP and ensuring that it is delivered in an efficient and effective manner regardless of approval authority or responsibility delegated to DOT&PF. FHWA maintains authority for the actions and approvals in the following categories:

- Civil Rights Act of 1964;
- Environmental approvals not specifically assigned under Sections 6004 SAFETEA-LU;
- Federal air quality conformity determinations required by the Clean Air Act;

¹ Section 6004 of SAFETEA-LU is codified in 23 USC 326. For convenience, it is referred to here as Section 6004.

- Progress payments and final vouchers;
- Hardship acquisition and protective buying;
- Project agreements and modifications to project agreements;
- Obligation of funds;
- Planning and programming pursuant to 23 USC 134 and 135;
- Special Experimental Projects (SEP-14 and SEP-15);
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (UA), as amended; and,
- Waivers to Buy America requirements.

Projects for which defined approval authority is delegated to DOT&PF are not subject to further approvals by FHWA, unless it is jointly agreed. However, nothing in the Agreement shall prohibit FHWA from reviewing any programs and projects at any time.

FHWA will maintain the Program of Oversight Initiatives (POI), a comprehensive oversight document. The POI will capture all the initiatives associated with our oversight responsibilities for a given Performance Year (PY). The POI will identify:

- Risks and Improvement Opportunities
- Headquarters Directed Program Management Initiatives
- Division Risk-Based Program Management Initiatives
- Fraud Prevention Initiatives
- Project Oversight Activities

Alaska Department of Transportation and Public Facilities (DOT&PF)

DOT&PF, through the specific delegation allowed under federal law, has authority for monitoring, reviewing, and/or approving activities that are eligible for FAHP funds. DOT&PF, in conformance with 23 USC 106, accepts responsibilities for the delegated duties in this Agreement. Additionally, per SAFETEA-LU Section 6004, DOT&PF has been assigned FHWA's authority and responsibility for compliance with the National Environmental Policy Act (NEPA) and other federal environmental laws. Specific authorities, responsibilities and exceptions are defined in the Memorandum of Understanding (MOU) for this delegation and assignment.

DOT&PF is responsible for administering the FAHP in a manner that ensures efficient and effective use of the FAHP funds. DOT&PF will administer the FAHP by being responsible for:

- Duties delegated to it pursuant to 23 USC 106;
- Ensuring and verifying, as needed, compliance with all federal laws, regulations and requirements;
- Identifying areas that are either non-compliant with federal requirements or have a high risk for becoming non-compliant (through a structured assessment process);
- Taking appropriate action when non-compliant findings are made;

- Implementing safeguards and/or improvements to reduce the risk of non-compliance;
- Assessing the FAHP through routine involvement;
- Conducting reviews and offering conflict resolution processes where necessary;
- Reviewing and approving activities under this Agreement related to federal-aid funds usage; and,
- Ensuring compliance with the executed MOU assigning federal responsibilities and supporting all required reviews and audits of activities under SAFETEA-LU Section 6004.

Title 23 USC does not recognize local entities as direct recipients of federal-aid funds. Accordingly, local agencies cannot take the place of DOT&PF in the context of the FAHP. DOT&PF is responsible for all requirements of the FAHP, whether these requirements stem from Title 23 or non-Title 23 statutes. The program and project authority that FHWA has delegated to DOT&PF does not authorize DOT&PF to pass these responsibilities to the local agencies. DOT&PF will provide the necessary review and approval to assure that locally administered federal-aid projects comply with federal requirements. DOT&PF will achieve this by assuring that local agencies have adequate project delivery systems in place and sufficient accounting controls to properly manage FAHP funds.

DOT&PF retains project management and technical development responsibilities for most projects funded with Title 23 funds. On a case by case basis, the DOT&PF may elect to assign limited project responsibilities to local agencies. DOT&PF and the local agency will develop individual project agreements that explain each agency's roles and responsibilities and explain DOT&PF oversight.

The individual project agreement between a local agency and the DOT&PF includes the standards and processes to which the local government will adhere. It will include allocation of funding and required billing records. It will include the source of matching funds and any stipulations for the use of the funds and the specific terms of any transfers of title.

The agreements will be executed (signed) prior to the performance of work to be reimbursed with federal funds. Changes in scope of work, responsibilities and local agency funding requirements beyond the amount set forth in an Agreement will require execution of an Agreement Amendment.

Joint Roles and Responsibilities

DOT&PF and FHWA will work collaboratively to manage the FAHP, and review, monitor, and approve activities as necessary in the designated areas of responsibility to comply with applicable laws, regulations, directives, and standards as defined in the Program Responsibilities (Appendix A) and the Project Responsibilities (Appendix B) lists. The success of the FAHP in Alaska is a joint responsibility that requires both agencies to be proactive in monitoring and improving the program, as well as taking necessary corrective actions when needed.

RISK-BASED APPROACH

Overview

FHWA and DOT&PF will work cooperatively to identify appropriate stewardship and oversight initiatives using a risk-based approach. The process will consider items such as strategic goals, mutual FHWA and DOT&PF initiatives to improve quality, cost, and FHWA's level of confidence in oversight mechanisms and activities.

This Agreement, therefore, implements a risk-based approach to effectively manage the FAHP and assess its overall health. This risk-based approach to program stewardship and oversight facilitates the effective leveraging of federal resources by focusing on areas of risk at the program and project level. It will be accomplished using distinctive, yet inter-dependent methodologies:

1. Strategic Planning Process,
2. Strategic Stewardship and Oversight (SSO),
3. Performance Measures/Indicators, and
4. Quality Improvement Process

Strategic Planning Process

DOT&PF and FHWA will coordinate strategic planning activities, to the extent possible, in an effort to align agency strategic plans. The FHWA will represent Alaska perspectives in setting national FHWA goals and strategies, and will coordinate the adopted national goals and strategies with the DOT&PF Strategic Planning Process in order to assure reasonable alignment of desired outcomes, objectives, and measures of both agencies.

Annually DOT&PF and FHWA staff will jointly meet to: assess various elements within the FAHP; ensure that program elements are being managed effectively and efficiently; recommend projects for High Profile status; and to assess how well the elements are achieving program goals. They will accomplish this through the utilization of SSO methods (see below), performance measures/indicators and other strategies. In addition, they will consider changes to goals or requirements that affect program elements.

Strategic Stewardship and Oversight Methods

SSO includes methods and activities by which DOT&PF and FHWA will work together in managing the FAHP to: 1) ensure effective strategies are implemented to maintain and improve the overall health of the transportation system within the State of Alaska; and, 2) monitor and maintain compliance with all required federal laws and regulations. These methods develop into the Strategic Planning Process that will guide DOT&PF and FHWA in implementing strategies that manage risk.

SSO is achieved through program management of the responsibilities, including those listed in Appendix A. Program management is used by DOT&PF and FHWA to plan and organize activities to formulate methods that achieve common goals through cooperative efforts in

administering the FAHP. Effective management means ensuring that all requirements are met while proactively seeking opportunities to improve the program through:

- Analyzing and evaluating methods and processes;
- Evaluating and recommending improvement for the effectiveness and efficiency of programs;
- Performing program level involvement;
- Promoting new initiatives and concepts;
- Participating on relevant joint task forces, joint committees, and joint quality improvement teams;
- Assisting other stakeholders with program-related issues;
- Verifying compliance through project level samples;
- Conducting program assessments (see below);
- Conducting program reviews (see below); and,
- Conducting strategic project oversight (see below).

Program Assessments

Program assessments provide an avenue for determining the current health and effectiveness of the FAHP and assess future risk. Assessments include program analysis such as risk management techniques and self-assessments. These tools are based on the common concepts of identifying strengths, areas of concern, opportunities, and sharing best practices to continually improve the programs. DOT&PF and FHWA will conduct Program Analyses and implement principles of risk management. Risk management is a systematic process that involves the identification, assessment, planning, and management of threats and opportunities faced by programs, processes, and projects. This will be accomplished by performing an Annual Program Analysis and Risk Assessment in core program areas. The program analysis will identify particular program initiatives that could be accomplished to optimize the effectiveness of the current state of the program and the vision of where that program should be in three years. In order to accomplish this, a Risk Assessment will be conducted to evaluate the potential exposure to loss for a particular program or process and the identification of potential countermeasures to control or reduce perceived risk. In addition, information obtained from oversight activities and performance measures/indicators will be considered when performing the program analysis and risk assessment. The program analysis will outline response strategies and initiatives to effectively manage risk. Response strategies include strategies of avoidance, acceptance, transference, mitigation or enhancement, planned or implemented to cope with identified risks. Mitigation efforts may include:

- 1) staff training,
- 2) program reviews,
- 3) updating manuals, and procedural guidance,
- 4) and providing technology transfer/technical assistance.

Program Reviews

Program reviews analyze key program components and the processes used by the DOT&PF and FHWA in managing the program. Program reviews can be conducted by individuals or teams from the agencies and other stakeholder groups or organizations. Program reviews are often an outcome of program assessments or performance indicators/measures that suggest a need for improvement. Performance indicators/measures may also be developed as a part of program reviews to help highlight and quantify successes and problem areas. In general, the reviews will:

- Gauge compliance with federal requirements;
- Identify opportunities for greater efficiencies and improvements to the program;
- Identify good program delivery systems and exemplary practices;
- Identify areas that need attention and make recommendations for improvement;
- And follow up to ensure that recommendations have been implemented.

Program reviews may include process reviews, project level reviews, quality improvement reviews and peer reviews.

Strategic Project Oversight

On September 30, 1997, 23 USC 106(c) permitted the States to approve, on a project-by-project basis, plans, specifications, and estimates for projects on the National Highway System (NHS), and permitted the States to request that the U.S. Secretary of Transportation no longer review and approve highway projects on the Interstate with an estimated construction cost of less than \$1,000,000. Additionally, FHWA issued guidance on February 22, 2007, that allows FHWA and the States to establish programmatic agreements for new or reconstruction projects on the Interstate which are greater than \$1,000,000 but are evaluated as low risk. The States will have advance approval for design, plans, specifications, estimates, contract award, contract administration, and project inspections in advance of actual delivery of these projects. However, these advance approvals are not effective until after approval of the project's environmental document accomplished in accordance with the National Environmental Policy Act (NEPA) process and the satisfaction of other related environmental laws and procedures.

It is mutually desirable to both FHWA and DOT&PF to streamline the approval process for routine and inherently low risk projects. Through this Agreement, FHWA is granting its approval to delegate to DOT&PF in advance of actual delivery of projects the responsibility for oversight and approval of project level activities for low-risk projects. This includes projects on the Interstate System that are routine and inherently low risk in which DOT&PF has a high level of experience and has well-documented procedures and processes in place for ensuring compliance with federal requirements. For projects on the Interstate that are delegated to the DOT&PF, FHWA's oversight will be satisfied by conducting SSO methods and activities. Therefore, both agencies will implement a risk-based approach to project-level management that no longer uses the \$1,000,000 threshold.

While DOT&PF will be responsible for approval of project level activities for low risk projects, FHWA will maintain project level approval for High Profile projects. This risk-

based approach to project oversight will be conducted by selecting the projects that traditionally pose a risk to the health of the FAHP.

Each year, after the Program Analyses and Risk Assessments are complete (around February), DOT&PF's Chief Engineer and FHWA's Field Operations Engineer will jointly determine which projects are considered to be High Profile projects based on the criteria listed below. The *High Profile Project* determination will be made by FHWA in conjunction with DOT&PF at the regional level. The criteria include:

- Projects identified through Program Assessments (the likelihood and severity of potential problems)
- Controversial and Congressional Interest projects
- Projects of National Focus
- Innovative contracting method projects with federal funds
- Invitational projects (invited by the DOT&PF)
- Major Intelligent Transportation Systems (ITS) projects
- Major Projects (>\$500M)
- Mini-major Projects (\$100M - \$500M)
- Non-Traditional Revenue Sources projects
- Special Experimental Projects – Alternative Contracting (SEP-14)
- Special Experimental Projects – Public Private Partnerships (SEP-15)
- Unusual Bridge and Structure projects

All Major Projects (>\$500M) will automatically be selected as *High Profile Projects*. Beyond that, the number of *High Profile Projects* is expected to be no greater than thirty projects statewide at any point in time to provide a manageable workload for FHWA area engineers.

All projects will be administered in accordance with the Project Responsibilities List (Appendix B). The three types of projects include High Profile Projects, NHS Projects and non-NHS Projects. FHWA and DOT&PF will have project level approval authorities as indicated in Project Responsibilities List. DOT&PF and FHWA will maintain an open and collaborative relationship in order to ensure timely and efficient delivery of all projects within the FAHP.

Performance Indicators/Measures

Performance indicators/measures will be one of several tools used to assess the health of the FAHP during the Strategic Planning Process. They will enable FHWA and DOT&PF to monitor program performance and proactively implement corrective actions when needed. Performance indicators/measures consist of a mixture of different types of measures designed to monitor and track trends of the effectiveness (outcomes) and efficiency (outputs) of the functional program areas and the overall FAHP. Data derived from these indicators/measures will be used on an ongoing basis to monitor how well the various program elements are functioning, including how efficiently the program is being delivered and how well the program is complying with various requirements. The indicators/measures

are to be used as a tool for FHWA and DOT&PF in jointly managing the FAHP. Changes in the measurements over time will be tracked to determine the progress being made toward any objectives, and whether adjustments are necessary to improve efficiency or reduce risk. While these performance measures/indicators provide a point-in-time evaluation, they do not generally reveal why the program is performing at the measured level.

The indicators/measures will also serve as input in conducting annual program analyses and risk assessments and may give cause for program reviews or other program management techniques such as project inspections and project document reviews.

Appendix C provides a comprehensive list of the performance indicators/measures, along with the goal, report cycle, lead authority, and supporting justification for the indicator/measure. It is important to note that the indicators/measures may evolve and change over time; however, every effort will be made to achieve the original intent of the indicator/measure. Additionally, other indicators/measures may be developed and used. All changes to the indicators/measures will be agreed upon by both the FHWA and DOT&PF and will not by themselves warrant a change to this Agreement. However, if other major changes need to be made to the agreement, the latest list of measures will be placed in Appendix C.

Quality Improvement Process

Each agency agrees to appoint a Quality Improvement Manager to meet on a quarterly basis to discuss elements mainly related to the outcomes of the Strategic Planning Process, Strategic Stewardship and Oversight Methods, and Performance Indicators and Measures. Their main objectives are to 1) ensure that the SSO methods and performance measures/indicators are effective and utilized by program and senior level managers, 2) ensure that strategies are implemented that address systemic issues rather than activities that attempt to fix symptoms, and 3) ensure that major changes to the Agreement are completed in a timely manner. They will discuss the current and upcoming activities, review major issues at the program or project level, and develop strategic approaches to improve the overall processes and programs. The following is a general list of activities that will occur during the quarterly meetings:

- Report status on previous FY program review findings and recommendations
- Ensure that previous reviews are closed out in a timely manner
- Review status of Program reviews (required reviews and risk-based reviews) for the current year
- Share Program Review Work Plans
- Review outcomes of Strategic Stewardship and Oversight Methods and Performance Indicators and Measures
- Identify global FAHP issues
- Develop strategies to address global issues and memorialize them through the Risk Management Framework activities and DOT&PF's Division Overviews
- Ensure list of measures is kept current
- Recommend for approval any major changes to the Agreement

This will assist in monitoring the FAHP in a holistic manner rather than a stove-piped approach. It will facilitate a systemic approach to identifying global issues, developing response strategies, and ensuring that resources are effectively and efficiently utilized.


IMPROVEMENTS TO THE AGREEMENT

It is anticipated that during its implementation there will be instances when both agencies agree that improvements can be made to the terms of this Agreement. As previously stated, *it is important to note that the indicators/measures may evolve and change over time; however, every effort will be made to achieve the original intent of the indicator/measure. All changes to the indicators/measures will be agreed upon by both the FHWA and DOT&PF and will not by themselves warrant a change to this Agreement. However, if other major changes need to be made to the agreement, the latest list of measures will be placed in Appendix C.*

In order to facilitate major changes, each agency's Quality Improvement Manager will be the principal contact for assuring that the Agreement is kept current, and will coordinate the negotiation of any changes. They will make the final recommendations to the DOT&PF Commissioner and the FHWA Division Administrator, who will have approval authority for any such changes.

EXECUTION OF DOCUMENT

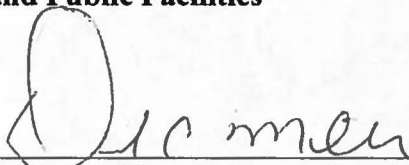
The FHWA and DOT&PF enter into this Agreement to carry out their respective responsibilities with mutual cooperation and collaboration. This Agreement does not relieve either party from accountability for compliance with federal laws and regulations of the FAHP. Signatures on this Agreement by the FHWA and DOT&PF acknowledge delegation of responsibilities for stewardship and oversight under the provisions of Section 106 of Title 23 USC.



**Pat Kemp, Acting Commissioner
Alaska Department of Transportation
and Public Facilities**

12/21/12

Date



**David C. Miller, Division Administrator
Federal Highway Administration**

12/21/12

Date

Appendix A: Program Responsibilities List (currently under separate file)

APPENDIX A

Program Responsibilities List

The Program Responsibilities List is to be used as a tool to jointly manage program activities that are integral parts of the FAHP. This comprehensive list defines program level activities, roles, and responsibilities. The list also outlines the approval authorities (highlighted in yellow, where applicable) and is broken down by program area identifying frequency of approvals and actions, regulatory references, and provides the FHWA and AKDOT&PF contact information. Effective management of these activities contributes to the overall health of the FAHP.

ACTIVITY	Authority	Frequency / Due	AKDOT&PF Contact	FHWA Contact	Remarks
Planning					
Statewide Planning					
SPR (Part 1) Work Program	23 CFR 420.111	Annually by September 30	Program Development	Planner	
State Participation Process for Non-metropolitan Local Officials	23 CFR 450.210(b)	As needed or as revised by State	Program Development	Planner	
State Public Involvement Process	23 CFR 450.210(a)	As needed or as revised by State	Program Development	Planner	
State Self-certification	23 CFR 450.218	submitted with proposed STIP or STIP amendments	Program Development	Planner	FHWA and FTA issue a joint finding
Statewide Transportation Plan	23 CFR 450.214	Revise and update, as appropriate	Program Development	Planner	
STIP	23 CFR 450.216	At least every 4 years	Program Development	Planner	Joint FHWA and FTA approval
STIP Amendments	23 CFR 450.218	As submitted by State	Program Development	Planner	Joint FHWA and FTA approval
Tribal Government Consultation Process (es)	23 CFR 450.210(c)	As needed or as revised by State	Civil Rights	Civil Rights	
Metropolitan Planning					
Annual Listing of Obligated Projects	23 CFR 450.332	Annually, no later than 80 days after September 30	Program Development	Planner	
Certification in TMAAs	23 CFR 450.334(b)	Every 4 yrs	Program Development	Planner	Joint FHWA and FTA certification
Congestion Management Process in TMAAs	23 CFR 450.320	Established and revised as needed	Program Development	Planner	
Metropolitan Planning Area Boundaries	23 CFR 450.312	established and revised as needed	Program Development	Planner	Require agreement between Governor and the MPO
Metropolitan Transportation Plan (MTP) in Attainment Areas	23 CFR 450.322	Every 5 yrs	Program Development	Planner	Developed by MPOs
MPO Designation and Redesignation	23 CFR 450.310	As needed/revised by MPO/State	Program Development	Planner	Require agreement between Governor and local governments
MPO Self-certification (Non-TMAAs)	23 CFR 450.334(a)	At least every 4 years, with submittal of TIP as part of the STIP	Program Development	Planner	
MTP in Non-attainment and Maintenance Areas	23 CFR 450.322	Every 4 yrs	Program Development	Planner	Developed by MPOs
Participation Plans	23 CFR 450.318	As needed or revised by MPOs	Program Development	Planner	Developed by MPOs

ACTIVITY	Authority	Frequency / Due	AKDOT&PF Contact	FHWA Contact	Remarks
TIP	23 CFR 450.324; 23 CFR 450.328	At least every 4 years	Program Development	Planner	
TIP Amendments	23 CFR 450.328; 23 CFR 450.328	As submitted by MPOs	Program Development	Planner	
Unified Planning Work Programs	23 CFR 450.306	Annually by January 1	Program Development	Planner	Developed by MPOs; Joint FHWA and FTA approval.
Air Quality					
CMAQ Funds Report	04/28/89 HQ CMAQ guidance memo	Annually by Feb 1	Program Development	Planner	
Conformity Determination for MTP in Non-attainment and Maintenance Areas	23 CFR 450.322; 40 CFR 93	With MTP updates at least every 4 years and as needed on amendments	Program Development	Planner	Joint FHWA and FTA determination; in consultation with the Environmental Protection Agency (EPA)
Conformity Determination for TIP in Non-attainment and Maintenance Areas	23 CFR 450.328; 40 CFR 93	With TIP submitted at least every four years and as needed on TIP amendments	Program Development	Planner	Joint FHWA and FTA determination; in consultation with EPA
PM2.5 and Mobile Source Air Toxics	Memos February 3, 2006 and March 29, 2008, 71 FR 12468, 23 CFR 771.129	As needed	Planning/ Environment	Planner/Environment	In consultation with EPA
ROW					
Acquisitions, Appraisals, and Relocations	48 CFR 24; The UA	As needed	ROW	ROW	
Early Acquisitions	23 CFR 710.501	As needed	ROW	ROW	
Outdoor Advertising Policies and Procedures	23 CFR 750.304	As needed or submitted by State	ROW	ROW	
Railroad Agreement Alternate Procedure	23 CFR 646.220	One time	ROW	ROW	
Requests for Waivers	49 CFR 24.204(b); 49 CFR 24.7	As submitted by State	ROW	ROW	
State ROW Manual	23 CFR 710.201	Jan. 1, 2001 & every 3 years thereafter	ROW	ROW	Submitted to FHWA Headquarters (HQ)
Uniform Relocation Assistance and Real Property Acquisition Report - (Office of Management and Budget (OMB) Form 2125-0030)	49 CFR 24.9(c) and Appendix B	Annually by no later than November 15	ROW	ROW	
Utility Accommodation Policy	23 CFR 845.215	When changes occur	ROW	ROW	
Highway Information					
Functional classification of highways/streets	23 CFR 105(b)	As needed or as revised by State	Program Development	Planner	
HPMS Data Submission and Review	FHWA HPMS Field Manual & CFR 420.105(b)	Submission by June 15; Review by November 1	Program Development	Planner	Submission by AKDOT&PF; Review by FHWA Division
NHS revisions	23 CFR 470.113, 115(a)	As requested by State	Program Development	Planner	Approved by HQ - Office Director
Public road mileage certification	23 CFR 460.3 & FAPG NS 23 CFR 460	Annually by June 1	Program Development	Planner	Approved by Governor or designee
Urban area boundaries	23 CFR 470.105(a)	As needed or as revised by State	Program Development	Planner	
Environment					
Bicycle Transportation and Pedestrian Walkways	23 USC 217	As needed or requested by State	Design	Small Programs Manager	
Environmental Justice	FHWA Order 8640.23	As needed or required	Environment	Environment	
Environmental Review Process	SAFETEA-LU Section 6002	As required for EISs and as needed for EAs	Environment	Environment	
NEPA Procedures, including Section 4(f)	23 CFR 771; 23 CFR 774; SAFETEA-LU 6007 & 6009	As needed or required	Environment	Environment	

ACTIVITY	Authority	Frequency / Due	AKDOT&PF Contact	FHWA Contact	Remarks
Noise Policy	23 CFR 772; 06/12/05 HQ memo	As needed or required	Environment/ Design	Environment	FHWA approves AKDOT&PF noise abatement policy
Planning and Environmental Linkages	23 CFR 450.212; 23 CFR 450.316; Appendix A to 23 CFR 450	As needed	Planning/ Environment	Planning/ Environment	
Compliance Reviews on Section 6004 MOU	SAFETEA-LU Section 6004; MOU	At least every 15 months	Environment	Environment	
Public Involvement/Public Hearing Program	23 CFR 771.111(b)(1)	As revised by State	Environment	Environment	
Section 106 of the National Historic Preservation Act	23 CFR 800	As needed or required	Environment	Environment	
Section 404 of the Clean Water Act	23 CFR 777; NEPA/404 MOU	As needed or required	Environment	Environment	
Section 6(f) of the Land and Water Conservation Fund Act	36 CFR 59	As needed or required	Environment	Environment	
Section 7 of the Endangered Species Act	50 CFR 402; Dispute Resolution Process	As needed or required	Environment	Environment	
Section 9 of the Rivers and Harbors Act (Bridge Permits)	23 CFR 650 Subpart H; 33 CFR 114 and 115	As needed or required	Environment	Bridge	
Annual Wetlands Mitigation Report		Annually	Environment	Environment	
Annual ESA Expense Report		Annually	Environment	Environment	
Tribal Government Consultation	36 CFR 800.16(m)	As needed or required	Environment	Civil Rights	
Civil Rights					
ADA/Sec. 504 Program Plan accomplishments and next year's goals	48 CFR 27.11(c), EO 12860	Annually by Oct. 1	Civil Rights	Civil Rights	Division reviews and comments
ADA complaint reports of investigation	28 CFR 35.190	As requested by FHWA	Civil Rights	Civil Rights	Division reviews, FHWA HQ approves and issues finding
Annual Contractor Employment Report (Construction Summary of Employment Data (Form PR-1392))	23 CFR 230.121(e)(3)	Annually by Sept. 30	Civil Rights	Civil Rights	Division reviews and submits to FHWA HQ for approval - Is this still required???
DBE Program Plan accomplishments and next year's goals	48 CFR 26.11	Annually by Oct. 1	Civil Rights	Civil Rights	Division reviews and comments
DBE Program revisions	48 CFR 26.21(b)(2)	As needed	Civil Rights	Civil Rights	
EEO Contract Compliance review reports	23 CFR 230.409, 230.413(b)(1)(D)	Upon completion by State	Civil Rights	Civil Rights	Division reviews and comments
EEO Contractor Compliance Plan accomplishments and next year's goals	23 CFR 230, Subpart C, Appendix A, Part I, III	Annually by Oct. 1	Civil Rights	Civil Rights	Division reviews and comments
Historically Black College & University / Minority Institutions of Higher Learning / Tribal Colleges and Universities Report	EO 12876	Annually by Nov 1	Research	Research	Division reviews and submits to FHWA HQ
OJT goals & accomplishments	23 CFR 230.111(b)	Annually by Jan 30	Civil Rights	Civil Rights	Division reviews and comments
Report on supportive services (OJT & DBE)	23 CFR 230.113(g), 230.121(e), 230.204(g)(6)	Quarterly by April 15, July 15, Oct. 15, and Jan. 15	Civil Rights	Civil Rights	Division reviews and comments
State Employment Practices Report (EEO-4)	23 CFR 230.311(a)(2), FAPG-1-C-230-C	Annually by Aug. 15	Civil Rights	Civil Rights	Division reviews and submits to FHWA HQ
State internal EEO affirmative action plan (Title VII) accomplishments, next year's goals, and employment statistical data	23 CFR 230.311, FAPG-1-C-230-C	Annually by Oct. 1	Civil Rights	Civil Rights	Division reviews and comments
State's Overall Disadvantaged Business Enterprise (DBE) Goal	48 CFR 26.45(f)(1)	Annually by Aug 1	Civil Rights	Civil Rights	Also requires FHWA legal review and concurrence
Supportive services funds requests (OJT and DBE)	23 CFR 230.113 & 230.204	As requested by FHWA	Civil Rights	Civil Rights	Division reviews and submits to FHWA HQ for approval
Title VI Plan accomplishments and next year's goals	23 CFR 200.9(a)(10), FAPG-1-C-200	Annually by Oct. 1	Civil Rights	Civil Rights	Division reviews and comments
Title VI Plan revisions	23 CFR 200.9	As needed	Civil Rights	Civil Rights	
Uniform Report of DBE Commitments/Awards and Payments	48 CFR 26, Appendix B	Semi-annually by June 1 and Dec. 1	Civil Rights	Civil Rights	Division reviews and submits to FHWA HQ
ITS and Traffic Operations					

ACTIVITY	Authority	Frequency / Due	AKDOT&PF Contact	FHWA Contact	Remarks
Incident Management	23 CFR 500	As needed	Engineering	Engineering	
National Manual on Uniform Traffic Control Devices Compliance	23 CFR 655	within 2 years of most recent national MUTCD edition	Engineering	Engineering	
National Network Modifications	23 CFR 658.11	As requested by State	Engineering	Planning Team	
Regional ITS Architecture Maintenance	23 CFR 940.9	As needed	Planning	Engineering	Typically, MPOs own and maintain system
Statewide ITS Architecture and System Plan	23 CFR 940.9	As needed or as revised by State	Planning	Engineering	
Systems Engineering Analysis Implementation	23 CFR 940.11	Until fully integrated	Planning	Engineering	
Vehicle Size & Weight enforcement certification	23 CFR 657.13	Annually by Jan 1	Weights and Measures	Planning	
Vehicle Size & Weight enforcement plan	23 CFR 657.11	Annually by Oct 1	Weights and Measures	Planning	
Research, Development and Technology					
Local Technical Assistance Program (LTAP) Centers Work Plan and Budget	FHWA LTAP work program	Annually by January 1	Research	Research	
Research Work Program	23 CFR 420.111	Annually by January 1	Research	Research	
Safety					
402 Highway Safety Plan	1222/99 guidelines, TEA-21, 2001	Annual	Program Development	Engineering	The Governor's Highway Safety Rep coordinates with the National Highway Traffic Safety Administration for review and approval; no AKDOT&PF involvement
5% Report	23 USC 148(c)(1)(D)	Annually by August 31	Engineering	Engineering	
Drug offender driver's license suspension law & enforcement certification	23 USC 159, 23 CFR 192.5	Annually by Jan 1	Program Development	Engineering	The Department of Motor Vehicles coordinates with Governor's Safety Rep for certification
High Risk Rural Road Safety	SAFETEA-LU 1401, 23 USC 148	Annually by August 31	Engineering	Engineering	
Highway Safety Improvement Program	SAFETEA-LU, 23 USC 148	Annually by August 31	Engineering	Engineering	
Work Zone Traffic Control Report	23 CFR 630.1008(e)	Biennial	Engineering	Engineering	
Work Zone Accident Report	23 CFR 630.1009B	Annually	Engineering	Engineering	
Pedestrian and Bicycle Safety Program	23 CFR 652	As needed	Program Development	Engineering	
Project crash data	23 CFR 630.1010	Continuous	Program Development	Engineering	
Repeat Offender	23 CFR 1275, 23 USC 164	Annually by October 1	Governor's Safety Rep	Engineering	
Roadside Hardware	FHWA July 25, 1997 Policy Memo re: NCHRP Report 350	As needed	Engineering	Engineering	
SHSP	SAFETEA-LU, 23 USC 148	As needed	Governor's Safety Rep	Engineering	
Work Zone Safety and Mobility Final Rule compliance	23 CFR 630	12-Oct-07	Engineering	Engineering	AKDOT&PF already implements transportation management plans (TMPs) and will continually review and refine TMPs to comply with the provisions of the Final Rule.
Bridges, Structures, Hydraulics and Geotechnical					
Bridge Construction, Geotechnical, Hydraulics Review	23 CFR 650	As needed	Bridge/materials	Bridge	
BMS	23 CFR 500.107	As needed	Bridge	Bridge	
Bridge/Structural Design Review	23 CFR 650	As needed	Bridge	Bridge	
HBP Unit Cost submittal	23 CFR 650 Subpart D	Annually by April 1	Bridge	Bridge	
NBS Review Statewide report	23 CFR 650 Subpart C	Annually by Feb 1	Bridge	Bridge	Division performs review and prepares annual report
Quality, Construction, & Maintenance					
3R Program	23 CFR 625	As needed	Engineering	Engineering	Chapter 11 of Preconstruction Manual
Construction Inspections	23 USC 114	Quarterly	Engineering	Engineering	
Contracting Procedures Consultant Selection	23 CFR 172.5 & 172.9	As updated	Engineering	Engineering	

ACTIVITY	Authority	Frequency / Due	AKDOT&PF Contact	FHWA Contact	Remarks
Conduct Produced Materials	23 CFR 635.417	As needed	Engineering	Engineering	
Design Exception Policy	23 625.3	As needed	Engineering	Engineering	
Highway Facility Relinquishment	23 CFR 620.203	As needed	ROW	ROW	
Labor Compliance Policy	23 CFR 635.118, Davis-Bacon Act	As needed	Engineering	Engineering	
Liquidated Damages	23 CFR 635.127	Every 2 years	Engineering	Engineering	
Local Public Agency Oversight Policies & procedures	23 CFR 635.105	As updated	Engineering	Engineering	
Public Agency Furnished Material	23 CFR 635.407	As needed	Engineering	Engineering	
Standard Specifications and Plans	23 CFR 625.4	As Needed	Engineering	Engineering	
Year-end Value Engineering Report	23 CFR 627	Annually by Nov. 22	Engineering	Engineering	FHWA HQ publishes national report
Transportation System Preservation					
Materials Acceptance - Quality Control/Quality Acceptance Program	23 CFR 637B	As updated	Materials	Engineering	
Materials Certifications	23 CFR 637 Appendix A	As needed on federal-aid projects	Construction/ Materials	Engineering	Certifications provide data for program updates.
Pavement Design Policy	23 CFR 626.3	As needed	Materials	Engineering	
Pavement Management System	23 CFR 500.106	As needed	Maintenance	Engineering	
Financial Management					
Appropriations, Allocations, Obligations	31 USC 1341(e)(1)(A) & (B); 31 USC 1517(e), 23 USC 188(b)	As needed	Program Development	Finance	
Audit Coordination	CFO Act of 1990; DOT Order 8000.1C	As needed	Internal Review	Finance	
AKDOT&PF External Audit Reviews	OMB A-87, 123, GAAP	As needed	External Auditors	Finance	
AKDOT&PF Internal Audit Reviews	OMB A-87, 123, GAAP	Annually	Internal Review	Finance	
FHWA Financial Statement Audit	FMFIA, OMB A-123, 127, GAAP	Annually	STWD Admin Services	Finance	
Fed-aid Billing Reimbursement of Eligible Expenditures	23 CFR 140 and 635.122	Weekly	STWD Admin Services	Finance	
FIRE Program	FHWA Order 4560.1A	Ongoing	STWD Admin Services	Finance	
Indirect Cost Allocation Plans	49 CFR Part 18; 2 CFR Part 225 (OMB A-87); ASIMBC-10	As needed	STWD Admin Services	Finance	
Innovative Financing, Toll Roads and Privatization	GARVEE 23 CFR 122; TIFIA 23 USC 181-189; SIB Guidance 9/97; AC NHS Act, Section 308; Flexible Match 23 USC 323; Toll 23 USC 129(A); Tapered Match TEA-21 Section 1302	As needed	STWD Admin Services	Finance	
Transfer of Funds as Requested by State	23 USC 104(c) and 119(f) and 126	As needed	Program Development	Finance	
Discretionary and Other Funding Programs					
Border Technology Exchange Program	23 USC 506	Annually	Research	Research	Grant program administered by FHWA, Office of International Programs
CMAQ	SAFETEA-LU Sections 1101(e)(5), 1103(d), & 1808	As needed	Program Development	Planner	
Coordinated Border Infrastructure Program	SAFETEA-LU Sections 1101(e)(1) & 1303	As needed	Program Development	Engineering	FHWA recommends action to FHWA HQ
Ferry Boats and Ferry Terminal Facilities	SAFETEA-LU Sections 1101(e)(13) & 1801	As needed	AMHS	Engineering	

ACTIVITY	Authority	Frequency / Due	AKDOT&PF Contact	FIWA Contact	Remarks
High Priority Projects Program	SAFETEA-LU 1701-1702	As needed	Budgets/DLA	Finance	
Bridge replacement and rehabilitation	23 CFR 650 Subpart D	As needed	Bridge	Bridge	Division makes eligibility determinations
Highways For Life	SAFETEA-LU Section 1602	As needed	Engineering	Engineering	FIWA HQ approval
Innovative Bridge Research and Deployment Program	23 USC 603(b)	Annually (date varies)	Bridge	Bridge	Division makes eligibility determinations
ITS Integration Program	TEA-21 Section 5208	Quarterly and Annual Reports	Engineering	Engineering	Program also requires FIWA qualitative assessments of adequacy of project descriptions and evaluation reports and timely submittal of reports by AKDOT&PF.
ITS Deployment Program	TEA-21 Section 5208 and 5209	As needed	Engineering	Engineering	
Public Lands Highway Discretionary	SAFETEA-LU Section 1101(e)(9)(D)	As needed	Engineering	Engineering	Division recommends action to FIWA HQ
Railroad-Highway Crossings	SAFETEA-LU Section 1401	Annually by August 31	Engineering	Engineering	
Recreational Trails Program	SAFETEA-LU Sections 1101(a)(8) & 1108	As submitted by State	DNR	Small Programs Manager	
Safe Routes to School	SAFETEA-LU Sections 1101 & 1404	Varies	Program Development	Engineering	
Scenic Byways Discretionary Program	SAFETEA-LU Sections 1101 & 1605	Annually	Program Development	Small Programs Manager	FIWA division recommends action to FIWA HQ
Transportation Enhancements Program	SAFETEA-LU Sections 1113, 1122, & 6003; TE Guidance dated January 19, 2006	As needed	Program Development	Small Programs Manager	FIWA provides program guidance and technical assistance
Transportation, Community, and System Preservation Program	SAFETEA-LU Section 1117	As needed	Engineering	Engineering	
FIWA Emergency Preparedness Program	Executive Order 12856 and FIWA Order 1910.2C	Continuously	Maintenance	Small Programs Manager	
State Manuals Approved by FIWA for Use on Federal-Aid Projects					
Annual Overall DBE Goal	N/A	As Needed	Civil Rights	Civil Rights	
Standard Specifications	N/A	As Needed	Design	Field Operations	
Title VI Program Plan	N/A	As Needed	Civil Rights	Civil Rights	
Preconstruction Manual (Highways)	N/A	As Needed	Engineering	Engineering	
Construction Manual (Highways)	N/A	As Needed	Engineering	Engineering	
Design Build Manual	N/A	As Needed	Engineering	Engineering	
Environmental Procedures Manual	N/A	As Needed	Environment	Environment	
Flexible Pavement Design Manual	N/A	As Needed	Materials	Engineering	
Geotechnical Procedures Manual	N/A	As Needed	Materials	Engineering	
Highway Drainage Manual	N/A	As Needed	Bridge	Engineering	
Right-of-Way Manual	N/A	As Needed	Right of Way	Right of Way	
Sign Design Specifications	N/A	As Needed	Engineering	Engineering	
Standard Drawing Manual	N/A	As Needed	Engineering	Engineering	
Alaska Test Methods Manual	N/A	As Needed	Materials	Engineering	
Traffic Manual Supplement	N/A	As Needed	Engineering	Engineering	
Professional Services Agreement Manual	N/A	As Needed	Engineering	Engineering	
Utility Manual	N/A	As Needed	Engineering	Engineering	
ICAP Manual	N/A	As Needed	Finance	Finance	
Financial Procedures	N/A	As Needed	Finance	Finance	
Recovery Act Reports	ARRA	As Needed	Engineering	Engineering	

Appendix B: Project Responsibilities List (currently under separate file)

Appendix B - Project Responsibilities List

Overview: The Project Responsibilities List identifies the responsible agency for the major project level actions and is not intended to be an all-inclusive list. It is organized by columns listed as High Profile Projects, NHS Projects, and non-NHS Projects. Within each column, activities are listed and the appropriate action is identified. Except those FHWA responsibilities identified below, and those Title 23 actions that FHWA cannot delegate, the ADOT will assume the responsibilities of the FHWA under Title 23 for design, plans, specifications, estimates, right-of-way certification statements (part of PS&E), contract awards, and inspection/final acceptance of projects. This responsibility does not extend to other Federal actions outside of Title 23 unless specifically identified below (i.e., SAFETEA-LU 6004 Categorical Exclusions). FHWA reserves its responsibilities to maintain approval authority on activities that may pose a risk to individual FHWP projects.

TERMS:

- Approve - an approval action shall take place before the project action can proceed.
- Concur - the project can proceed once concurrence is received or agreed to timeframe (3 days for FHWA review) has expired.
- Information - documentation is submitted to FHWA for review and provides input to Program Analysis and Risk Assessments.
- ADOT&PF Assigned - Responsibilities have been assigned to ADOT&PF through SAFETEA-LU 6004
- Available - documentation is available to FHWA on-line.

Activities/Item	High Profile Projects			NHS Projects			Non-NHS Projects		
	ADOT&PF Action	FHWA Action	ADOT&PF Action	FHWA Action	ADOT&PF Action	FHWA Action	ADOT&PF Action	FHWA Action	
	Finance								
Financial Submittal (PR 37)	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
State Infrastructure Bank Reports	Prepare	Information	Prepare	Information	Prepare	n/a	Prepare	n/a	
All Vouchers (batched State progress payments to FHWA)	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Federal-aid Project Agreement and Modifications - Preliminary Engineering through Construction [23 CFR 630.110]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Project Authorizations - Obligate Funds	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Section 1.9 Waiver [23 CFR Section 1.9]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Environment									
Programmatic Categorical Exclusions [23 CFR 771.1179c) and (d)]	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	
Programmatic Section 4(f) Evaluation (SAFETEA-LU 6004 assigned)	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	
Section 4(f) de minimis Finding (SAFETEA-LU 6004 assigned)	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	
SAFETEA-LU 6004 Categorical Exclusions	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	
Project-Level Transportation Conformity Determination (SAFETEA-LU 6004 assigned)	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	Prepare, Approve	ADOT&PF Assigned	
Non-Programmatic Categorical Exclusions [23 CFR 771.117]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Environmental Assessment [23 CFR 771.11999c)]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Finding Of No Significant Impact [23 CFR 771.121]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Environmental Impact Statement [23 CFR 771.125; 23 CFR 771.125 (c)]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Record of Decision [23 CFR 771.127]	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Individual Section 4(f) Evaluation	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Programmatic Section 4(f) Evaluation (non-assigned)	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Section 4(f) de minimis Finding (non-assigned)	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	
Project-Level Transportation Conformity Determination (non-assigned)	Prepare	Approve	Prepare	Approve	Prepare	Approve	Prepare	Approve	

Appendix B - Project Responsibilities List

Activities/Item	High Profile Projects		NHS Projects		Non-NHS Projects	
	ADOT&PF	FHWA	ADOT&PF	FHWA	ADOT&PF	FHWA
	Action	Action	Action	Action	Action	Action
ROW						
Disposal of ROW [23 CFR 710.409]	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	n/a
Disposal of Access Control	Prepare	Approve	Prepare	Approve	Prepare	Approve
Hardship and Protective Buying [23 CFR 710.307, 503]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Use of Right of Entry to Obtain Possession	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information
Annual ROW Acquisition and Relocation Statistics Report	Prepare	Information	Prepare	Information	Prepare	Information
ROW Plans	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	n/a
ROW Certification 1,2	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
ROW Certification 3	Prepare	Approve	Prepare, Approve	Approve	Prepare, Approve	Information
Use of Fee negotiators/Fee Appraisers	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Disposal of federally funded ROW for less than market value - 23 CFR 710.403, 409	Prepare	Approve	Prepare	Approve	Prepare	Approve
Junkyard Control [23 CFR 751.25]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Relinquishment of a Highway Facility [23 CFR 620.201, 202, 203]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Functional Replacement [23 CFR 710.509]	Prepare, Approve	Concur	Prepare, Approve	Concur	Prepare, Approve	Concur
Request for Credits for Early Acquisition of ROW [23 CFR 710.501]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Request for Direct Federal Acquisition [23 CFR 710.803]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Request for Federal Land Transfer [23 CFR 710.601]	Prepare	Approve	Prepare	Concur	Prepare	Concur
Request for Waivers [49CFR 24.204b]	Prepare	Approve	Prepare	Approve	Prepare	Approve
ROW encroachments- Use and occupancy of Acquired ROW [23 CFR 710.401, HDM 504.8]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Design						
Design Project Status Reports	Prepare	Information	Prepare	Information	Prepare	Information
Professional Services Agreement [23 CFR 172.7 - 172.9]	Prepare, Approve	n/a	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Use of Negotiated Consultant (Non-Competitive) Contracts 23 CFR 172.5(3)	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Experimental Features SEP 14	Prepare	Approve	Prepare	Approve	Prepare	Approve
Project Management Plans for projects > \$500M	Prepare	Approve	Prepare	Approve	Prepare	Approve
Design Study Report	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information
Design Exceptions [23 CFR 625.3 (f)]	Prepare, Approve	Concur	Prepare, Approve	Information	Prepare, Approve	Information
Financial Management Plans for projects >\$500M	Prepare	Approve	Prepare	Approve	Prepare, Approve	Approve
Finance Plans for Projects from \$100M to \$499M	Prepare	Approve	Prepare, Approve	Information	Prepare, Approve	Information
ITS Projects Systems Engineering Analysis [23 CFR 940.11]	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information
Utility Agreements	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Toll Facilities Agreements	Prepare	Approve	Prepare	Approve	Prepare	Approve
Approve Preliminary Plans for Major Structures and Tunnels [23 USC 109(a)	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	n/a
Life Cycle Cost Analysis and Value Engineering	Prepare	Information	Prepare	Information	Prepare	n/a
Value Engineering Study for Highway Project > \$25M [23 CFR 627] or Bridge Project > \$20M	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Exempt Bridge from Coast Guard Permit Requirement [23 CFR 650.805]	Prepare	Approve	Prepare	Approve	Prepare	Approve
Public Interest Finding (PIF) - Airspace Clearance 23 CFR 620.104	Prepare	Approve	Prepare, Approve	Approve	Prepare, Approve	Approve
Local Review Plans	Prepare	Information	Prepare	n/a	Prepare	n/a
"Plans-in-Hands" Review Plans	Prepare	Information	Prepare	n/a	Prepare	n/a

Appendix B - Project Responsibilities List

Activities/Item	High Profile Projects		NHS Projects		Non-NHS Projects	
	ADOT&PF	FHWA	ADOT&PF	FHWA	ADOT&PF	FHWA
	Action	Action	Action	Action	Action	Action
Geotechnical Reports	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Waiver of Buy America [23 CFR 635.410]	Prepare	Approve	Prepare, Approve	Approve	Prepare, Approve	Approve
Public Interest Finding (PIF) - Statewide and project Specific use of proprietary products and processes 23 CFR 635.411	Prepare	Approve	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Cost Justification Letter - Statewide and project specific - concur in use of publically furnished materials 23 CFR 635-407	Prepare	Approve	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Advertising Period less than 3 weeks 23 CFR 635.112	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Use of Contracting Method other than competitive bidding 23 CFR 635.104 & 204	Prepare	Approve	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Use of force account 23 CFR635.204 & 205	Prepare	Approve	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Use of Mandatory Borrow/Disposal sites 23 CFR 635.407	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Public Interest Finding (PIF) - Use of Publically owned equipment 23 CFR 635.106	Prepare	Approve	Prepare, Approve	n/a	Prepare, Approve	n/a
Warranties - Materials and Products [23 CFR 635.413]	Prepare	Approve	Prepare	Approve	Prepare, Approve	n/a
Utility Certifications	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Reimbursement for State Furnished Materials	Prepare	Approve	Prepare	Approve	Prepare, Approve	n/a
PS&E Assembly [23 CFR 630.205]	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	Information
Authority to Advertise Memorandum	Prepare, Approve	Available ¹	Prepare, Approve	Available ¹	Prepare, Approve	Available ¹
Addendum to Contract Documents	Prepare, Approve	Available ²	Prepare, Approve	Available ²	Prepare, Approve	Available ²
Bid Tabs	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Subcontract Approvals	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Confirmed Contract and FHWA Certification Checklist	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information
Request for Concurrence in Contract Award	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Letter of Award	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information

Appendix B - Project Responsibilities List

Activities/Item	High Profile Projects		NHS Projects		Non-NHS Projects	
	ADOT&PF	FHWA	ADOT&PF	FHWA	ADOT&PF	FHWA
	Action	Action	Action	Action	Action	Action
Construction						
Construction Project Status Reports	Prepare	Available	Prepare	n/a	Prepare	n/a
Supplemental Agreements	Prepare	Approve	Prepare	Approve	Prepare	Approve
Change Orders						
Minor Change Orders (< 5% of Contract Amount or < \$500K whichever is greater)	Prepare, Approve	Information	Prepare, Approve	n/a	Prepare, Approve	n/a
Major Change Orders (> 5% of Contract Amount or > \$500K whichever is greater)	Prepare	Approve	Prepare, Approve	n/a	Prepare, Approve	n/a
Materials Certification	Prepare, Approve	Information	Prepare, Approve	Information	n/a	n/a
Progress Estimate	Prepare	Information	Prepare	n/a	Prepare	n/a
Recovery Act Project Reports	Prepare	Concur	Prepare	Concur	Prepare	Concur
Experimental Features (pilot and Demo)	Prepare	Approve	Prepare	Approve	Prepare, Approve	n/a
Form FHWA 1446C	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information
Final Construction Payment, Project History (full package)	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	n/a
Letter of Project Completion	Prepare, Approve	Information	Prepare, Approve	Information	Prepare, Approve	Information
ER Damage Assessment Reports [23 CFR 668, 23 USC 120 and 125]	Prepare	Approve	Prepare	Approve	Prepare	Approve

*"Available" Document Addresses

- 1 http://www.dot.state.ak.us/apps/contracts?ACTION=BIDCAL®ION_CODE=ALL
- 2 <http://www.dot.state.ak.us/procurement/bidding/results/index.shtml>
- 3 http://dot.alaska.gov/ewd/pjg/projectinfo/ser/PROJECT_STATUS/Assets/SER_CON.pdf

 is an Action unique to HP Projects

Appendix C: List of Measures (currently under separate file)

Appendix C - Performance Indicators/Measures

ID	PERFORMANCE INDICATOR/ MEASURE	GOAL	AGREED/ PROPOSED (REPORT CYCLE)	LEAD REPORTING AUTHORITY	SUPPORTING JUSTIFICATION FOR PERFORMANCE INDICATOR/MEASURE AND OTHER COMMENTS
PROJECT DELIVERY					
1	EA Scheduling -Percent of EA projects with a Schedule of NEPA activities completed within 3 months of ATP through Environmental Document.	100%	Quarterly	Environmental (FHWA)	The purpose of this measure is to determine whether and encourage project to develop a reasonable project schedule, track delays, and to negotiate timeframes.
2	EIS Scheduling -Percent of EIS projects with a Schedule of NEPA activities completed within 2 months of Completion of Environmental Scoping.	100%	Quarterly	Environmental (FHWA)	The purpose of this measure is to determine whether and encourage project to develop a reasonable project schedule, track delays, and to negotiate timeframes.
3	NEPA Document Schedule - Ratio of actual document completion time to scheduled document completion time	<1.20	Quarterly	Environmental (FHWA)	The purpose of this measure is to improve FHWA/ADOT&PF Nepa Document completion scheduling. In accordance with Environmental Procedures, the schedule will identify concurrence points on document sections and dates for concurrence.
4	NEPA Document Cost - Percent cost increase for preparing EA/EIS documents. (Initial ATP Estimate Thru EDA vs Actual Obligated Amount through EDA - identified in ATP thru Final Design)	<20%	Quarterly	Environmental (FHWA)	The purpose of this measure is to track how well we are estimated cost to prepare environmental documents, scoping, and managing contractors. The initial ATP the is baseline.
5	Preliminary Engineering Cost - Ratio of Final PE cost to initial PE cost estimate. (Final PE = PDA from EDA to Bid Award; PE Cost Estimate from PMP)	< 1.20	Quarterly	FHWA	Assesses the ability to estimate actual PE cost.
6	Engineer's Estimate : Percent of projects with low bid within +/- 10% of Engineer's Estimate. (Contract Award vs ATA Estimate)	65%	Quarterly	FHWA	The purpose of this measure is to assess the accuracy of the low bid vs. Engineer's Estimate. FHWA's guidance states that low bid should be within +/- 10% of the Engineer's Estimate for at least 50% of the projects.
7	Construction Schedule Management : Contract Completion Date vs Actual Construction Completion Date (Notice of Project Completion).	On time or early	Quarterly	FHWA	Assesses the ability to predict project completion dates, taking into account work windows, working days, weather and work type. This serves the public by completing projects on predicted date.

Appendix C - Performance Indicators/Measures

ID	PERFORMANCE INDICATOR/ MEASURE	GOAL	AGREED/ PROPOSED (REPORT CYCLE)	LEAD REPORTING AUTHORITY	SUPPORTING JUSTIFICATION FOR PERFORMANCE INDICATOR/MEASURE AND OTHER COMMENTS
8	Construction Cost Management -The ratio of total Final Contractor Payment to the total Contract Award amount.	≤1.10	Quarterly	FHWA	Assesses the quality of the design, PS&E, and effective project management. Data source:
9	Federal Highway Obligation Schedule : Obligation Authority used by April 30th.	>75%	Quarterly	ADOT - Program Development	Use all available Federal Obligation Authority, which would otherwise lapse, prior to the end of the Federal fiscal year.
ENVIRONMENT					
10	6004 - ADOT Responsibility for Categorical Exclusions : Percent of complete and accurate quarterly reports submitted by fiscal quarterly due dates.	100%	Quarterly	FHWA	The purpose of this measure is to determine if quarterly reports are submitted on time per the 6004 MOU. Complete is defined as no missing information. Accuracy is determined by comparing submitted report to project documentation.
11	6004 : Percent of notifications of changes in regulation and any new guidance and/or policy submitted to DOT&PF within 10 days .	100%	Quarterly	FHWA	The purpose of this measure is to determine if FHWA is informing the DOT of changes in a timely manner per the 6004 MOU.
BRIDGE ASSET MANAGEMENT					
11	Bridge Management - Percentage of bridge deck classified as structurally deficient or functionally obsolete. Goal is to reduce deficient deck area by 5% annually. A five year trend is the best representation.	>5% <u>Reduction</u>	Annually	ADOT - Bridge	The intent of the HBP is to reduce the number of deficient bridges on the NBI. This information is already being collected by ADOT&PF and is a State Performance Goal.
CIVIL RIGHTS					
12	DBE : ADOT&PF is operating a race neutral program pending resolution of legal actions. This measure will be added pending resolution of legal actions.				
FINANCE					
13	Project Authorization Responsiveness - Percent of Project authorization/modifications completed within 7 calendar days of receipt of supporting documentation	< 7 days	(Annual)	FHWA	This is an FHWA measure, for which AKDOT&PF will provide supporting documentation. FHWA provides timely customer service on all project authorization/modification reviews and approvals (excluding final vouchers).

Appendix C - Performance Indicators/Measures

ID	PERFORMANCE INDICATOR/ MEASURE	GOAL	AGREED/ PROPOSED (REPORT CYCLE)	LEAD REPORTING AUTHORITY	SUPPORTING JUSTIFICATION FOR PERFORMANCE INDICATOR/MEASURE AND OTHER COMMENTS
14	Annual Financial Statement Audit. Percent of corrective actions addressed by requested deadline.	100%	(Annual)	Accounting	Chief Financial Officer Act of 1990 requires Federal agencies to establish a plan for improving financial management and DOT Order 8000.1C, Office of Inspector General Audit and Investigation Report Findings, Recommendations, and Follow-up Action, establishes reporting requirements.
15	Responses to requests for current bill documentation are received by FHWA within 10 business days.	< 10 days	(Annual)	Accounting	Improper Payments Information Act of 2002, FHWA Order 4560.1A, ensures timely completion of billing reviews.
PLANNING & PROGRAMMING					
16	Programming Consistency. Percentage of all Federally funded projects obligated annually compared to those programmed.	50%	Annually	ADOT&PF - Program Development	Measures the effectiveness of the programming process. Are the programmed projects being obligated? This measure would require MPOs to report on non-Federally funded regionally significant projects in non-attainment areas.
17	STIP Schedule - FHWA Responsive Time for Approval of STIP and Amendments	< 21 days	Annually	ADOT&PF - Program Development	Measures the effectiveness of the programming process.
SAFETY & OPERATIONS					
18	Highway Fatality Count - Fatality trend on State and Local Roads - # of fatalities (5-year trend:% decrease/increase)	Decrease 3% Annually	Monthly	Traffic Operations/Local Assistance	Fundamental indicator of effectiveness of AKDOT&PF Traffic Safety Program.
19	Fatality Rate Trend - on State and Local Roads - # of fatalities per 100 MVMT (5-year Annual trend:% decrease/increase)	Decrease 2% Annually	Monthly	Traffic Operations/Local Assistance	Fundamental indicator of effectiveness of AKDOT&PF Traffic Safety Program.
20	Delivery of Safety Projects: Percent of Highway Safety Improvement (HSIP) funding obligated.	95%	Monthly	Traffic Operations	Indicator of effectiveness of AKDOT&PF expediting safety projects. Requires coordination with Project Delivery.
21	Highway Safety - Percent of state road land miles that meet ADOT&PF Standards	Decrease 1% Annually	Annually	ADOT&PF	State Performance Goal to increase to 90% the percentage of National Highway System routes that meet ADOT&PF standards.

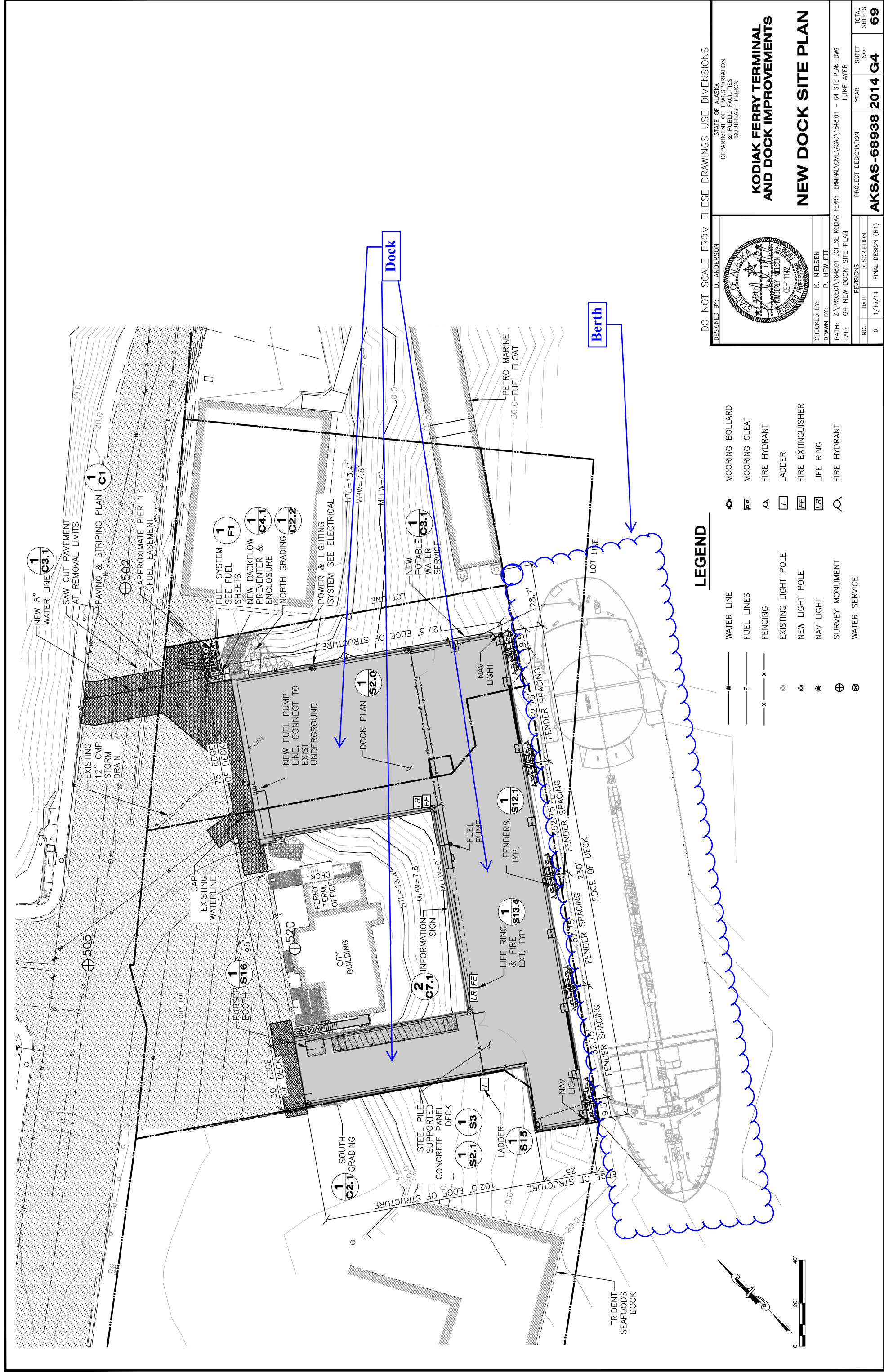
Appendix C - Performance Indicators/Measures

ID	PERFORMANCE INDICATOR/ MEASURE	GOAL	AGREED/ PROPOSED (REPORT CYCLE)	LEAD REPORTING AUTHORITY	SUPPORTING JUSTIFICATION FOR PERFORMANCE INDICATOR/MEASURE AND OTHER COMMENTS
22	Benefit/Cost Ratio of HSIP Post Construction projects	> 1.2	Annually	Traffic Operations	Evaluate 5 year trend in HSIP Post Construction Benefit Cost ratio. Evaluates performance of on-going program.
23	Run-Off-Road: # of fatalities (5-year Annual trend: % decrease/increase) SHS Only	Decrease 3% Annually	Monthly	Traffic Operations	Indicator of effectiveness of AKDOT&PF Traffic Safety Program by one of the most frequent crash types.
24	Intersection: # of fatalities (5-year Annual trend: % decrease/increase) SHS Only	Decrease 3% Annually	Monthly	Traffic Operations	Indicator of effectiveness of AKDOT&PF Traffic Safety Program by one of the most frequent crash types.
25	Pedestrian: # of fatalities (5-year Annual trend (% decrease/increase) SHS Only	Decrease 3% Annually	Monthly	Traffic Operations	Indicator of effectiveness of AKDOT&PF Traffic Safety Program by one of the most frequent crash types.

Appendix D: List of Acronyms

ADA	Americans with Disabilities Act of 1990
BMS	Bridge Management System
CE	Categorical Exclusion
CFR	Code of Federal Regulations
CMAQ	Congestion Mitigation and Air Quality Improvement Program
DBE	Disadvantaged Business Enterprise
DEIS	Draft Environmental Impact Statement
DOT	Department of Transportation
EA	Environmental Assessment
EEO	Equal Employment Opportunity
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
ER	Emergency Relief
FAHP	Federal-aid Highway Program
FAPG	Federal-aid Policy Guide
FEIS	Final Environmental Impact Statement
FHWA	Federal Highway Administration
FIRE	Financial Integrity Review and Evaluation Program
FTA	Federal Transit Administration
GARVEE	Grant Anticipation Revenue Vehicle
HBP	Highway Bridge Program
HPMS	Highway Performance Monitoring System
ITS	Intelligent Transportation Systems
LTAP	Local Technical Assistance Program
METS	Materials Engineering and Testing Services
MOU	Memorandum of Understanding
MPO	Metropolitan Planning Organization
MTP	Metropolitan Transportation Plan
NBIS	National Bridge Inspection Standards
NEPA	National Environmental Policy Act
NHS	National Highway System
OJT	On-the-Job Training
OMB	Office of Management and Budget
OTS	Office of Traffic Safety
OWP	Overall Work Program
PD&E	Project Development and Environment
PIF	Public Interest Finding
PMS	Pavement Management System
PS&E	Plans, Specifications and Estimate
ROW	Right-of-Way
SAFETEA-LU	The Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A

	Legacy for Users
SEP	Special Experimental Project
SHSP	Strategic Highway Safety Plan
SPR	State Planning and Research
SSO	Strategic Stewardship and Oversight
STIP	Statewide Transportation Improvement Plan
TEA-21	Transportation Equity Act for the 21 st Century
TIFIA	Transportation Infrastructure Finance & Innovation Act
TIP	Transportation Improvement Plan
TMA	Transportation Management Area
TMP	Transportation Management Plan
TSI	Transportation System Information
UA	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended
USC	United States Code



LEGEND

- W — WATER LINE
- F — FUEL LINES
- X — X — FENCING
- ⊙ — EXISTING LIGHT POLE
- ⊙ — NEW LIGHT POLE
- — NAV LIGHT
- ⊕ — SURVEY MONUMENT
- ⊗ — WATER SERVICE
- ⊗ — MOORING BOLLARD
- ⊗ — MOORING CLEAT
- ⊗ — FIRE HYDRANT
- ⊗ — LADDER
- ⊗ — FIRE EXTINGUISHER
- ⊗ — LIFE RING
- ⊗ — FIRE HYDRANT

DO NOT SCALE FROM THESE DRAWINGS USE DIMENSIONS
 DESIGNED BY: D. ANDERSON




KODIAK FERRY TERMINAL AND DOCK IMPROVEMENTS
NEW DOCK SITE PLAN

CHECKED BY:	K. NIELSEN				
DRAWN BY:	P. HEWLETT				
PATH:	Z:\PROJECT\1848.01 DOT SE KODIAK FERRY TERMINAL\Civil\ACAD\1848.01 - G4 SITE PLAN.DWG				
TAB:	G4 NEW DOCK SITE PLAN				
NO.	0	DATE	1/15/14	DESCRIPTION	FINAL DESIGN (R1)
PROJECT DESIGNATION	AKSAS-68938	YEAR	2014	SHEET NO.	G4
TOTAL SHEETS	69				

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Aimée Kniazowski, City Manager 

Date: July 14, 2016

Agenda Item: V. c. **First Reading, Ordinance No. 1356, Authorizing a Lease to Kodiak Maritime Museum and Art Center of a 2,000+ Square Foot Portion of Alaska Tidelands Survey No. 49 Located in St. Paul Harbor for the Thelma C Display and Rescinding Ordinance No. 1340**

SUMMARY: The Kodiak Maritime Museum (KMM) developed the idea of restoring and displaying an historic 36' fishing vessel, the Thelma C in the harbor area downtown. KMM representatives came to several City Council meetings since 2013 with their idea, which Council and harbor users supported. The KMM was given formal approval of the original lease site on the harbor spit and recently requested the location be adjusted to make the installation more affordable. Staff recommends Ordinance No. 1340 be rescinded and Ordinance No. 1356, which reflects the new location of the exhibit, be passed in the first reading and advanced to second reading and public hearing at this meeting.

PREVIOUS COUNCIL ACTION:

- January 22, 2013, KMM presented Thelma C exhibit concept and request to Council
- 2013 and 2014, KMM made additional update to Council on project and funding
- December 8, 2015, KMM made presentation to Council in preparation for introduction of long-term lease via Ordinance No. 1340, which Council supported
- December 10, 2015, Council advanced Ordinance No. 1340 to second reading and public hearing
- January 14, 2016, Council adopted Ordinance No. 1340
- KMM presented an alternative location for the exhibit to Council at several work sessions in the spring of 2016 to save on installation costs and worked with staff to find the optimum location on the spit
- July 12, 2016, Council reviewed the revised location and Ordinance No. 1356 at the work session

DISCUSSION: KMM first presented their idea to exhibit a restored 36' wooden boat in the harbor area to the Council in 2013. The vessel was built in 1965 and fished for salmon in the Kodiak area after the 1964 earthquake and tsunami. KMM believes the historic vessel represents an important era in Kodiak's fishing and maritime history, which should be shared with the community and its visitors. They worked with various partners to restore the vessel, obtained approval from the City to lease a 7,224 sf area on the spit for the display, obtained needed permits, and acquired grant funds.

KMM notified the City and Council this spring that they needed to modify the placement of the Thelma C exhibit on the spit to reduce construction costs and ensure grant funds needed for construction could be

used and not lost. The location noted in the original lease approved by Ordinance No. 1340 was too expensive to install. The board suggested moving it onto the spit without the need to sink piles or build up the area near Oscar's Dock and the green Coast Guard Buoy as identified in the original installation plans. The City Engineer and Harbormaster agreed and the optimal location was identified (Attachment B).

Staff worked with KMM to locate the new installation spot between Trident Seafoods and the channel-side boat launch area. According to Toby Sullivan, the roofed exhibit with the vessel resting in a steel cradle will remain as originally planned, but the new site will have a smaller footprint, 2,000+ sf vs. 7,224 sf for the original layout and will be much less expensive to construct.

The only differences in the documentation for the new lease are the lease number, the effective date, new exhibits, and the smaller square footage required. The lease term remains at 20 years with the option to renew for two successive five-year terms. KMM will pay an annual fee of \$10 per year for the term of the lease. All costs of operating the premises are the responsibility of KMM, including the cost for any utilities to the site. KMM is also required to have and maintain public liability and property insurance.

While important and of interest to Kodiak, the exhibit also fits well into the City's efforts at downtown revitalization. It will be an attractive and informative display for visitors and others who use and visit the downtown and harbor area.

ALTERNATIVES:

- 1) Pass Ordinance No. 1356 in the first reading and advance to the second reading at the next regular or special meeting, which is staff's recommendation, because it is consistent with expressed support over several years for this project, including support for the new location.
- 2) Postpone, or do not advance, or adopt Ordinance No. 1356, which is not recommended. This project is a good one and well supported in the community.

FINANCIAL IMPLICATIONS: The City will receive a nominal lease fee from KMM of \$10.00 per year for each year of the 20-year lease. There are no other direct or indirect financial implications to approving the ordinance and lease for this small 2,000+ sf piece of Harbor property.

LEGAL: The City Attorney assisted staff in the development of the lease language and terms and drafted the ordinance. The City must issue the 20 year, low cost lease through the ordinance process because the lease extends beyond five years, per the City Charter, Section V-17. KMM is responsible for obtaining all permits and licenses that may be required for construction and operation of this exhibit.

STAFF RECOMMENDATION: Staff recommends Council pass Ordinance No. 1356 in the first reading and advance to the second reading at the next regular or special Council meeting.

CITY MANAGER’S COMMENTS: The KMM has worked over several years to develop this exhibit idea and now it’s about to become reality. They are able, with available grant funding, to build the base and install the vessel for display more affordably in the alternate location on the spit. Completion of the exhibit will occur once KMM has secured all their funding. I recommend Council pass Ordinance No. 1356 in the first reading and advance to the second reading at the next regular or special Council meeting.

ATTACHMENTS:

- Attachment A: Ordinance No. 1356
- Attachment B: Lease with Kodiak Maritime Museum
- Attachment C: Letter of request from KMM, dated 6/28/16
- Attachment D: Ordinance No. 1340 (to be rescinded)

PROPOSED MOTION:

Move to pass Ordinance No. 1356 in the first reading and advance to the second reading at the next regular or special Council meeting.

**CITY OF KODIAK
ORDINANCE NUMBER 1356**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING A LEASE TO KODIAK MARITIME MUSEUM AND ART CENTER OF A 2,000+ SQUARE FOOT PORTION OF ALASKA TIDELANDS SURVEY NO. 49 LOCATED IN ST. PAUL HARBOR FOR THE THELMA C DISPLAY AND RESCINDING ORDINANCE NO. 1340

WHEREAS, the Kodiak City Council adopted Ordinance No. 1340 on January 14, 2016, which authorized a lease to the Maritime Museum and Art Center (“Museum”) for a 7,224 square foot portion of Alaska Tidelands Survey No. 49 located in St. Paul Harbor (“Premises”) for the Thelma C fishing boat historic exhibit; and

WHEREAS, recently revised construction estimates determined the original Premises authorized by Ordinance No. 1340 is no longer feasible for the Museum; and

WHEREAS, the Museum has identified a City-owned 2,000+ square foot site across the spit from the currently designated Premises, which would eliminate earthwork and concrete work, reducing the cost significantly; and

WHEREAS, the Museum has worked with City staff, and staff believe the proposed new Premises fits within the built environment of the harbor and would not impact any City facilities; and

WHEREAS, the Kodiak Port and Harbors Advisory Board passed a resolution approving use of the proposed new Premises for the Thelma C Project; and

WHEREAS, the City has determined that the Premises is not required for any public purpose, and that it is in the best interest of the City to authorize a lease of the Premises to the Museum.

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

Section 1: Ordinance No. 1340 is hereby rescinded.

Section 2: Notwithstanding anything to the contrary in Kodiak City Code Chapter 18.20, the Council of the City of Kodiak hereby authorizes the lease of the Premises to the Museum in the form now before this meeting (“Lease”), for a term of twenty years, plus two five-year renewal options, and the City Manager hereby is authorized, empowered and directed to execute and deliver the Lease 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 shall to her seem 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 and City Clerk, and their respective designees, each 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 said document 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:

**LEASE NO. 222854 BY AND BETWEEN
THE CITY OF KODIAK AND
KODIAK MARITIME MUSEUM AND ART CENTER**

This LEASE (the “Lease”) is entered into October 1, 2016, (the “Effective Date”) by and between the CITY OF KODIAK, an Alaska municipal corporation (“Lessor”), and KODIAK MARITIME MUSEUM AND ART CENTER, an Alaska nonprofit corporation (“Lessee”).

1. Premises. Lessor, for and in consideration of the rents, covenants, and conditions hereinafter specified to be paid, performed, and observed by Lessee, hereby leases to Lessee, and Lessee hereby leases from Lessor, the real property located in Kodiak, Alaska, more particularly described on Exhibit A and diagramed on Exhibit B, attached hereto (the “Premises”), pursuant to this Lease.

2. Use and Acceptance of Premises.

2.1 Use. Lessee may use and occupy the Premises solely to install and maintain a historic wooden fishing boat, the Thelma C, and an open air, steel and glass pavilion to shelter the boat. The Premises shall not be used for any other purpose without the prior written consent of Lessor, which Lessor may withhold in its sole discretion. Lessee shall keep the entire Premises in a clean, safe, sanitary, and orderly condition and in good maintenance, repair, and condition at all times. Lessee shall comply with all applicable federal, state, and local statutes, laws, rules, regulations, orders, and ordinances (regardless of their enactment date) affecting, in any manner or portion, the Premises, Lessee’s property, and/or Lessee’s operations. Lessee shall not use or permit any part of the Premises to be used for any unlawful or unauthorized purpose or perform, permit, or suffer any act or omission upon or about the Premises or improvements which would result in a nuisance or a violation of any applicable laws, ordinances, or regulations. Lessee shall not cause or permit any waste, damage, or injury to the Premises and shall not vacate or abandon the Premises at any time during the Term.

2.2 Acceptance. Lessee has inspected the Premises and Lessee accepts the Premises “AS IS, WITH ALL FAULTS.” Lessor makes no warranties, expressed or implied, concerning the title or condition of the Premises, including survey, access, utility availability, or suitability for use, including those uses authorized by this Lease. Lessor shall have no liability or obligation with respect to the condition, maintenance, or use of the Premises or any improvements hereafter placed on the Premises.

3. Term.

3.1 Initial Term. The initial term of this Lease shall be for a period of twenty (20) years, beginning on the Effective Date and expiring at 11:59 pm, September 30, 2036, (the “Initial Term”). On that date the lease will terminate, unless renewed as provided in Section 3.2.

3.2 Renewal Term. Lessee shall have the option to renew this Lease (“Renewal Option”) for two (2) successive five (5) year terms (each a “Renewal Term”) by giving Lessor written notice of its intent to commence a Renewal Term at least thirty (30) calendar days, but not more than sixty (60) calendar days, before the date the then current term

would otherwise expire, provided that at the time of each renewal notice and the date of commencement of each Renewal Term, Lessee is in compliance with all Lease terms. Failure of Lessee to exercise the option as to any Renewal Term shall terminate the option as to all succeeding Renewal Terms. Unless otherwise required by the context, references herein to "Term" include both the Initial Term and any Renewal Term.

3.3 Termination upon Cessation of Use. Any unexpired Term of this Lease shall terminate upon thirty (30) days notice from Lessor to Lessee if Lessee ceases to use the Premises as the site for the Thelma C fishing boat historic exhibit

4 Rent. Lessee shall pay in advance to Lessor annual rent ("Rent"), of Ten and No/100 Dollars (\$10.00) commencing on the Effective Date and due thereafter on each anniversary of the Effective Date during the Term. Rent shall be paid at the address shown in Section 17 below, or such other place as Lessor may designate in writing from time to time. All Rent shall be paid without prior demand or notice and without any deduction or offset whatsoever. All Rent shall be paid in lawful currency of the United States of America.

5. Additional Rent.

5.1. Triple Net Lease. This is a triple net Lease, and Lessee shall be responsible for all costs of operating the Premises. Any payment called for in this Lease other than Rent shall be deemed Additional Rent and shall be due as set forth in this Lease, or in the absence of a contrary provision, within ten (10) days of invoice. The failure to pay Additional Rent shall entitle Lessor to the same remedies as the failure to pay Rent.

5.2. Property Taxes and Assessments. Beginning on the Effective Date Lessee agrees to promptly pay, as Additional Rent, to the public authorities charged with the collection thereof, as the same become due and payable, all taxes, assessments (general and special), permits, inspection, and license fees and other public charges, whether of a like or different nature, levied upon or assessed against the Premises and any buildings, structures, fixtures, or improvements now or hereafter located thereon, or arising in respect to the occupancy, use, or possession of the Premises, and which are assessed and are, or may become, a lien during the Term; Lessee agrees to exhibit to Lessor, on demand, receipts evidencing payment of all taxes, assessments, and public charges so payable by Lessee.

5.3. Other Taxes. As Additional Rent, Lessee further agrees to pay any sales, use, gross receipts, or business revenues tax that may in the future be imposed by any public authority upon the rents payable to Lessor hereunder. Lessor agrees and understands that the payment of Rent to Lessor shall be net of any such tax that may be imposed upon gross rents or revenues, and those taxes shall be paid by Lessee to Lessor as Additional Rent.

5.4. Utilities. All costs for utilities and other services necessary for the operation of the Premises, improvements thereon, and Lessee's activities thereon, including without limitation water, sewer, garbage, and snow removal, shall be provided by Lessee at Lessee's sole cost and expense. Lessee shall be solely responsible, at Lessee's sole cost and expense, for necessary utility hook-ups and connections, including without limitation those necessary for water and sewer service to the Premises.

5.5. Payment by Lessor. Lessor shall have the right to pay any taxes, assessments, levies, or other charges upon the Premises, or other charges payable by Lessee under the terms of this Lease, and to pay, cancel, and clear off all tax sales, liens, charges, and claims upon or against the Premises or any building or improvement that may be placed thereon, and redeem the Premises from the same, from time to time without being obligated to inquire as to the validity of the same. Any sum so paid by Lessor shall become Additional Rent due and payable by Lessee on the next day after any such payment by Lessor.

6. Quiet Enjoyment. Lessor hereby represents and warrants to Lessee that Lessee, upon paying the Rent, Additional Rent, and other charges provided for in this Lease as well as observing and keeping all of the Lease covenants and conditions required of Lessee, shall lawfully and quietly hold, occupy, and enjoy the Premises during the Term without hindrance or interference by Lessor or by any person or entity claiming a right, title, or interest in or to the Premises through Lessor.

7. Insurance. As of the Effective Date, Lessee shall have obtained and shall maintain throughout the Term public liability insurance coverage as required under this Lease. All coverage shall be with insurance carriers licensed and admitted to do business in the State of Alaska that are acceptable to Lessor. The required lines and limits of insurance shall not be less than (1) \$1,000,000 per person, \$3,000,000 in the aggregate per accident, and \$2,000,000 property damage; or (2) amounts which the Lessor reasonably requires to adequately cover the risks involved. Upon the commencement of the first Renewal Term and each Renewal Term thereafter, upon request of either party, Lessor and Lessee shall agree upon new limits for such insurance coverage, which new limits shall, at a minimum, reflect increases (but not decreases) to the cost of living during the Renewal Term. Lessee shall procure and maintain property insurance on any buildings and improvements on the Premises in a minimum amount equal to the replacement value of such buildings and improvements, and Lessee shall name Lessor and Lessee as insureds on all insurance policies that Lessee is required to maintain under the provisions of this Section 7. Lessee shall furnish copies of certificates evidencing insurance coverage to Lessor automatically, without demand of Lessor, within thirty (30) days of the Effective Date.

8. Indemnification.

8.1 General. Lessee shall save, protect, hold harmless, indemnify, and defend Lessor, and Lessor's officers, directors, employees, agents, and shareholders, of, from, and against any and all liability, damages, demands, penalties, fines, causes of action, losses, costs, or expenses, including attorneys fees, arising from any act, omission, or negligence of Lessee or the officers, contractors, subcontractors, licensees, agents, servants, employees, sublessees, guests, invitees, visitors, customers, or trespassers of Lessee in or about the Premises or improvements located thereon, or arising from any accident, injury, or damages however and by whomever caused, to any person or property, including but not limited to damage to the Premises itself, improvements thereon, or injury to or death of persons, occurring in or about the Premises or improvements located thereon, or in any manner arising out of Lessee's use and occupation of the Premises or improvements thereon, or as a result of the condition of the Premises or improvements thereon.

8.2 Environmental. Lessee shall abide by, and shall cause its employees, agents, customers, any contractors or subcontractors it employs, and any sublessees, and its and all of their invitees and guests, to abide by all applicable rules and regulations related to fire, safety, health, and environmental protection. Lessee shall transport and dispose of any Hazardous Substances in accordance with all applicable laws. Hazardous Substances may not be used or stored on the Premises without Lessor's express written consent. Without limiting the duty to indemnify as provided in Section 8.1 above, Lessee shall save, protect, defend, indemnify, and hold harmless Lessor from and against any and all demands, claims, causes of action (whether in the nature of an action for damages, indemnity, contribution, government cost recovery, or otherwise), lawsuits, settlements, actions, damages, fines, penalties, judgments, costs, and expenses (including without limitation costs of defense, settlement, and reasonable attorneys' fees), charges, forfeitures, liens, liabilities, or losses of any nature and kind whatsoever that arise during or after the Term from or in connection with the presence or suspected presence of Hazardous Substances in the soil, groundwater, or otherwise on, above, or in the Premises, or otherwise generated from the Premises, or operations or activities thereon, or from any alleged or actual violation of an Environmental Law. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work. For purposes of this Lease, the term "Hazardous Substance" means any flammables, explosives, radioactive materials, crude or refined petroleum, pollutants, contaminants, or any hazardous, toxic, or dangerous waste, substance, or material, including asbestos, defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sec. 9601 *et. seq.*), any so-called "Superfund" or "Superlien" law, or any other Environmental Law, including, but not limited to, Alaska Statutes Title 46, Chapters .03, .08, and .09, as now or at any time hereafter in effect. For purposes of this Lease, the term "Environmental Law" means any federal, state, or local laws, ordinances, codes, regulations, rules, orders, or decrees, relating to or imposing liability or standards of conduct concerning the treatment, storage, use, or disposal of any Hazardous Substances.

8.3 Survival. All of the indemnification, defense, and hold harmless obligations in Sections 8.1 and 8.2 above survive the expiration or early termination of this Lease.

9. Inspection. Lessor and its authorized representatives and agents shall have the right, but not the obligation, to enter the Premises at any reasonable time to inspect the use and condition of the Premises; to serve, post, or keep posted any notices required or allowed under the provisions of this Lease, including notices of non-responsibility for liens; and to do any act or action necessary for the safety or preservation of the Premises.

10. Condemnation. If all of the Premises or such portion as may be required for the reasonable use of the Premises, are taken by eminent domain, this Lease shall automatically terminate as of the date Lessee is required to vacate the Premises, and all Rent shall be paid, which is due and owing through that date. In the case of a taking of less than that portion of the Premises required for the reasonable use of the Premises, then this Lease shall continue in full force and effect, and the Rent shall be equitably reduced based upon the proportion of the square footage by which the Premises is reduced, such rent reduction to be effective as of the date possession of such portion is delivered to the condemning authority. Lessor reserves all rights to just compensation and/or damage for any taking of the Premises, and Lessee hereby assigns to Lessor, and Lessee shall make no claim against Lessor, for damages arising out of the condemnation, provided Lessee shall

have the right to claim and recover from the condemning authority, to the extent permitted by law, compensation for any loss to which Lessee may be put for the improvements or for Lessee's moving expenses to the extent such damages may be claimed and awarded separately from the damages and/or compensation awarded to Lessor.

11. Assignment or Subletting. Except as provided below, Lessee shall not sublet, mortgage, pledge, or assign its rights under this Lease without the prior written consent of Lessor, which may be withheld in Lessor's sole and absolute discretion. Any purported sublease, mortgage, pledge, or assignment without Lessor's written consent shall be null and void and of no force or effect. Any permitted assignment or sublease will be subject to the terms and conditions of this Lease.

12. Liens. Lessee shall keep the Premises and any part thereof free from liens for labor or materials ordered or supplied upon the express or implied request of Lessee. Should any lien be recorded, Lessee shall forthwith and within ten (10) days of learning of the recording cause the same to be cancelled and discharged of record at Lessee's sole cost and expense.

13. Surrender of Premises. Upon the expiration or sooner termination of the Term, Lessee shall: quit and surrender the Premises to Lessor clean and in the condition existing on the Effective Date, ordinary wear and tear excepted; remove all of Lessee's property; and, at Lessor's option, remove any alteration, addition, and improvement made by Lessee, repairing all damages to the Premises caused by such removal. Any improvements or installations that are required to be removed but are not shall be deemed to have been abandoned by Lessee and may be retained or disposed of by Lessor, as Lessor shall desire and in accordance with the Kodiak City Code, but Lessee shall be responsible for the cost of restoring the Premises as well as all removal and disposal costs.

14. Holding Over. If Lessee fails to surrender the Premises at the expiration or earlier termination of this Lease, occupancy of the Premises shall be deemed to be that of a month-to-month tenancy. Lessee's occupancy of the Premises during the holdover shall be subject to all terms and provisions of this Lease, except Rent shall be 150% of the then-current Rent. No holdover by Lessee or payment by Lessee after the expiration or early termination of this Lease shall be construed to extend the Term or prevent Lessor from immediately recovering possession of the Premises by summary proceedings or otherwise.

15. Subsidence. Lessor shall not be responsible for any washout, subsidence, avulsion, settling or reliction to the Premises, or for any injury caused thereby to Lessee's or any other person's property. Lessor is not obligated to replace, refill, or improve any part of the Premises during Lessee's occupancy in the event of such washout, subsidence, avulsion, settling, or reliction.

16. Default and Remedies.

16.1 Events of Default. The occurrence of any of the following shall constitute a default by Lessee:

(a) If Lessee at any time during the Term shall fail to make payment of any installment of Rent, Additional Rent, or of any other sum herein specified to be paid by Lessee within ten (10) days after such payment is due; or

(b) If Lessee at any time during the Term shall fail to observe or perform any of Lessee's other material covenants, agreements, or obligations hereunder, and if within thirty (30) days after Lessor has provided Lessee written notice specifying the failure or failures, Lessee has not commenced to correct the same and proceeded diligently to correct the same.

16.2 Remedies. In the event Lessee is in default as defined in Section 16.1 above, Lessor shall have the right at its sole election, then or at any time thereafter, and while such default, defaults, or events shall continue, to avail itself of the following remedies:

(a) Lessor may give Lessee notice of Lessor's intention to terminate this Lease and all Lessee's rights hereunder on a date specified in such notice, which date shall be at least thirty (30) days after the date Lessor provides notice. On the date specified in the notice, the Lease Term and all rights granted Lessee hereunder shall come to an end as fully as if the Lease then expired by its own terms. Upon such termination, Lessor shall also be entitled to sue for and recover all Rent, Additional Rent, and other sums accrued up to the time of such termination, and damages arising out of any breach on the part of Lessee, including damages for Rent not then accrued; and

(b) Lessor may, upon written notice to Lessee, without terminating the Lease, immediately terminate Lessee's right to possession of the Premises and retake possession of the same and eject all persons therefrom, and Lessor may then relet or attempt to relet the Premises for the benefit of Lessee for the remainder of the Term or for a longer or shorter period as Lessor may decide is appropriate; notwithstanding the termination of Lessee's right to possession, Lessee shall nevertheless pay to Lessor on the due dates specified in this Lease all Rent, Additional Rent, and other sums required to be paid under this Lease together with the costs of reletting, less the proceeds of any reletting, and Lessee shall continue to perform all other obligations imposed on it under the Lease; and

(c) Lessor may, whether or not it has terminated this Lease or retaken possession of the Premises, sue Lessee for and recover all Rent, Additional Rent, and other sums, including damages, at any time and from time to time accruing hereunder.

17. Notices. Any and all notices and other communications under this Lease, must be in writing and will be deemed to have been duly provided when (a) delivered by hand, (b) sent by facsimile (with written confirmation of receipt), or (c) when deposited in a United States general or branch post office, enclosed in a registered or certified mail prepaid wrapper or envelope addressed as follows:

Lessor: CITY OF KODIAK
710 Mill Bay Road
Kodiak, Alaska 99615
Attention: City Manager
Facsimile: (907) 486-8600

Lessee: KODIAK MARITIME MUSEUM AND ART CENTER
500 Dog Salmon Bay Road
P.O. Box 1876
Kodiak, Alaska 99615
Attention: _____
Facsimile: (907) 486-2514

Any party may change its address or facsimile number by giving notice in accordance with this Section.

18. Miscellaneous.

18.1 Entire Agreement. This Lease contains the entire agreement between the parties with respect to the subject matter hereof, and there are no other agreements, promises, representations, or covenants of any party with respect to the matters covered by this Lease. This Lease may not be amended, modified, or terminated except by a written agreement signed by each party.

18.2 Attorneys' Fees, Costs, and Expenses. In the event either party commences legal proceedings to enforce any of the terms of this Lease, the prevailing party in such action shall receive from the other a reasonable sum for attorneys' fees and costs to be fixed by the court in the same action.

18.3 Rights and Remedies. No right or remedy conferred upon or reserved to a party hereunder is intended to be exclusive of any other right or remedy. Every right and remedy shall be cumulative and in addition to any other right or remedy provided hereunder, or now or hereafter existing at law or in equity or by statute.

18.4 No Waiver. The failure by Lessor or Lessee to insist upon the strict performance of any term hereof or to exercise any right, power, or remedy consequent upon a breach hereof, and the acceptance of Rent during the continuance of any such breach, shall not constitute a waiver by Lessor of any breach or of any term. No waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect, or the rights of Lessor or Lessee with respect to any other then-existing or subsequent breach.

18.5 Successors in Interest. This Lease shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and permitted sublessees and assigns.

18.6 Late Payment. In the event that any Rent, Additional Rent, or other amount due under this Lease is not received by Lessor when due, a late fee of one and one-half percent (1.5%) per month of the principal amount due shall be due and payable until the full amount of

Rent, Additional Rent, or other payment is received by Lessor.

18.7 Applicable Law. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Alaska.

18.8 Authority. Lessee covenants and acknowledges that it has the full, complete, and absolute authority to enter into this Lease; this Lease has been duly authorized by its governing body; this Lease is a binding and enforceable agreement of and against Lessee; and the person executing the Lease on Lessee's behalf is duly and properly authorized to do so.

18.9 No Partnership, Joint Venture, Etc. Nothing in this Lease shall be intended or deemed to create a partnership, joint venture, association, or other similar relationship between the parties hereto.

18.10 No Third Party Beneficiaries. This Lease does not create, and shall not be construed as creating, any rights or interests enforceable by any person not a party to this Lease.

18.11 Severability. If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Lease shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

18.12 No Brokers. Each party represents that it has not dealt with a broker in connection with this Lease. Each party agrees to indemnify, defend, and hold harmless the other party from claims of any person for brokerage or finder's fees or commissions or similar payments based upon any agreement or understanding alleged to have been made by any such person in connection with this Lease.

18.13 No Recording. The parties agree that this Lease shall not be recorded as a title document with any governmental authority.

18.14 Counterparts. This Lease may be executed in one or more counterparts, and delivered by facsimile or other electronic transmission, each of which when so executed shall be deemed to be an original and all of which taken together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Lease as of the Effective Date.

LESSEE:

KODIAK MARITIME MUSEUM AND ART CENTER

By: _____
Its: _____

LESSOR:

CITY OF KODIAK

By: Aimée Kniazowski, City Manager

EXHIBIT A

**A Lease Lot of land for Kodiak Maritime Museum's "Thelma C" Display,
Kodiak Spit, Kodiak Channel, City of Kodiak, Kodiak Island**

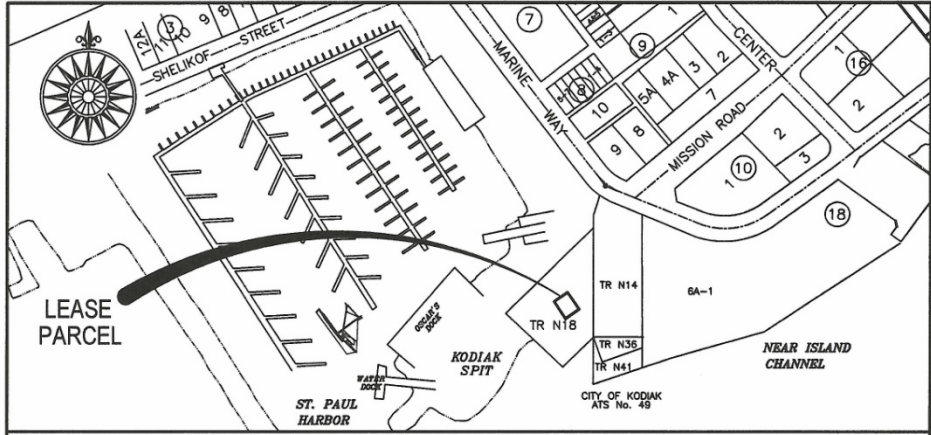
A portion of Tract N18 as described in deed book 79, page 72, of Alaska Tidelands Survey No.49, according to Plat No. 62-23, in the Kodiak Recording District, Third Judicial District, State of Alaska, more particularly described as follows:

Beginning at a brass monument for the centerline intersection of Shelikof Street and Marine Way,
Thence S 37°24'00" E 691.00 feet along centerline of Marine Way to a brass monument at the PI of centerline curve,
Thence S 19°13'19" W 276.39 feet to the true point of beginning,
Thence from said point of beginning, S 31° 19' 46" E, 50.00 feet,
Thence S 58°40'14" W, 40.00 feet,
Thence N 31°19'46" W, 50.00 feet,
Thence N 58°40'14" E, 40.00 feet, to the point of beginning containing 2,000 square feet more or less.
As shown on a sketch attached hereto and made a part of this description.

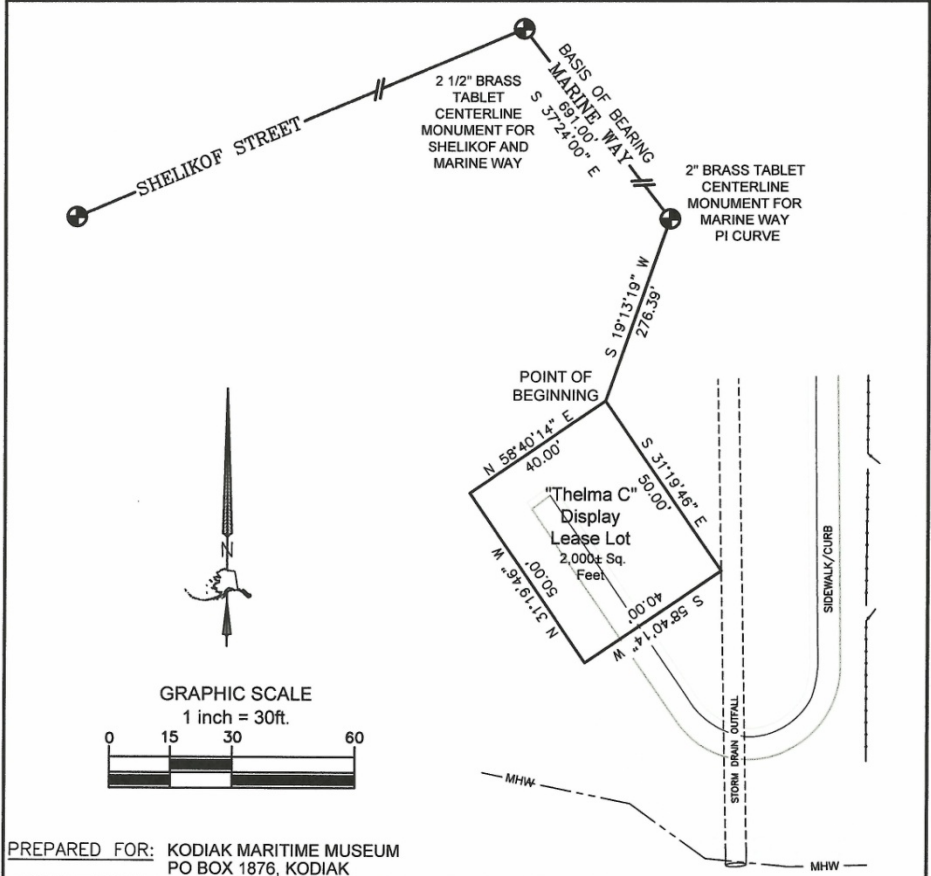
This description was written with the intent to satisfy the requirements of City of Kodiak for Lease Lots.
It is not a representation of a Land Survey with the intent to subdivide, and should not be used as such.

EXHIBIT B

SURVEY OF LEASE



VICINITY MAP SCALE 1INCH = 300FEET



PREPARED FOR: KODIAK MARITIME MUSEUM
PO BOX 1876, KODIAK

KODIAK LAND SURVEYING

P.O. BOX 2322
KODIAK ALASKA 99615
(907) 486-1945
kodiaklandsurveying@ak.net

STATE OF ALASKA
49TH
JAMES PURDY
LS 10201
Registered Professional Land Surveyor

**Kodiak Maritime Museum
Thelma C
Lease Parcel**

CHANNEL SPIT, - WITHIN
TIDELANDS TRACT N18 of ATS 49
CITY OF KODIAK, ALASKA

Scale: 1INCH = 30FEET	Date: 7.1.2016
REF: THELMAC.DWG	Drawn: JLP

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KODIAK MARITIME MUSEUM

PO Box 1876 Kodiak, AK 99615
 907-486-0384
 info@kodiakmaritimemuseum.org www.kodiakmaritimemuseum.org

Aimee Kniaziowski
 City Manager, City of Kodiak
 710 Mill Bay Rd.
 Kodiak, AK 99615

June 28, 2016

Dear Aimee-

Due to recently revised construction cost estimates of the Thelma C Project, it has become apparent to the KMM board and myself that it will be very difficult to build the exhibit on the original site on the harbor spit with the funding available. A December 2015 geotech survey by PND Engineering revealed that large armor rock underlying the designated exhibit site would make it very expensive to construct the project as planned.

However, after discussing the issue with Jim Graham at Breehan Inc., the City Engineer, and the Kodiak Harbormaster, we believe it is possible to construct the project across the spit from the currently designated site, on City owned land adjacent to the channel, between Trident Seafoods and the channel-side boat launching area. The exhibit, including the boat mounted on a steel cradle, and a roof over the boat, would remain as originally planned. This new site would eliminate a significant amount of earthwork and concrete, reducing the cost significantly.

Harbormaster Lon White believes the proposed new site for the project fits within the built environment of the harbor. The Kodiak Ports and Harbors Advisory Board passed a resolution on April 26 approving use of the new site for the Thelma C Project. The City Engineer, Glen Melvin, believes placing the project on this site would have no adverse impact on any city facilities, including the storm sewer recently installed adjacent to the new Trident Seafoods plant. Mr. Melvin also vetted the project through other city staff, including public works and the City Fire Chief. No objections were noted.

No new permitting would be required from the Corps of Engineers and no special community development permit is needed. KMM would obtain a building permit when construction begins in the fall of 2016. KMM has obtained a site survey for the new site.

Kodiak Maritime Museum is therefore asking the City of Kodiak and the Kodiak City Council to approve the new site and issue an appropriate lease in order for construction to begin in the fall.

Thank you,

Toby Sullivan
 Executive Director

**CITY OF KODIAK
ORDINANCE NUMBER 1340**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING A LEASE TO KODIAK MARITIME MUSEUM AND ART CENTER OF A 7,224 SQUARE FOOT PORTION OF ALASKA TIDELANDS SURVEY NO.49 LOCATED IN ST. PAUL HARBOR FOR THE THELMA C DISPLAY

WHEREAS, the City of Kodiak (“City”) owns a 7,224 square foot portion of Alaska Tidelands Survey No.49 located in St. Paul Harbor (“Premises”); and

WHEREAS, Kodiak Maritime Museum and Art Center (“Museum”) has requested to lease the Premises from the City as a site for the Thelma C fishing boat historic exhibit; and

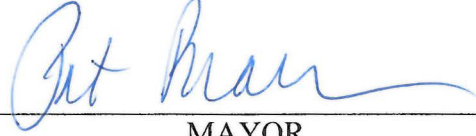
WHEREAS, the City has determined that the Premises is not required for any public purpose, and that it is in the best interest of the City to authorize a lease of the Premises to the Museum.

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 of the Premises to the Museum in the form now before this meeting (“Lease”), for a term of twenty years, plus two five-year renewal options, and the City Manager hereby is authorized, empowered and directed to execute and deliver the Lease 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 shall to her seem 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 and City Clerk, and their respective designees, each 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 said document as executed.

Section 2: 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: December 10, 2015
Second Reading: January 14, 2016
Effective Date: February 20, 2016



MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniaziowski, City Manager 
Date: July 14, 2016

Agenda Item: V. d. Resolution No. 2016–23, Authorizing Payment of Fiscal Year 2017 Nonprofit Organization Grants

SUMMARY: Each year the City Council authorizes grant payments to local nonprofit organizations. The types and levels of funding are based on the City Council’s nonprofit funding policy guidelines adopted by Resolution No. 2015–16. The policy resolution stipulates the total amount available for nonprofit grants in a given fiscal year, which equals the maximum of one percent of budgeted general fund revenues, exclusive of any fund balance appropriations. The amount available in the FY2017 budget for nonprofit grants is \$184,500. This policy eliminated the requirement that restricts funding to not more than ten percent less and/or more than the previous year funding. The elimination of this requirement is fairer to all applicants. The policy also grants agencies the ability to apply for one-time only non-operational funds for special projects when the City has additional funds available. The City received twenty applications for FY2017 from nonprofit organizations that serve Kodiak, down from the twenty-two applications last fiscal year, for a total amount requested of \$177,201. Council reviewed the applications at the July 12 work session. Council’s support for the applicants is reflected in Resolution No. 2016–23.

PREVIOUS COUNCIL ACTION:

- May 28, 2015, adopted Resolution No. 2015–16, which amended the City Council’s policy for the amount and distribution of annual grant funds to local nonprofit organizations, eliminating the requirement that restricts funding to no more than ten percent (10%) less and/or more than the previous funding year.
- July 22, 2015, reviewed FY2016 nonprofit grant applications and discussed level of support and funding amounts based on the approved FY2016 budgeted amount.
- July 24, 2015, postponed adoption of Resolution No. 2015–21 to August 13 to allow for further review and discussion with some applicant agencies.
- August 11, 2015, reviewed all applications, interviewed some agency representatives, and expressed consensus on funding as reflected in Resolution No. 2015–21.
- July 12, 2016, reviewed and discussed all applications received and expressed consensus reflected in the final version of Resolution No. 2016–23.

DISCUSSION: In April and May of 2016, staff posted the application material on the City’s web site, and emailed application packets to all nonprofit agencies that received funding and/or requested an

application. The grant application deadline was June 17, 2016, and all applications were received by the deadline.

The City received a total of twenty applications from organizations with a total of \$177,201 requested. Of these organizations, thirteen requested the same amount of funding as received last fiscal year; five requested increases in funding from the previous year; one applicant requested additional funding in the category of one-time non-operational funding; and one applicant, St. Paul Lutheran Preschool submitted a first-time request. Kodiak Kids Wrestling chose not to apply this year, as they have adequate program funds for the coming year but might need to apply in the future, and they thanked the City for its support.

Council reviewed and discussed the applications at their work session on July 12. Council came to consensus as to the funding level to be distributed to applicants and that breakdown and amount by agency is reflected in Resolution No. 2016–23.

ALTERNATIVES:

- 1) Adopt Resolution No. 2016–23 to appropriate FY2017 grant funds to local nonprofits, which is consistent with Council’s stated intent at their July 12 work session.
- 2) Amend, postpone, or do not adopt the resolution.

FINANCIAL IMPLICATIONS: This resolution will authorize funding in the amount of \$_____ to the successful applicants for FY2017. The total amount is not likely to exceed the budgeted amount of \$184,500 per the Council’s policy of an amount not-to-exceed one percent of budgeted general fund revenues, exclusive of any fund balance appropriations. If funding is supported by Council, two applicants could be funded again this year through the Tourism Fund for a total of \$14,992.

STAFF RECOMMENDATION: Staff recommends the Council adopt Resolution No. 2016–23 to authorize funding at the level Council supports.

CITY MANAGER’S COMMENTS: The City Council continues to recognize the value of supporting the efforts of local nonprofits through grant funding, in-kind awards, and other types of support throughout the year. The applications were posted on the web and mailed out to all agencies. All applications were received on time.

ATTACHMENTS:

- Attachment A: Resolution No. 2016–23
- Attachment B: Policy Resolution No. 2015–16
- Attachment C: Nonprofit Grant Application Spreadsheet FY2010-FY2017
- Attachment D: FY2017 Nonprofit In Kind Contributions

PROPOSED MOTION:

Move to adopt Resolution No. 2016-23.

JULY 14, 2016
Agenda Item V. d. Memo Page 3 of 3

**CITY OF KODIAK
RESOLUTION NUMBER 2016–23**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK
AUTHORIZING PAYMENT OF FISCAL YEAR 2017 NONPROFIT ORGANIZATION
GRANTS**

WHEREAS, the City Council recognizes and supports local nonprofit organizations and has made provisions in the Fiscal Year 2017 budget for cash contributions to these organizations; and

WHEREAS, the City Council supports these nonprofit organizations because they supplement and complement services provided by the City; and

WHEREAS, the funding criteria for cash grants from the General Fund Non-Departmental Contributions Account to nonprofit organizations is based on the criteria established in Resolution No. 2015–16; and

WHEREAS, the City Council reviewed FY2017 nonprofit grant applications at the July 12, 2016, work session and voiced a consensus to provide funding.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, hereby authorizes payment of the following nonprofit organization grants for Fiscal 2017:

Section 1. General Fund-Non-Departmental Cash Contributions (Nonprofit Organization Grants):

	FY2017 Grant Request	
<u>Youth Recreation Programs</u>		
Hope Community Resources, Inc.	2,500	
Kodiak Arts Council	2,500	
Kodiak Football League	2,500	
Kodiak Girl Scouts	2,500	
Kodiak Kid Wrestling Club	0	(Funding not needed this year)
Kodiak Little League	0	(Application not received)
Kodiak Kingfishers Swim Club, Inc	2,500	
Salvation Army	2,500	
Special Olympics, Kodiak	2,500	
St. Paul Lutheran Preschool	2,500	(New request)
<u>Adult Recreation Programs</u>		
Alutiiq Museum & Arch. Repository	4,992	(Paid from Tourism Dev. Fund last year)
Hope Community Resources, Inc.	5,000	
Kodiak Arts Council	5,000	
Kodiak Kid Wrestling Club	0	(Funding not needed this year)
Kodiak Public Broadcasting	5,000	
Maritime Museum	5,000	(Paid from Tourism Dev. Fund last year)
Senior Citizens of Kodiak, Inc.	5,000	

Special Olympics - Kodiak Area 5,000

Public Safety Support Programs (Shelter/Food)

Brother Francis Shelter – Kodiak	10,000
Humane Society of Kodiak	6,000
Kodiak Area Transit System	10,000
Kodiak Island Food Bank/Baptist Mission	4,709
Kodiak Teen Court, Inc.	5,000
Kodiak Women’s Resource and Crisis Center	10,000
Salvation Army	10,000
Senior Citizens of Kodiak, Inc.	10,000

Emergency Response Support Programs

American Red Cross of Alaska	6,500
Kodiak Public Broadcasting Company	10,000
Kodiak Women’s Resource and Crisis Center	10,000
Providence Kodiak Is Counseling/Safe Harbor	10,000
Salvation Army	10,000

One Time Funding Request

Maritime Museum (Thelma C)	10,000
Nonprofit Grant Request	177,201
FY2017 Budgeted	184,500
Difference	7,299

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Adopted:

**CITY OF KODIAK
RESOLUTION NUMBER 2015-16**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK RESCINDING RESOLUTION NO. 2014-19 AND ESTABLISHING FUNDING CRITERIA FOR NONPROFIT GRANTS

WHEREAS, the City Council recognizes and supports local nonprofit organizations and has historically made funding available to these organizations on an annual basis; and

WHEREAS, it has been determined that the appropriate total amount of City funds to grant to nonprofit organizations is a maximum of one percent of budgeted general fund revenues, exclusive of any fund balance appropriation; and

WHEREAS, City funds have been provided to nonprofit organizations that supplement and compliment the services provided to residents by the City; and

WHEREAS, it is the intent of the City Council to update this policy statement.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak, Alaska hereby establishes the following additional funding criteria for nonprofit grants provided by the City:

1. Organizations receiving funds must be legally recognized by the Internal Revenue Service.
2. Funding will be granted only for the following kinds of programs/activities and up to the maximum identified funding amount per organization and program type:

Youth Recreation Programs	\$2,500
Adult Recreation Programs	\$5,000
Public Safety Support Programs (Shelter/Food)	\$10,000
Emergency Response Support Programs	\$10,000
3. Subject to available funding, the Council may authorize a special one-time funding increase for a special project.



CITY OF KODIAK

Bob Branner

MAYOR

ATTEST:

Michelle Shunock Nelson

DEPUTY CITY CLERK

Adopted: May 28, 2015

Nonprofit Grant Funding History

Organization	Program	FY17 Req	FY16 App'd	FY16 Req	FY15 App'd	FY14 App'd	FY13 App'd	FY12 App'd	FY11 App'd	FY10 App'd
Alutiiq Museum & Archeological Repository	Adult Recreation	4,992	4,620.52	4,620.52						
American Red Cross of Alaska	Emergency Response	6,500	5,240	10,000	7,390	7,390	7,390	6,720	6,110	5,555
Brother Francis Shelter Kodiak, Inc.	Public Safety	10,000	10,000	10,000	12,238	10,000	10,000	10,000	10,000	10,000
Hope Community Resources, Inc.	Adult Recreation	5,000	5,550	21,000	5,550	5,500	5,000	4,618	4,199	3,817
Humane Society of Kodiak	Youth Recreation	2,500								
	Public Safety	6,000	5,500	10,000	5,500	5,000				
Kodiak Area Transit System (KATS)	Public Safety	10,000	10,000	10,000	10,000					
Kodiak Arts Council	Adult Recreation	5,000								
	Youth Recreation	2,500	7,500	7,500	7,500	7,500	7,500	7,500	8,134	9,037
Kodiak Football League	Youth Recreation	2,500	2,500	12,500	2,500	2,500	2,500	2,500	2,500	3,000
Kodiak Girl Scouts	Youth Recreation	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Kodiak Island Food Bank	Public Safety	4,709	4,709	4,709	5,947	4,281	4,282	3,892	3,538	3,217
Kodiak Kid Wrestling Club, Inc.		0	2,500	3,000	3,000	3,000	2,500	2,944	2,904	2,640
Kodiak Kingfishers Swim Club, Inc.	Youth Recreation	2,500	2,500	2,500	2,500	2,500	3,000	2,500	2,500	2,500
Kodiak Little League		0	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Kodiak Maritime Museum	Adult Recreation	5,000	5,000	5,000	5,000					
	One Time Funding	10,000								
Kodiak Public Broadcasting	Adult Recreation	5,000								
	Emergency Response	10,000	10,000	15,000	18,665	15,000	15,000	15,000	10,000	10,000
Kodiak Soil & Water Conserv. District		0	0	10,000						
Kodiak Teen Court	Public Safety	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	
Kodiak Women's Resource & Crisis Center	Public Safety	10,000								
	Emergency Response	10,000	20,000	20,000	20,000	20,000	20,000	20,000	10,000	10,000
Marian Center		0	0	0	3,020					
Providence Kodiak Island Counseling Center/Safe Harbor	Emergency Response	10,000	10,000	10,000	10,000					
Salvation Army	Emergency Response	10,000								
	Public Safety	10,000								
	Youth Recreation	2,500	16,401	25,900	21,788	5,500	5,500	5,000	4,513	4,103
Senior Citizens of Kodiak	Adult Recreation	5,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
	Public Safety	10,000								
Special Olympics Alaska, Kodiak Community Program	Adult Recreation	5,000	7,500	7,500	7,500	7,500	4,880	4,832	4,620	4,200
	Youth Recreation	2,500								
St. Paul Lutheran Preschool	Youth Recreation	2,500								
Threshold Services, Inc.			0	1,405.08						
	TOTALS	\$177,201	\$154,520.52	\$215,634.60	\$173,098	\$120,671	\$112,552	\$110,506	\$89,018	\$88,069

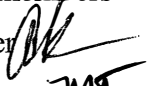

Funding from FY16 Tourism Development Fund		
Kodiak Maritime Museum	5,000	5,000
Alutiiq Museum & Archeological Repository	4,620.52	4,620.52
TOTALS	9,620.52	9,620.52

Tourism Development Fund
 New Applicant
 No application; Kodiak Kid Wrestling letter enclosed
 Kodiak Maritime Museum - One time funding request of \$10,000

Non-Profits - In Kind Contributions City of Kodiak	City Owned Land	City Owned Building	Utility Rate Code	Annual							Grant	Total
				Sewer	Water	Land/Bldg Rent	Electricity	Fuel	Total In-kind			
Baranof Museum - Kodiak Historical Society	yes	yes									FY17 Budget	
101 E Marine Way New Kodiak Block 16 Lot 2 R1220160020			B1IN	872.52	662.76	86,592.00	3,120.00	12,000.00	103,247.28	94,700.00		197,947.28
Animal Shelter	yes	yes									FY17 Budget	
2409 Mill Bay Road US Survey 3469 Unsubdivided Portion R1453000007			B1IN	872.52	994.20	24,960.00			26,826.72	121,500.00		148,326.72
Discover Kodiak	yes	yes									FY17 Budget	
106 Marine Way			B1IN						-	112,000.00		112,000.00
Kodiak Chamber of Commerce	yes	yes									FY17 Budget	
106 Marine Way			B1IN	1,745.04	1,325.52	43,008.00			46,078.56	7,000.00		53,078.56
Kodiak Head Start	yes	yes										
419 Hillside USS 2538A Tract B R1443020201			B1IN	1,745.04	1,325.52	43,416.00			46,486.56			46,486.56
FY17 Request												
Brother Francis Shelter (UT#20028-001)	yes	NO										
410 Thorseim Street Kodiak Twnst Black 15 Lot 2 R1340150020			B1IN	18,322.92	13,917.96	62,208.00			94,448.88	10,000.00		104,448.88
Ak Wing Civil Air Patrol (UT#11013-001)	yes (a)											
2411 Mill Bay Road USS 3469 USub Portion of B/O R1453000010			B1IN	872.52	662.76	33,920.76			35,456.04	-		35,456.04
Senior Citizens of Kodiak (UT#11171-001)												
309 Erskine Erskine TR A-1 Senior Center R1440000001			B1IN	3,490.08	2,651.04				6,141.12	15,000.00		21,141.12
Kodiak Women's Resource and Crisis Center (UT#11947-001)												
422 Hillside Aleutian Block 14 Lot 13 & 14 R10410140140			B1IN	872.52	662.76				1,535.28	20,000.00		21,535.28
Kodiak Women's Resource and Crisis Center (UT#11924-004)												
418 Hillside Aleutian Block 14 Lot 12 14677			SRIN	581.68	441.84				1,023.52	-		1,023.52
KMXI (UT#12187-001)												
620 Egan Way 2538 A Lot 5A-2A USS R1443000053			B1IN	872.52	662.76				1,535.28	15,000.00		16,535.28

(a) If the building is vacated, then the land and building reverts back to the City

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniaziowski, City Manager 
Thru: Mike Tvenge, Deputy City Manager 
Date: July 14, 2016

Agenda Item: V. e. Resolution No. 2016–24, Expressing a Deep Sense of Urgency for the Alaska State Legislature to Take Immediate Action During the Fifth Special Session of the 29th Legislature to Pass All Necessary Fiscal Legislation Required to Provide for a Fair, Balanced and Sustainable State Budget

SUMMARY: Governor Bill Walker and staff have created a fiscal plan towards a sustainable future for the State of Alaska. The Administration has visited communities and held numerous conferences to explain the plan they produced. During the 29th Legislative Session, the Legislature failed to enact a fiscal plan, and has now been called back to Juneau by the Governor for a fifth Special Session.

PREVIOUS COUNCIL ACTION: Governor Bill Walker and First Lady Donna Walker visited Kodiak on December 21, 2015. During a joint work session with the City Council and Borough Assembly, Governor Walker and staff addressed the state’s current fiscal position due to the precipitous drop in oil prices and announced a plan towards a sustainable fiscal future. Deputy Chief of Staff John Hozey invited the City to adopt a resolution supporting the Governor and his administration’s work towards a fiscal solution. The Mayor and Council expressed support for the adoption of such a resolution, supporting the Governor’s efforts. City Council adopted Resolution No. 2016–03 during the January 14, 2016, regular meeting.

DISCUSSION: Alaskan communities have been asked by the Governor’s administration to let the Legislature know they are concerned about the future and ask them to engage in more meaningful discussions of the State’s fiscal options during the fifth Special Session, which begins July 11, 2016.

This resolution supports the Governor’s plan of action and will hopefully gain support of the Alaska Legislature during a time where lack of action is considered irresponsible as oil prices continue to decline, rupturing the state’s financial base. The State of Alaska is by some estimates within two years of depleted reserves, leaving it in a position of reduced school funding, infrastructure deferment, capital project reductions, loss of the permanent fund dividend and loss of jobs. Alaskans need a course correction from the Legislature, and Governor Walker and this administration is proposing that action.

ALTERNATIVES:

- 1) Adopt Resolution No. 2016–24, which was suggested by the Governor’s staff. This is recommended.

- 2) Do not adopt the resolution, which is not recommended, because it would send a message that the City does not support the Governor's plan and may not support this approach to fiscal sustainability.

FINANCIAL IMPLICATIONS: Adoption of this resolution will not result in direct financial impacts to the City. However, continued low oil prices and lack of operational funds at the state level will impact the City and the shared revenues it receives from the State.

LEGAL: N/A

STAFF RECOMMENDATION: Staff recommends Council adopt Resolution No. 2016-24.

CITY MANAGER'S COMMENTS: The state is facing an ongoing budget crisis. There are tough fiscal decisions that need to be made, and while not all decisions may be popular, we must encourage our Legislators to act in the State's long-term and best interest. Therefore, I recommend Council adopt the resolution, which we will distribute once passed.

ATTACHMENT:

Attachment A: Resolution No. 2016-24

PROPOSED MOTION:

Move to adopt Resolution No. 2016-24.

**CITY OF KODIAK
RESOLUTION NUMBER 2016–24**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK EXPRESSING
A DEEP SENSE OF URGENCY FOR THE ALASKA STATE LEGISLATURE TO TAKE
IMMEDIATE ACTION DURING THE FIFTH SPECIAL SESSION OF THE 29TH
LEGISLATURE TO PASS ALL NECESSARY FISCAL LEGISLATION REQUIRED TO
PROVIDE FOR A FAIR, BALANCED, AND SUSTAINABLE STATE BUDGET**

WHEREAS, Alaska has relied predominantly on the development of its vast oil reserves to fund the majority of state government expenditures over the past 35 years, yet production of Alaskan North Slope crude oil has steadily decreased over the past 25 years; and

WHEREAS, global oil prices have dropped significantly over the past two years and are projected to remain relatively low for the foreseeable future; and

WHEREAS, the combination of reduced oil production, reduced oil prices, and an over reliance on oil revenue as state government's primary source of funding has resulted in a massive state fiscal deficit; and

WHEREAS, the State of Alaska's credit rating has dropped due to the current fiscal imbalance, and will continue to be downgraded if the Legislature fails to take appropriate action in 2016; and

WHEREAS, major business leaders in the state have warned they would be unlikely to continue making significant commercial investments in Alaska if the Legislature fails to address the fiscal deficit in 2016; and

WHEREAS, Governor Walker has introduced a complete fiscal plan to provide for a sustainable and predictable balanced budget, using the strength of our existing financial assets, a balanced blend of spending reductions, and additional new revenues; and

WHEREAS, following adjournment of the 2016 regular session and fourth special session of the 29th Legislature, the Legislature failed to enact any component of any fiscal plan, and instead continued past practice of funding the FY2017 budget from dwindling cash reserves; and

WHEREAS, cash reserves typically used to cover budget deficits are now depleted such that they are insufficient to cover next year's budget, threatening the state's annual dividend program and potentially the state's Permanent Fund itself; and

WHEREAS, every dollar of cash reserves spent on one-time budget shortfalls is then unavailable to continue working for the state as an ongoing income-producing asset in the future; and

WHEREAS, since spending down cash reserves reduces the amount of sustainable revenue we can generate from our financial assets in the future, increases in other sources of revenue (taxes) will become necessary to compensate; and

WHEREAS, without immediate enactment of a balanced fiscal plan, the Permanent Fund Dividend program will end in approximately four years, and the inevitable dramatic state cost shifts to municipalities will require significant local tax increases, endangering the viability of many Alaskan communities; and

WHEREAS, now more than ever is the time for statesmanship, not provincial politics or electioneering rhetoric. Politically difficult, but financially sound decisions are required immediately.

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

Section 1. The Council of the City of Kodiak calls upon the Alaska State Legislature to take affirmative and immediate action during the fifth special session of the 29th Legislature to enact a comprehensive package of initiatives that will provide for a sustainable, balanced state budget for the foreseeable future.

Section 2. The Council of the City of Kodiak appreciates the difficult work of the Administration to put forth one possible comprehensive fiscal solution; and while the Council may not support every aspect of this plan, does recognize it as the appropriate foundation for legislative deliberation.

Section 3. The Council of the City of Kodiak insists that the Alaska State Legislature engage in meaningful discussions of all fiscal options without regard to perceived negative political fallout.

Section 4. The City Clerk in conjunction with the City lobbyist will transmit a copy of this resolution to every member of the Alaska State Legislature, the Governor, and local and statewide media outlets.

CITY OF KODIAK

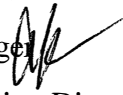
MAYOR

ATTEST:

CITY CLERK

Adopted:

MEMORANDUM TO COUNCIL

To: Mayor and City Councilmembers
From: Aimee Kniazowski, City Manager 
Thru: Corey Gronn, Parks and Recreation Director
Date: July 14, 2016

Agenda Item: V. f. **Resolution No. 2016–25, Authorizing the Issuance of a Permit to the Filipino American Association of Kodiak for the Use of Public Property to Host Its Philippine Consulate Outreach Program**

SUMMARY: The Filipino American Association of Kodiak (Fil-Am) is hosting the Philippine Consulate General from San Francisco on August 21 and August 22, 2016. The purpose of their visit is to do Consular outreach services to Filipino Americans. Fil-Am will be asking for a \$20 donation from participants. This service provides local Filipinos help obtaining and updating immigration documents without having to pay the travel expenses that otherwise would be required. This event is scheduled at the Teen Center auditorium from 8 a.m. to 6 p.m. on August 21 and 22.

PREVIOUS COUNCIL ACTION: Each year Council issues permits to non-profit organizations to allow them to conduct fundraising activities that benefit the community on City property.

DISCUSSION: The Philippine Consulate will be in Kodiak on August 21 and August 22, 2016, and the Filipino-American Association plans to host an outreach program at the Teen Center from 8 a.m. to 6 p.m. both days. The Consular outreach is designed to help the Filipino workforce in Kodiak receive assistance with immigration-related issues without the expense of traveling off island. The Consulate will collect fees for the services they provide to participants, and the Filipino-American Association will ask for a \$20 donation from people who attend to offset the costs associated with sponsoring the outreach program. As in years past, Fil-Am will use any remaining funds to supplement projects such as homelessness prevention, emergency funds, bereavement fund programs, and Filipino youth basketball.

The Fil-Am Association will work closely with the Parks and Recreation Director to prepare for the event. Fil-Am also agrees to inform participants to park either behind the Library or on the street and not in the Post Office lot adjacent to the Teen Center. Adhering to the parking requirements will eliminate the impact to the Post Office's operations and customers as has been the case in the past.

ALTERNATIVES:

- 1) Adopt Resolution No. 2016–25, allowing the Fil-Am Association to use the Teen Center to host services of the Philippine Consulate and to collect fees to cover the cost of services and

expenses. This is the recommendation of staff, because it helps support Kodiak's Filipino population.

- 2) Do not adopt Resolution No. 2016-25, which is not recommended, because it would require the Filipino-American Association to find another location to provide this service.

FINANCIAL IMPLICATIONS: None

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. Resolution No. 2016-25 complies with that requirement.

STAFF RECOMMENDATION: Staff recommends Council adopt Resolution No. 2016-25 to allow the Fil-Am Association to use the Teen Center auditorium to provide a location for the Philippine Consulate to help the Filipino community with immigration documents and to collect fees from participants.

CITY MANAGER'S COMMENTS: Council routinely authorizes the use of City property for activities hosted by non-profits and other community organizations that benefit the community. The Fil-Am Association is hosting an event again this year that will help members of the Filipino community. Although this is not a typical fundraising event, the money collected from attendees will cover the cost of services provided by the Consulate and also help offset the cost of hosting the program. As I understand it, funds in excess of the cost to put on the two-day program will be kept by the Fil-Am Association for other uses related to the needs of the Filipino community. I support staff's recommendation and recommend Council adopt Resolution No. 2016-25.

ATTACHMENTS:

Attachment A: Resolution No. 2016-25

Attachment B: Letter from Mary Guilas-Hawver, dated 6/14/2016.

PROPOSED MOTION:

Move to adopt Resolution No. 2016-25.

**CITY OF KODIAK
RESOLUTION NUMBER 2016–25**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE ISSUANCE OF A PERMIT TO THE FILIPINO AMERICAN ASSOCIATION OF KODIAK FOR THE USE OF PUBLIC PROPERTY TO HOST ITS PHILIPPINE CONSULATE OUTREACH PROGRAM

WHEREAS, the Filipino American Association of Kodiak (Fil-Am) is hosting the Philippine Consulate General from San Francisco to provide outreach services to Filipino Americans; and

WHEREAS, the Fil-Am Association has requested use of the Teen Center for this event; and

WHEREAS, the Consulate General’s visit to Kodiak alleviates the need for Filipino Americans to travel from Kodiak at great expense to process immigration-related documents; and

WHEREAS, the Consulate General will collect processing fees for services rendered; and

WHEREAS, the Fil-Am Association will request donations to help cover expenses and provide food for volunteers; 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 Fil-Am Association as provided in section 5.04.050(b) and (d) of the City Code for use of public property at the Teen Center on August 21 and August 22, 2016, from 8 a.m. to 6 p.m. each day, on the condition that the Fil-Am Association 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 the Consulate General is authorized to collect fees for services rendered, and the Fil-Am Association is authorized to collect donations to sponsor the event.

BE IT FURTHER RESOLVED that event sponsors shall coordinate the event with the Kodiak City Manager and Parks and Recreation Director and shall ensure all attendees follow the parking requirements at the Teen Center to avoid impacting the US Postal Service operations and customers.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Adopted:

Filipino American Association of Kodiak
PO Box 2279 Kodiak, AK 99615

June 14, 2016

Aimee Kniaziowski, City Manager
City of Kodiak
710 Mill Bay Rd
Kodiak, AK 99615

Dear Ms. Kniaziowski,

The Filipino American Association of Kodiak (Fil-Am) is hosting the arrival of the Philippine Consulate General from San Francisco on August 21 and 22, 2016. The purpose of their visit to Kodiak is to do Consular outreach services to Filipino Americans. The services that they will be rendering are as follows: Philippine e-passport, passport extension, legalizations of affidavits, power of attorneys and other legal documents, Dual citizenship, Trade investment and Tourism information and Overseas Absentee Voting registration.

These services have corresponding processing fees that the consulate will be collecting. The Fil-Am will be asking \$20 donation from participants, this donation will be used to help offset the cost associated with the Teen Center rental, food for the volunteers, paper products, foods to serve during the reception/swearing in of new Dual citizens, and any other unforeseen cost associated with this outreach. If there's any money left, Fil-Am will use it to supplement the worthwhile projects/programs we have and we sponsor such as homelessness prevention, emergency funds, bereavement funds programs and Filipino Youth Basketball.

Through collaboration between the Philippine Consulate and the Fil-Am, we are able to provide services to our Filipino American neighbors in Kodiak to take care of their legal document needs without having to go out of town and spend tremendous amount of money that they don't have. Getting immigration related documents updated is an ongoing stress to these community members of ours. It is something that needs to be done, otherwise the repercussion is immeasurable. Bringing the Consuls here in Kodiak is greatly appreciated, it helps ease the stress.

I am requesting the use of the Teen Center main room upstairs on August 21st (Sunday) and 22nd (Monday) 8:00AM -6:00PM for this purpose.

The Fil-Am and Philippine Consulate General appreciate your consideration of this request. Please call me if you have any questions at (907) 481-2423.

Sincerely,
Mary Guilas-Hawver, President

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimee Kniazowski, City Manager *AK*
Thru: Kelly Mayes, Finance Director *KMM*
Date: July 14, 2016

Agenda Item: V. g. **Resolution No. 2016–26, Appropriating \$165,000 From the Cargo Terminal Fund to the Cargo Development Capital Project Fund to Pay for Additional Construction and Project Management Services Needed in the Pier III Replacement, Project No. 11-07/8024**

SUMMARY: The Pier III construction project is currently in the final stages of completion. Additional funding is requested through this resolution for construction administration support through the claims and mediation process, City engineering personnel costs related to project delays, and additional construction to complete paving.

PREVIOUS COUNCIL ACTION:

- October 22, 2015, Council authorized Resolution No. 2015–31 for a transfer from the Cargo Terminal Fund to the Pier III project in the amount of \$305,000.
- February 25, 2016, Council authorized Resolution No. 2016–10 for a transfer from the Cargo Terminal Fund for Pier III project in the amount of \$350,000.

DISCUSSION: The level of effort required to administer the PPM general contract has exceeded the anticipated funding allocated for City engineering personnel services, construction administration services, and additional construction needs for asphalt. PPM is more than nine months behind their contractual final completion date. They have submitted a number of extra cost requests that have required detailed review and have raised numerous issues requiring coordination and resolution. The general contractor's schedule delays coupled with their management approach have required increased coordination and effort.

Additional management assistance is required for completion of project closeout, claims and mediation support, and resolution of financial issues. The level of funding is based on immediate needs to support City administration through the claims and mediation process, and the resolution of financial issues.

ALTERNATIVES:

- 1) Council may authorize Resolution No. 2016–26 for transfer of funds from the Cargo Terminal fund to the Pier III Replacement project, which is staff's recommendation and is consistent with past actions, and the funds are needed to continue the final stages of the project.

- 2) Delay or do not authorize the resolution. This is not recommended, as it will limit staff's ability to move through the complex process of project completion, claims and mediation.

FINANCIAL IMPLICATIONS: Staff continues to closely monitor the Pier III replacement project and fund balance of the Cargo Terminal fund. The fund balance of the Cargo Terminal fund will continue to have an excess to meet any immediate, unforeseen, future needs at this time. The transfer of funds from the Cargo Terminal fund to the Pier III Replacement Project will assist management in project closeout and resolution of outstanding financial issues.

LEGAL: N/A

STAFF RECOMMENDATION: Staff recommends Council adopt Resolution No. 2016–26 to transfer the needed funds for the Pier III project.

CITY MANAGER'S COMMENTS: This project is late, but nearing completion. However, we need more time to work through outstanding financial claims and issues with the contractor and pile supplier, as well as to complete some construction work. This addition to the project will give us funds to work through the last tasks, including needed help from our project manager during this time. Therefore, I urge Council to adopt this funding resolution.

ATTACHMENT:

Attachment A: Resolution No. 2016–26

PROPOSED MOTION:

Move to adopt Resolution No. 2016–26.

**CITY OF KODIAK
RESOLUTION NUMBER 2016–26**

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK APPROPRIATING \$165,000 FROM THE CARGO TERMINAL FUND TO THE CARGO DEVELOPMENT CAPITAL PROJECT FUND TO PAY FOR ADDITIONAL CONSTRUCTION AND PROJECT MANAGEMENT SERVICES NEEDED IN THE PIER III REPLACEMENT, PROJECT NO. 11-07/8024

WHEREAS, the Pier III replacement project identified as Project No. 11-07/8024 is several months behind schedule; and

WHEREAS, the City has been notified of increased costs for project management and additional construction elements associated with Project No. 11-07/8024 as a result of that delay; and

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

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

Section 1. The Fiscal Year 2017 Operating Budget is amended by appropriating and transferring \$165,000 from the Cargo Terminal Fund Fund Balance to the following account to pay for additional engineering and project management services needed in Pier III Replacement, Project No. 11-07/8024:

Appropriation / Transfer From:

<u>Account Description</u>	<u>Amount</u>
Cargo Fund–Appropriation of Fund Balance	\$165,000

Transfer to:

<u>Account Description</u>	<u>Amount</u>
Cargo Capital Project Fund–Pier III Construction	\$165,000

Section 2. This resolution shall become effective upon adoption.

CITY OF KODIAK

MAYOR

ATTEST:

CITY CLERK

Adopted:

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager and Debra Marlar, City Clerk
Date: July 14, 2016

Agenda Item: V. h. **Authorization of Amendment to Lease No. 219595 for City Hall Office Space in the Kodiak Island Borough Building**

SUMMARY: The previous Kodiak Island Borough (KIB) Manager and the City Manager revised the terms of a lease for office space the City occupies in the Borough Building in July 2015. The new five-year lease increased the leased office space from 3,444 sf to 4,727 sf. At the May 7, 2016, budget work session City Clerk Debra Marlar presented the need for additional records storage space to provide a safe, accessible location, and accommodate expansion of storage and the additional room for processing and shredding records. At this time there is available space in the Borough building, which meets the records program needs. Council expressed support during the budget work session to pursue two additional rooms in the Borough building for the City-wide records management program. Staff worked with the KIB Resource Management Officer for a lease amendment to the current office space agreement. Staff recommends Council approve the amendment to lease no. 219595 for City Hall Office Space in the Kodiak Island Borough Building for a new total rental space of 5,257 sf with an additional rental amount of \$1166 per month.

PREVIOUS COUNCIL ACTION:

- Council authorized the City Manager to sign a five-year lease for office space with the Borough in October of 2006.
- Council authorized the City Manager to sign the most recent five-year lease for office space with the Borough on July 28, 2011.
- Council expressed support of leasing additional office space at the work session on June 23, 2015.
- Council rescinded Lease No. 196508 and authorized Lease No. 219595 for City Hall Office space lease in the Kodiak Island Borough building in the annual amount of \$124,766, at the July 23, 2015, regular Council meeting.
- Council expressed support of leasing additional office space at the budget work session on May 7, 2016.
- Council reviewed the lease amendment for additional office space at the July 12, 2016, work session.

DISCUSSION: The City and KIB had a five-year lease for office space in the Borough Building at a lease rate of \$2.20 sf from July 2011 until July 2015. The City Manager and Borough Manager met in June 2015 to negotiate terms of a new lease and came to an agreement on a five-year lease, which was

JULY 14, 2016

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approved by Council on July 23, 2015 (Attachment B). The proposed lease amendment (Attachment A) includes the addition of two rooms and will remain at a rate of \$2.20 sf. The current lease includes office space of 3,137 sf known as Suites 210 to 222 located on the second floor and office space of 1,340 sf known as Suites 113-115, and a 553 sf conference room (Room 116) all located on the first floor of the Kodiak Island Borough Building and, in addition, a proportional fifteen percent (15%) share or 227 sf of the common areas described as the Assembly Chambers (1,515 sf .), resulting in 4727 sf of total lease area. The additional two rooms 117-118, are an additional 530 sf. This makes the total rental space 5257 sf.

The lease will continue to provide efficient office space for the Deputy City Manager, Clerks Department, and the Finance and the City staff to have their own conference space within the Borough building for departmental meetings and external meetings, as needed. The additional lease will allow for needed space to store inactive records for the City-wide records program and store them in a safe, accessible, and usable location. Currently, the inactive records are stored in a tsunami zone.

ALTERNATIVES:

- 1) Approve the lease amendment and authorize the Manager to execute the agreement, which is staff's recommendation, because it guarantees the City continued use of the existing office, meeting space, and records storage space.
- 2) Do not approve the amendment to the lease and direct staff to look elsewhere for record storage space. This is not recommended, because there is no other known and accessible location warm location for record storage out of the tsunami zone.

STAFF RECOMMENDATION: Staff recommends Council approve the amended office space lease in the Borough Building with the Kodiak Island Borough as negotiated in the amount of \$11,565.40 per month, a difference of approximately \$13,992 per year.

CITY MANAGER'S COMMENTS: I recommend Council authorize the amended lease to provide for the two additional office spaces for records storage. We need this additional space, and it will ensure the City's records are kept in a secure, easily accessible place, removing them from the van storage in the Pier II warehouse.

CITY CLERK'S COMMENTS: I recommend Council authorize the lease as negotiated. Citywide records have been held "temporarily" in storage vans inside the Pier II warehouse for many years. It is not feasible to build a separate records facility at this time, and we need to ensure City records are not being stored in a tsunami zone.

ATTACHMENTS:

- Attachment A: Amendment to the Office Lease Agreement No. 219595
- Attachment B: Current Office Space Lease Agreement No. 219595

PROPOSED MOTION:

Move to authorize the first amendment to Lease No. 219595 for City Hall Office Space in the Kodiak Island Borough Building in the amount of \$11,565.40 per month from the General Fund Nondepartmental Building Rental line item and authorize the City Manager to execute the lease amendment document on behalf of the City.

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First Amendment Between the City of Kodiak and Kodiak Island Borough

First AMENDMENT, dated July 24, 2016, (the "Amendment") to the lease for Kodiak Island Borough Office Space (the "lease") between the CITY OF KODIAK (the "tenant") and Kodiak Island Borough (the "landlord"), dated July 24, 2015.

WHEREAS, the lease provides for the landlord to lease office space to the tenant for a term expiring on June 30, 2020; and

WHEREAS, the tenant would like to rent additional office space.

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

Terms of Section 1 and 4 are amended to read as follows:

Section 1. Premises. Landlord, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by Tenant, does hereby let, lease and demise to Tenant the improved real estate described as follows:

Office space of 3,137 square feet known as Suites 210 to 222 located on the second floor, and office space of 1340 square feet known as Suites 113-115, 117-118 and a 553 square foot conference room (Room 116) all located on the first floor of the Kodiak Island Borough Building and, in addition, a proportional fifteen percent (15%) share or 227 square feet of the common area described as the Assembly Chambers (1,515 sq. ft.), resulting in 5257 square feet of total lease area. The Premises is located at 710 Mill Bay Rd., which is also the following described real property:

Lot Seven A (7A), USS 2538A, Township 27S, Range 19W, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

The aforesaid office space and common area, hereinafter referred to as the leased premises, is more specifically depicted or outlined on the floor plan attached hereto as Exhibit A.

Tenant, upon paying the rents, and performing all of the terms and covenants on this part to be performed, shall peaceably and quietly enjoy the leased premises subject nevertheless, to the terms of this lease, and to any deed of trust or mortgage to which this lease is subordinated.

Section 4. Rental. In consideration of the demise and leasing of the premises aforesaid by Landlord, the Tenant covenants, stipulates and agrees to pay to the Landlord as rental for said premises hereinabove described, at the rate of two dollars and twenty cents (\$2.20) per square foot, the sum of eleven thousand five hundred sixty five dollars and forty cents (\$11,565.40) the for office space, conference room and proportional common area use monthly in advance, on or before the first day of each month of the lease term.

**First Amendment
Between the City of Kodiak and Kodiak Island Borough**

All rentals, unless and until otherwise directed in writing by Landlord, shall be paid to the Landlord at 710 Mill Bay Road, Kodiak, Alaska 99615, or at such other place as Landlord may designate from time to time in writing.

Landlord reserves the right to increase the rent cost per square foot based on utility cost increases on an annual basis. A ninety (90) day notice will be provided to tenant before the change is made.

All other terms and provisions of the Lease Agreement Between the City of Kodiak and Kodiak Island Borough, City Record No. 219595/Borough Contract #FY2016-14 effective July 24, 2015, shall remain unchanged.

Dated this _____ day of _____, 2016

City of Kodiak
"City"

By _____
Aimee Kniazowski,

Title: City Manager

Dated this _____ day of _____, 2016

Kodiak Island Borough
"Borough"

By _____
Michael Powers,

Title: Borough Manager

Contract # PV2016-14

LEASE AGREEMENT

THIS LEASE AGREEMENT is made this 24th day of July, 2015, by and between THE KODIAK ISLAND BOROUGH, a borough organized under the laws of the state of Alaska, hereinafter called Landlord, and City of Kodiak, hereinafter called Tenant.

For and in consideration of the covenants, rents and demises, and upon the terms and conditions hereinafter set forth, the parties agree as follows:

1. Premises. Landlord, for and in consideration of the rents, covenants and conditions hereinafter specified to be paid, performed and observed by Tenant, does hereby let, lease and demise to Tenant the improved real estate described as follows:

Office space of 3,137 square feet known as Suites 210 to 222 located on the second floor, and office space of 810 square feet known as Suites 113-115 and a 553 square foot conference room (Room 116) all located on the first floor of the Kodiak Island Borough Building and, in addition, a proportional fifteen percent (15%) share or 227 square feet of the common areas described as the Assembly Chambers (1,515 sq. ft.), resulting in 4,727 square feet of total lease area. The Premises is located at 710 Mill Bay Rd., which is also the following described real property:

Lot Seven A (7A), USS 2538A, Township 27S, Range 19W, Seward Meridian, Kodiak Recording District, Third Judicial District, State of Alaska.

The aforesaid office space and common area, hereinafter referred to as the leased premises, is more specifically depicted or outlined on the floor plan attached hereto as Exhibit A.

Tenant, upon paying the rents, and performing all of the terms and covenants on this part to be performed, shall peaceably and quietly enjoy the leased premises subject nevertheless, to the terms of this lease, and to any deed of trust or mortgage to which this lease is subordinated.

2. Term of Lease. The term of the lease shall be for the period of five (5) years following the commencement of the term, unless sooner terminated as hereinafter provided. The term of the lease shall commence on July 24, 2015, and shall expire at 5:00 P.M., Alaska Standard Time on June 30, 2020.

In the event the foregoing commencement provision results in a commencement date other than on the first day of a calendar month, the rent shall be immediately paid for such initial fractional month prorated on the basis of a thirty (30) day month.

3. Termination of Lease. Both parties have the right to terminate this lease with ninety (90) days written notification.

4. Rental. In consideration of the demise and leasing of the premises aforesaid by Landlord, the Tenant covenants, stipulates and agrees to pay to the Landlord as rental for said premises hereinabove described, at the rate of two dollars and twenty cents (\$2.20) per square foot, the sum of ten thousand three hundred and ninety –seven dollars and twenty cents

(\$10,397.20) for office space, conference and proportional common area use monthly in advance, on or before the first day of each month of the lease term.

All rentals, unless and until otherwise directed in writing by Landlord, shall be paid to the Landlord at 710 Mill Bay Road, Kodiak, Alaska 99615, or at such other place as Landlord may designate from time to time in writing.

Landlord reserves the right to increase the rent cost per square foot based on utility cost increases on an annual basis. A ninety (90) day notice will be provided to tenant before the change is made.

5. Alteration of Premises. Tenant shall not make any alterations, additions, or improvements in or to the leased premises without first obtaining the written consent of Landlord. Any such alterations, additions and improvements consented to by Landlord shall be made at Tenant's expense. Tenant shall secure all governmental permits required in connection with such work, and shall hold Landlord harmless from all liability and liens resulting therefrom. All alterations, additions and improvements, except trade fixtures and appliance and equipment which do not become attached to the building, shall immediately become a part of the realty and the property of the Landlord without obligation to pay therefore, except that Landlord may require removal of all or part thereof by Tenant at the termination of the lease, at Tenant's expense, and Tenant shall pay for or repair any damages to the leased premises, including, without limitation, any necessary patching, repainting, and repairing caused by such removal. Upon removal of the trade fixtures and appliances and equipment which do not become attached to the building, Tenant shall restore the leased premises to the same condition that they were in prior to the installation of said items, including, without limitation, any necessary patching, repainting and repairing. Any trade fixtures, appliances, equipment or other property not removed from the leased premises by Tenant upon termination of the lease shall be deemed abandoned by Tenant, provided that Tenant shall save Landlord harmless from any loss, cost, or damage arising from Tenant's failure to remove such items.

6. Use of Premises. The leased premises shall be used for general office space and meetings, and for no other purpose, without the prior written consent of Landlord. Tenant shall not use or permit the leased premises or any part thereof to be used for any purpose in violation of any municipal, borough, state, federal or other governmental law, ordinance, rule or regulation. Tenant agrees that Tenant, together with all other persons entering and/or occupying the leased premises at Tenant's request or with Tenant's permission, will abide by, keep and observe all reasonable rules and regulations which Landlord may make from time to time for the management, safety, care and cleanliness of the building, and the preservation of good order therein, as well as for the convenience of other occupants and tenants of the building, and for the use of any parking areas adjacent to the building. The violation of any such rules and regulations shall be deemed a material breach of the lease by the Tenant. Tenant shall not, without Landlord's prior written consent, use, operate or install any electrical or mechanical equipment, machinery, or mechanical devices in the leased premises, except in compliance with the highest standards applicable to the leased premises, except in compliance with the highest standards applicable to the use, operation, or installation of such equipment, machinery or devices, generally recognized by the profession or industry in which Tenant is engaged, nor shall Tenant use the leased premises, or any machinery or equipment therein, in such a manner as to cause substantial noise or vibration, or unreasonable disturbance to other tenants in the building.

In the event Tenant's use of the leased premises causes an increase in Landlord's fire or hazard insurance premiums; Tenant shall reimburse Landlord for the amount of such increase.

7. Taxes. Tenant shall pay any and all taxes levied on personal property and trade or other fixtures in the leased premises, and any license and excise fees and occupation taxes covering business conducted on the leased premises, and as additional rent, an amount equal to any sales taxes on rentals payable hereunder.

8. Utilities. Landlord shall furnish, at its expense, the following utilities and services for normal office use of the leased premises:

(a) Electricity for normal lighting, air conditioning, and office use. Special or additional electrical requirements shall be paid by Tenant.

(b) Heat, snow removal for common areas, and sewer and water based on normal office use.

(c) Janitorial service for the leased premises on a five-day-a-week basis, and periodic exterior window washing.

(d) Refuse collection based on normal office use. Tenant shall provide at his expense all other utilities and services used at the leased premises.

Landlord shall not be liable for any loss or damage caused by or resulting from any variation, interruption or failure of said utilities or services, arising from any cause, condition or event; and no variation, interruption or failure of such utilities and services incident to the making of repairs, alterations, or improvements, or arising from any accident, strike, condition, cause or event in whole or in part beyond the reasonable control of Landlord shall be deemed an eviction of Tenant or relieve Tenant from any obligation hereunder.

9. Maintenance and Repairs. Landlord shall, at its expense, maintain and keep in good repair the foundations, exterior walls, roof and other structural portions of the building. Tenant shall, at its expense, maintain the interior of the leased premises at all times in good condition and repair, all in accordance with the laws of the State of Alaska and all directions and regulations of governmental agencies having jurisdiction hereof. Tenant shall commit no waste of any kind in or about the leased premises, and Tenant shall pay for all damage to the building, as well as damage to tenants or occupants hereof, caused by Tenant's misuse or neglect of the leased premises, its apparatus or appurtenances. At the expiration of the term hereof, or on the termination of this lease, Tenant shall surrender the leased premises, its apparatus or appurtenances. At the expiration of the term hereof, or on the termination of this lease, Tenant shall surrender the leased premises in good and clean condition, normal wear and tear excepted.

Landlord shall maintain and repair all plumbing, lines and equipment installed for the general supply of hot and cold water, heat, ventilation and electricity, except that Tenant shall be responsible for any and all maintenance and repairs attributable to obstruction or objects deliberately or inadvertently introduced or placed in the fixtures, lines or equipment by Tenant, his employees, agents, licensees or invitees.

Landlord shall not be responsible or liable at any time for any loss or damages to Tenant's equipment, fixtures or other personal property of Tenant or to Tenant's business except to the extent attributable to Landlord's negligence.

Landlord shall not be responsible or liable to Tenant or to those claiming by, through or under Tenant for any loss or damages to either the person or property of Tenant that may be

occasioned by or through the acts or omissions of persons occupying other portions of the building.

Landlord shall not be responsible or liable for any defect, latent or otherwise, in the building in which the leased premises is situated, or any of the equipment, machinery, utilities, appliances or apparatus therein nor shall it be responsible or liable for any injury, loss or damage to any person or to any property of Tenant or other person caused by or resulting from bursting, breakage or by or from leakage, stream or snow or ice, running or the overflow of water or sewerage in any part of said leased premises, the building, or the surrounding area, or for any injury or damage caused by or resulting from acts of nature or the elements, or for any injury or damage caused by or resulting from any defect in the occupancy, construction, operation or use of any of said leased premises, building, machinery, apparatus or equipment by any person or by or from the acts or negligence of any occupant of the premises, unless Landlord itself is negligent.

10. Fire and Other Casualty. Should the leased premises be damaged by fire or other casualty, and if the damage is repairable within four (4) weeks from the date of occurrence (with the repair work and the preparations therefore to be done during regular working hours on regular work days), the damages shall be repaired with due diligence by Landlord, and in the meantime the monthly rental shall be abated in the same proportion that the untenable portion of the leased premises bears to the whole thereof. Should the leased premises be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within the four (4) weeks of the occurrence, Landlord shall have the option to terminate this lease, and Landlord shall advise Tenant within thirty (30) days after the happening of any such damage whether Landlord has elected to continue this lease in effect or to terminate it. If Landlord shall elect to continue this lease in effect, it shall commence and prosecute with reasonable diligence any work necessary to restore or repair the leased premises. If Landlord shall fail to notify Tenant of its election within said thirty-day period, Landlord shall be deemed to have elected to terminate this lease, and the lease shall thereafter automatically terminate. The commencement by Landlord of repair work shall be deemed to constitute notice that Landlord has elected to restore or repair the leased premises. For the period from the occurrence of any damage to the leased premises to the date of completion of the repairs (or to the date of termination of the lease if Landlord shall elect not to restore the leased premises), the monthly rental shall be abated in the same proportion as the portion of the leased premises bears to the whole thereof.

In the event restoration or repair is delayed by acts or omissions of Tenant, there shall be no abatement of rental during the period of such delay. If the fire or damage is caused by the carelessness, negligence or improper conduct of Tenant, then notwithstanding other provisions of this lease, Tenant shall remain liable for the rent, without abatement, during any period of repair or restoration.

If the Landlord, in its discretion, shall decide within thirty (30) days after the occurrence of any fire or other casualty in the building, even though the leased premises may not have been affected by such fire or other casualty, to demolish, rebuild or otherwise replace or alter the building containing the leased premises, then upon written notice given by Landlord to Tenant, this lease shall terminate on a date specified in such notice, but no sooner than thirty (30) days from the date of such notice, as if that date had been originally fixed as the expiration date of the term herein leased. Tenant and Landlord hereby mutually release each other from liability and

waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance policies, including any extended coverage and endorsements thereto; provided, however, that this paragraph shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of Landlord or Tenant.

Restoration or repair work conducted in the common areas, in areas of the building unleased, or leased to other tenants, or the noise or interference arising therefrom, shall not be deemed an eviction of Tenant, or a breach of this lease, but Tenant's obligation to pay rent shall be abated during such period of time as Tenant is unable to conduct business at the leased premises by reason of actual physical interference with use of the leased premises as a result of such restoration or repair work.

11. Subletting and Assignment. Tenant shall not sublet the leased premises, or any part thereof, or assign this lease or any part thereof, nor shall this lease be assigned in whole or in part by operation of law or through any court proceedings, without the prior written consent of Landlord to such subletting or assigning; any such assignment or sublease without Landlord's written consent shall be void.

If Tenant is a corporation, any merger, consolidation, or dissolution to which it is a party, or any change in ownership of a majority of its voting stock outstanding, shall constitute an assignment of this lease for purposes of this paragraph.

12. Indemnification. Tenant agrees to protect, defend, indemnify and save harmless Landlord from and against any and all claims (no matter how meritless) demands, and causes of action of any nature whatsoever, and any expenses incident to defense of and by Landlord therefrom, for injury to or death of persons or loss of or damage to property occurring on the leased premises, or in any manner arising out of Tenant's use and occupation of said premises, or the condition thereof, during the term of this lease. Tenant shall procure and maintain public liability insurance coverage, naming Landlord as an insured, which coverage, pertaining to the leased premises, shall not be less than \$250,000 per person for bodily injury or death, \$500,000 per occurrence for bodily injury or death, and \$100,000 for property damage. Landlord shall be an additional named insured in such policy or policies. Such policy or policies shall be written by a responsible insurance company or companies satisfactory to Landlord. Upon the signing of this Agreement, certificates of insurance showing compliance with the foregoing requirements shall be furnished by Tenant to Landlord for approval. Certificates shall state that the policy or policies will not be canceled or altered without at least thirty (30) days, prior written notice to Landlord. Maintenance of such insurance and the performance by Tenant of the obligation under this paragraph shall not relieve Tenant of liability under this indemnity agreement.

13. Common Areas and Facilities. Designated common areas for which Tenant will pay based on proportional use of fifteen percent (15%) are the Assembly Chambers, as indicated in Section 1. All common areas and common facilities in or about the leased premises and the building shall be subject to the exclusive control, scheduling and management of Landlord, with the understanding that the proportional use of the Assembly Chambers by the City Council based on a schedule submitted to the Borough Clerk will take priority over any other use except use by the Kodiak Island Borough. Landlord shall have the right to construct, maintain and operate lighting and other improvements on all said areas; to change the area, level, location and

arrangement for common areas and other facilities and temporarily to close the common areas to effect such changes.

All common areas and facilities which Tenant may be permitted to use and occupy are to be used and unoccupied under a revocable license, which shall not be unreasonably revoked, and if any such license be revoked or if the amount of such areas be changed or diminished, Landlord shall not be subject to any liability nor shall Tenant be entitled to any compensation or diminution or abatement of rent nor shall revocation or diminution of such areas be deemed constructive or actual eviction.

14. Liens. Tenant will not permit any mechanics', laborers' or material men's liens to stand against the leased premises or improvements for any labor materials furnished to Tenant or claimed to have been furnished to Tenant, or to Tenant's agents, contractors, or sublessee, in connection with work of any character performed or claimed to have been performed on said premises or improvements by or at the direction of sufferance of Tenant; provided, however, Tenant shall have the right to contest the validity or amount of any such lien or claimed lien. In the event of such contest, Tenant shall give to Landlord such reasonable security as may be demanded by Landlord to insure payment of such lien or such claim of lien. Tenant will immediately pay any judgment rendered with all proper costs and changes and shall have such lien released or judgment satisfied at Tenant's own expense.

The foregoing provisions respecting liens shall apply to all liens, of any kind or nature asserted against the leased premises or improvements thereon, including liens arising out of, incident to, or connected with the use and occupation of the leased premises by Tenant.

15. Default. If Tenant at any time during the term of this lease (and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency, or other proceedings, in law, in equity, or before any administrative tribunal, which have or might have the effect of preventing Tenant from complying with the terms of this lease) shall:

(a) Fail to make payment of any installment of rent or of any other sum herein specified to be paid by Tenant, and Tenant fails to cure such default within ten (10) days after such failure to make payment; or

(b) Fail to observe or perform any of Tenant's other covenants, agreements, or obligations hereunder, and if within thirty (30) days after Landlord shall have given to Tenant written notice specifying such default or defaults, Tenant shall not have commenced to cure such default and proceed diligently to cure the same; or

(c) If Tenant has filed a Petition under Chapter 11 of Bankruptcy Act, 11 O.S.C. 701 et seq., or a voluntary petition under any other provision of said Bankruptcy Act, or if Tenant finally and without further possibility to appeal or review:

(1) is adjudicated as bankrupt or insolvent; or

(2) has a receiver appointed for all or substantially all of its business or assets on the ground of Tenant's insolvency; or

(3) has itself appointed as a debtor-in-possession; or

(4) has a trustee appointed for it after a petition has been filed for Tenant's reorganization under the Bankruptcy Act of the United States known as the Chandler Act or any future law of the United States having the same general purpose; or

(5) if Tenant shall make an assignment for the benefit of creditors, then in any such event Landlord shall have the right at its election, then or at any time thereafter, and while such default, defaults or events shall continue, to give Tenant notice of Landlord's intention to terminate this lease and all Tenant's rights hereunder, on a date specified in such notice, which date shall not be less than ten (10) days after the date of giving of such notice, and on the date specified in such notice, the term of this lease and all rights granted Tenant hereunder shall come to an end as fully as if the lease then expired by its own terms, and Tenant hereby covenants peaceable and quietly to yield up and surrender to Landlord said leased premises and all structures, buildings, improvements and equipment located thereon, and to execute and deliver to Landlord such instrument or instruments as shall be required by Landlord as will properly evidence termination of Tenant's rights hereunder or its interest therein. In the event of termination of this lease as in this paragraph above provided, Landlord shall have the right to repossess the leased premises and such structures, buildings, improvements and equipment, either with process of law or through any form of suit or proceeding, as well as the right to sue for and recover all rents and other sums accrued up to the time of such termination, and damages for rent not then accrued. Landlord shall also have the right, without resuming possession of the premises or terminating this lease, to sue for and recover all rents and other sums, including damages, at any time and from time to time accruing hereunder.

16. Notices. Any and all notices required or permitted under this lease, unless otherwise specified in writing by the party whose address is changed, shall be mailed, certified or registered mail, or delivered, to the following addresses:

LANDLORD:
Kodiak Island Borough
710 Mill Bay Road
Kodiak, Alaska 99615

TENANT:
City of Kodiak
PO Box 1397
Kodiak, Alaska 99615

Any such notices shall be deemed effective on the date of mailing or delivery.

17. Costs Upon Default. In the event either party shall be in default in the performance of any of its obligations under this lease or an action shall be brought for the enforcement thereof, the defaulting party shall pay to the other all the expenses incurred therefor, including a reasonable attorney's fee.

In the event either party shall without fault on its part be made a party to any litigation commenced by or against the other, then such other party shall pay all costs and reasonable attorney's fees incurred or paid by such party in connection with such litigation.

18. Rights or Remedies. Except insofar as this is inconsistent with or contrary to any provision of this lease, no right or remedy herein conferred upon or reserved to Landlord is intended to be exclusive of any other right or remedy, and each and every right and remedy shall be cumulative and in addition to any other right or remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

19. Waiver and Forbearance. Except to the extent that Landlord may have otherwise agreed in writing, no waiver by Landlord of any breach by Tenant of any of its obligations, agreements or covenants hereunder shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, agreement or obligation. Nor shall any forbearance by Landlord to seek a remedy for any breach of Tenant be deemed a waiver by Landlord of its rights or remedies with respect to such breach.

20. Inspection. Landlord shall at all reasonable times during Tenant's business hours have access to the premises for the purpose of inspection. Landlord shall also be entitled to put "to lease" or "for lease" signs in and about the leased premises, and to show the leased premises to prospective tenants, during the last sixty (60) days of the lease term and any extended term, and during any period of time after Landlord has given Tenant a notice of intention to terminate under paragraphs 15 and 3 of this lease.

21. Notices of Nonresponsibility. Landlord may enter the demised premises at any time for the purpose of posting notices of nonresponsibility.

22. Successors in Interest. This lease shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

23. Holding Over. In the event that the Tenant holds over at or after the end of the term, the tenancy shall be needed a month-to-month tenancy commencing on the first day of the holdover period.

24. Signs. Landlord shall provide one sign for the Tenant. Tenant agrees that any other sign or signs installed on the demised premises shall be with the consent of the Landlord.

25. Memorandum of Lease. Tenant agrees that Tenant will not record this lease. At the request of either Landlord or Tenant, the parties shall execute a memorandum lease for recording purposes in lieu of recording this lease, in such form as may be satisfactory to their respective attorneys.

26. Estoppel Certificates. Tenant shall, at any time and from time to time upon not less than fifteen (15) days' prior request by Landlord execute, acknowledge and deliver to Landlord a statement in writing certifying that this lease is in full force and effect and unmodified (or in full force and effect and modified and stating the modifications), the dates to which the rent(s) and any other charges have been paid in advance, the date Tenant entered into occupancy of the leased premises and the date the lease term expires, the nature and amount of any claims of Tenant against Landlord arising as a result of this lease, and the existence and nature of any defenses or offsets claimed by Tenant against enforcement of this lease by Landlord; it being intended that any such statement delivered pursuant to this paragraph may be relied upon by any prospective purchaser or encumbrancer (including assignees) of the premises. In the event Tenant fails so to certify within such fifteen (15) day period, Tenant shall be deemed to have certified and admitted the accuracy of information submitted by Landlord in good faith to any prospective purchaser or encumbrancer in respect to this lease.

27. Excuse for Nonperformance. Either party hereto shall be excused from performing any or all of its obligations hereunder with respect to any repair and construction work required under the terms of this lease for such times the performance of any such obligation is prevented or delayed by an act of God, floods, explosion the elements, war, invasion, insurrection, riot, mob violence, sabotage, terrorist activity, inability to procure labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action by labor unions, or laws or order of governmental agencies, or any other cause whether similar or dissimilar to the foregoing which is not within the reasonable control of such party.

28. Construction of Lease. This lease shall be governed by and construed in accordance with the laws of the State of Alaska.

Words of gender used in this lease shall mean and include any other gender, and singular shall mean and include the plural and the plural the singular, where applicable, and when the sense requires.

29. Security Deposit. An essential inducement to Landlord from Tenant for this lease is a security deposit by Tenant in the amount of No Dollars (\$0.00). Said deposit for security is for the full and faithful performance by the Tenant of all the covenants and terms of this lease required to be performed by Tenant. Such security deposit shall be applied to the last month's rental after the expiration of this lease if Tenant has fully and faithfully carried out all of its covenants and terms. If Tenant does not fully and faithfully perform the covenants and terms of this lease, Landlord may apply the aforementioned security deposit against damages resulting from breaches of Tenant. In the event all or part of the security deposit is so applied, Tenant shall, upon demand, promptly pay to Landlord such amount as may be necessary to replenish the security deposit to its original amount.

In the event of a bona fide sale of the property of which the leased premises are a part, the Landlord shall have the right to transfer such security deposit to purchaser to be held under the terms of this lease, and, in that event, the Landlord shall be released from all liability for the return of such security deposit to the Tenant.

The Tenant may not assign or encumber the money deposited as security, and neither the Landlord nor its successors or assigns shall be bound by any such assignment or encumbrances.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this 24 day of July, 2015.

TENANT:

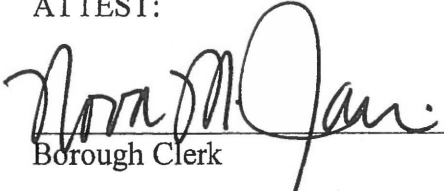
ATTEST:


City Clerk


City Manager

LANDLORD:
THE KODIAK ISLAND BOROUGH

ATTEST:


Borough Clerk

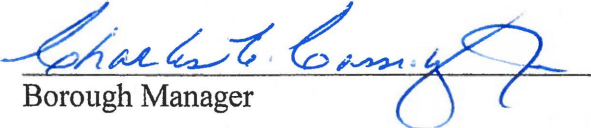
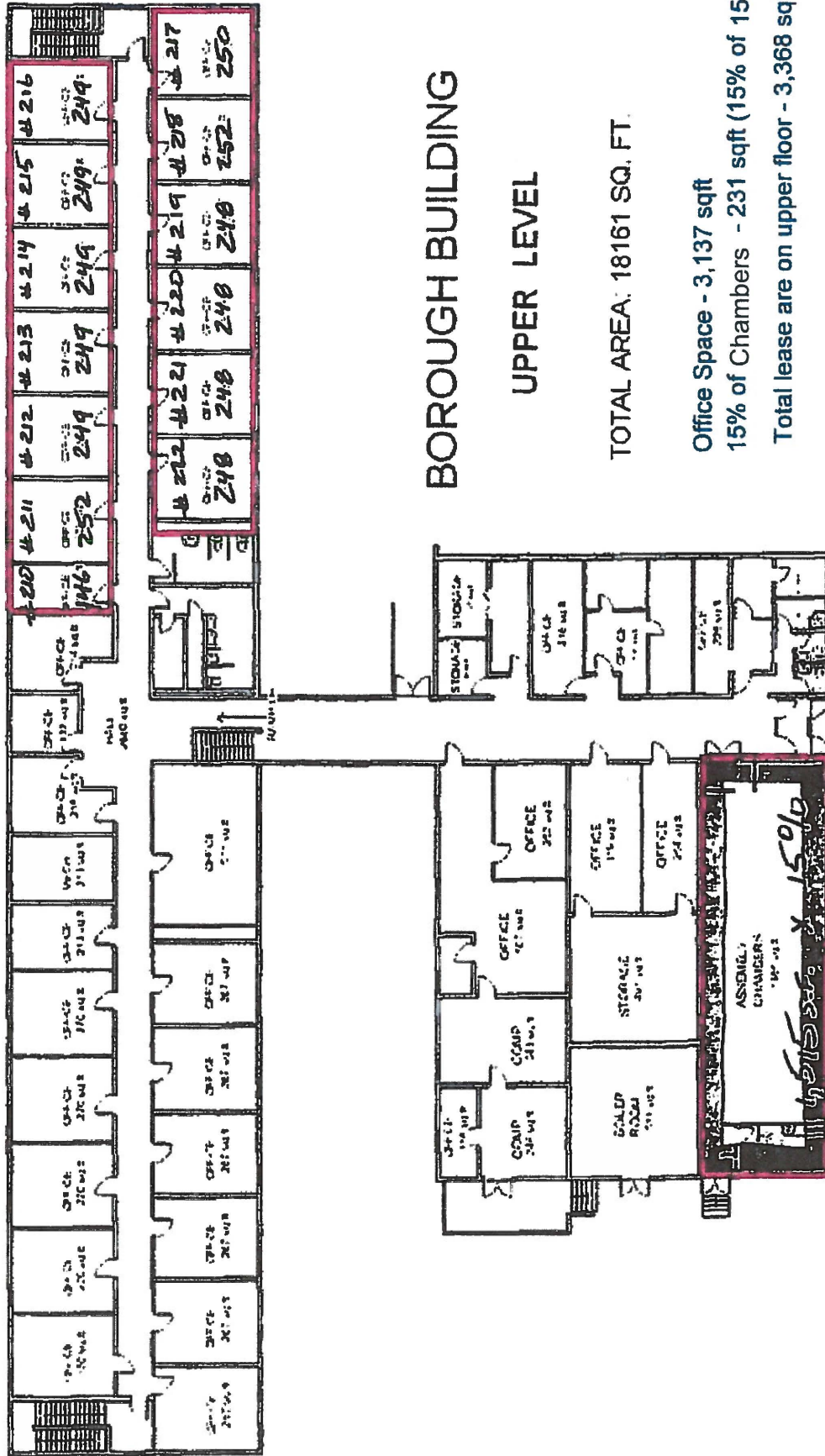

Borough Manager



EXHIBIT "A" (1 OF 2)



BOROUGH BUILDING

UPPER LEVEL

TOTAL AREA: 18161 SQ. FT.

Office Space - 3,137 sqft

15% of Chambers - 231 sqft (15% of 1538)

Total lease are on upper floor - 3,368 sqft

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Council members
From: Aimée Kniazowski, City Manager *AK*
Thru: Ronda Wallace, Chief of Police
Date: July 14, 2016

Agenda Item: V. i. Authorization of Amendment 3 to the Five-Year Regional and Community Jail Contract

SUMMARY: The City of Kodiak is in year four of a five-year contact with the Department of Corrections (DOC) for the Regional and Community Jail Program. DOC has brought forward an amendment (Attachment A) to the contract for FY2017. The amended contract amount for the term beginning July 1, 2017 is \$991,552; this is the same funding amount as FY2016. Staff recommends Council authorize the approval of the FY2017 professional services contract with the Alaska Department of Corrections to provide Regional and Community Jail Services.

PREVIOUS COUNCIL ACTION:

- The Council reviewed and approved a five-year Regional and Community Jail Services contract for persons held for violation of law on the June 27, 2013, regular meeting.
- The Council reviewed and approved an amendment to the five-year Regional and Community Jail Services contract June 24, 2015, for \$991,552.00 for FY2016.

DISCUSSION: The Alaska Department of Corrections (DOC) received 33.25 percent less funding to support the Regional and Community Jail Program for FY2016. The Department's goal in distributing the received allocation was to provide some level of funding for all communities with existing contracts. In order to accomplish this, it was determined it was in the best interest of the state to renegotiate all Regional and Community Jail Program contracts. The City of Kodiak's contract was renegotiated; and received 80 percent of the FY2015 contract amount for FY2016.

The DOC's appropriation of \$7 million dollars is the same as FY2016. Amendment No. 3 provides the City with \$991,552 for FY2017, which is the same amount as FY2016. The City of Kodiak Community Jail's bed utilization rate remains over 70 percent, therefore funding for FY2017 remains the same.

ALTERNATIVES:

- 1) Authorize this amendment to the contract with the Department of Corrections commencing on July 1, 2016, which is staff's recommendation.

- 2) Do not authorize this amendment with the Department of Corrections. Staff does not recommend this alternative. If this amendment were not authorized, the community quality of life, health and safety would be negatively impacted.

FINANCIAL IMPLICATIONS: Staff estimates FY2017 jail expenses to be \$1,458,828. The amendment offered to the contract by DOC for one year is \$991,552. There will be a shortfall of \$467,276 again this year, once the amendment is approved.

LEGAL: N/A

STAFF RECOMMENDATION: Staff recommends the approval of the contract amendment for professional services with the Alaska Department of Corrections (DOC) to provide Regional and Community Jail Services commencing on July 1, 2016, and ending June 30, 2017, for \$991,552.

CITY MANAGER'S COMMENTS: I recommend the Council approve the professional services contract amendment for Regional and Community Jail Service with the Alaska Department of Corrections. Revenues received under this amendment do not completely cover, but do offset, our costs to operate the jail. The alternatives to not approving the contract would negatively impact the City.

ATTACHMENTS:

Attachment A: Amendment No. 3 to Regional & Community Jails Program Agreement

PROPOSED MOTION:

Move to authorize the professional services contract Amendment 3 for Regional and Community Jail services with the Alaska Department of Corrections commencing on July 1, 2016, and ending on June 30, 2017, for \$991,552 and authorize the City Manager to sign the contract on behalf of the City.

STATE OF ALASKA

AMENDMENT TO PROFESSIONAL SERVICES CONTRACT

1. Agency Contract Number 2041006
2. DGS Solicitation Number (if used)
3. Optional Renewal? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Years remaining 1 YEARS
4. Financial Coding 201014600 - 1600000002 - 3020 - 5019
5. Agency Assigned Encumbrance Number
6. Amendment No. Three (3)

This agreement is between the State of Alaska,				
7. Department of Corrections		hereafter the State, and		
8. Contractor City of Kodiak, Police Department		hereafter the Contractor		
Mailing Address 217 Mill Bay Road	Street or P.O. Box	City Kodiak	State AK	ZIP Code 99615
9. Original period of performance FROM: July 1, 2013 TO: June 30, 2014		10. Amended period of performance FROM: July 1, 2016 TO: June 30, 2017		
11. Previous amount of contract to date: \$3,439,282.00	12. Amount of this amendment: \$991,552.00	13. This amended contract shall not exceed a total of \$4,430,834.00		
14. In accordance with the provisions of the above referenced contract, the parties to that contract agree that the services to be performed by the contractor under the contract are amended as follows: All other terms and conditions of the contract remain in effect. (Use reverse for continuation of amended provisions if necessary.) The purpose of this contract amendment is to increase the period of performance from July 1, 2016 to June 30, 2017 and encumber the funds necessary for these services. This amendment also recognized that there will be no annual CPI and Geographical differential increases for this period of performance. All other terms and condition remain unchanged. In full consideration of the contractor's performance under and including this amendment, the State shall pay the contractor a new total not to exceed \$4,430,834.00 The period of performance under this contract is increased by <u>12 Months through June 30, 2017</u> . IN WITNESS WHEREOF the parties hereto have executed this amendment. NOTICE! This amendment has no effect until signed by the head of the contracting agency, procurement officer or designee.				

15. CONTRACTOR		17. CERTIFICATION: I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alterations on a public record, or knowingly make or allow false entries or alterations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815 - .820. Other disciplinary action may be taken up to and including dismissal.	
Name of Firm City of Kodiak			
Signature of Authorized Representative	Date		
Typed or Printed Name of Authorized Representative Aimee Kniazowski			
Title City Manager (907-486-8000, Fax 907-486-8023)			
16. CONTRACTING AGENCY		Signature of Head Contracting Agency or Designee	Date
Department/Division Corrections , Division of Institutions		Typed or Printed Name of Authorizing Official John Schauwecker	
Signature of Project Director	Date	Title Procurement Manager CPPB. C. P.M.	
Typed or Printed Name of Project Director Bruce Busby			
Title Director of Institutions			

14. Continuation of amended provisions.

AMENDMENT TO PROFESSIONAL SERVICE CONTRACT FOR
ENTRY DEFINITIONS

1. Agency assigned contract number for tracking, reference, and billing.
2. Department of Administration (DOA) number assigned by the Division of General Services (DGS) (if formal solicitation is conducted).
3. Optional renewal? Yes or no. Years remaining not including this renewal.
4. Financial coding assigned by the agency for billing purposes.
5. Encumbrance number assigned to this contract by the agency.
6. Amendment number. How many to date for this contract including this one?
7. Department.
8. Contractor's name and address.
9. Original period of performance, including previous amendments.
10. Amended period of performance of this document.
11. Total date **not** including this amendment.
12. Amount of this amendment.
13. **New** total not to exceed including this amendment.
14. This section must contain all material changes from the contract such as the new total not to exceed amount and the new period of performance. If no change is being made, write "same." This section also requests the number of years, months and days this contract is either increased or decreased by.
16. Contractor's name, signature, and address.
17. Your division project director's name and signature.

MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers

From: Aimée Kniaziowski, City Manager 

Thru: Glenn Melvin, City Engineer and Mike Tvenge, Deputy City Manager

Date: July 14, 2016

Agenda Item: V. j. **Authorization of Amendment No. 9 to the Professional Services Contract for Pier III Project Management with ARCADIS US Inc.**

SUMMARY: This memo recommends award of Amendment No. 9 to ARCADIS for additional construction phase project management services for the Pier III replacement project. Roe Sturgulewski (Project Manager) submitted a proposal, which provides extended project management services to complete closeout of the project and assist with resolution of Pacific Pile & Marine LP including Dominion Pipe and Piling claims. Staff and the City Manager recommend Council authorize Amendment No. 9 to ARCADIS professional services contract to extend Construction Phase Project Management services for the Pier III replacement project in the amount of \$50,000.

PREVIOUS COUNCIL ACTION:

- FY2009, Council approved a capital project budget of \$250,000 for inspection and design of Pier III.
- FY2012, Council approved an additional \$462,000 to the project.
- July 12, 2012, Council adopted Resolution No. 2012–18 accepting the legislative grant for \$18.1 million and accepting the additional \$15 million if the bond package passed, which it did.
- December 13, 2012, Council approved the RISE Alaska (ARCADIS) proposal for initial project management services for Pier III.
- December 12, 2013, Council approved Amendment No. 1 to the Professional Services Contract for Pier III Project Management through construction.
- December 23, 2013, Contract Amendment No. 2 Negotiation Support Services for New Horizon Lines Agreement Contract awarded under City Manager Authority for not-to-exceed amount of \$15,000.
- March 19, 2015, Council authorized Amendment No. 3 to the professional services contract for Pier III project management for the sum of \$200,000.
- October 22, 2015, Council authorized Amendment No. 6 to the professional services contract for Pier III project management for the sum of \$120,000.
- February 25, 2016, Council authorized Amendment No. 7 to the professional services contract for Pier III project management for the sum of \$75,000.
- May 10, 2016, Contract Amendment No. 8 awarded under City Manager authority for \$15,000 to fund continued professional services for Pier III project management through June 30, 2016.

JULY 14, 2016

Agenda Item V. j. Memo Page 1 of 2

- July 12, 2016, Council reviewed the amendment at their work session.

DISCUSSION: The amendment request is for Arcadis to complete closeout of the existing PPM contract and facilitate resolution of the PPM and Dominion Claims. The base PPM work is nearly complete. The amount of remaining effort to resolve the PPM and Dominion Claim is difficult to project in advance and will vary depending on the extent and duration of negotiations and/or other dispute resolution.

All of the remaining work will be performed on a “Time and Materials” basis; with the necessary level of effort coordinated with the City Administration.

ALTERNATIVES:

- 1) Council may authorize Amendment No. 9 of the professional services contract with ARCADIS, which is staff’s recommendation and is consistent with past actions.
- 2) Delay or do not authorize the amendment. This is not recommended, as it will severely limit staff’s ability to negotiate the Contractor’s claims for this large and complex project and accompanying claims.

FINANCIAL IMPLICATIONS: Funding is available through the Pier III Replacement Project for construction administration.

LEGAL: N/A

STAFF RECOMMENDATION: Staff recommends authorization of Amendment No. 9 to ARCADIS professional services contract to extend Project Management services during construction for Pier III Replacement.

CITY MANAGER’S RECOMMENDATION AND COMMENTS: We rely heavily on ARCADIS and Roe’s assistance on this project. Claims by the City and contractor are unresolved. Mediation for the construction dispute is scheduled for July, and the Dominion Pipe and Pile claim is yet to be resolved. Mr. Sturgulewski’s continued support and detailed knowledge of the project elements is necessary to assure factual and accurate information is presented in the mediation support documents and throughout the closing process. I recommend Council authorize this amendment.

ATTACHMENT:

Attachment A: ARCADIS memo dated June 9, 2016

PROPOSED MOTION:

Move to authorize Amendment No. 9 to the professional services contract with ARCADIS in an amount not-to-exceed \$50,000 for project management services, Project No. 11-07/8024, with funds from the Cargo Development Capital Project Fund and authorize the City Manager to execute the documents on behalf of the City.

June 9, 2016

Aimee Kniaziowski
City of Kodiak
710 Mill Bay Road
Kodiak, AK 99615

Arcadis U.S., Inc.
880 H Street
Suite 101
Anchorage
Alaska 99501
Tel 907 276 8095
Fax 907 276 8609
www.arcadis.com

**City of Kodiak - Pier 3 Replacement
Project Management Services During Construction - Amendment 9**

Dear Aimee:

This letter is to request a \$50,000 contract amendment to provide continued project management services for the new Kodiak Pier 3 facility.

This amendment request is for Arcadis to complete closeout of the existing PPM contract and facilitate resolution of the PPM and Dominion Claims. The base PPM contract work is nearly complete. The amount of the remaining effort to resolve the PPM and Dominion Claims is difficult to project in advance and will vary depending on the extent and duration of negotiation and/or other dispute resolution. All remaining efforts will be performed on a time and materials basis with the level of effort on the remaining elements coordinated with the City Administration.

We have appreciated the opportunity to help the City deliver this critical infrastructure facility for Kodiak.

Please don't hesitate to contact me at 907.244.8669 if you have any questions or desire additional information.



Sincerely,



Roe Sturgulewski
Project Manager

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MEMORANDUM TO COUNCIL

To: Mayor Branson and City Councilmembers
From: Aimée Kniazowski, City Manager 
Thru: Mark Kozak, Public Works Director and Mike Tvenge, Deputy City Manager 
Date: July 14, 2016
Agenda Item: V. k. Authorization of Purchase of Dump Truck for Public Works

SUMMARY: The City Public Works Department has ten International medium/heavy duty trucks, six dump trucks; five are International, one tanker/flusher truck, one Vactor combination vacuum/jetter truck, a flat bed and a sludge truck. The Council approved sole source purchases for a dump truck in 2004 and for a sludge truck in 2006. Staff recommends that Council approve the sole source quote with RWC INTERNATIONAL, LTD in Anchorage for a 7400 dump truck, in the amount of \$121,479.

PREVIOUS COUNCIL ACTION: The City Council approved the sole source purchasing of medium/heavy duty trucks in both 2004 and 2006, and staff used International specifications when purchasing other trucks, such as the Vactor.

DISCUSSION: The Public Works department has ten medium/heavy duty International trucks in the fleet. Staff has had very good service and performance from International's medium/heavy duty line of trucks. With so many International trucks in the fleet, staff requests a sole source purchase of this truck in order to maintain consistency in the fleet. From a maintenance perspective, with equipment requiring the use of electronic diagnostic tools, having compatibility within the equipment has significant advantages. The trucks themselves are very similar, and there are a lot of parts that are common as long as the model remains standard.

RWC is the only International Truck dealer in the state, with offices in Anchorage and Fairbanks. In 2015 they bid and sold trucks to the Municipality of Anchorage, the Alaska Native Tribal Health Consortium, and the City of Delta Junction. The truck delivered to Anchorage was equipped very similar to the one staff is requesting to purchase, and the sale price of the bid was \$120,605 delivered in May 2015. That price difference from a 2015 truck to the 2017 truck being offered FOB Kodiak is close to the price of the ferry delivery.

Public Works has four large trucks that are way past replacement per the vehicle replacement policy. There are two 1991 International dump trucks, a 1995 International dump truck, and a 1996 International flusher/tanker truck. The vehicle replacement policy has the dump trucks on a replacement schedule of 15 years. The two oldest have 25 years of service. Truck number 29 being replaced is a 1991 truck and has almost 75,000 miles on it. The shop replaced the entire cab floor in this truck two

summers ago. The cab has extensive rust and is beyond repair. The Public Works Shop assessment and photos are attached (Attachments B & C).

The sole source purchase keeps the maintenance need for special tools and mechanic training to a minimum. It helps with some consistency of parts and manuals as well as electronic diagnostic tools required on all modern diesel engines.

ALTERNATIVES:

- 1) Authorize the sole source purchase of this dump truck per City Code Section 3.12.070 2 (d). RWC International LTD is the sole International Truck dealer in the State of Alaska. This is staff's recommendation.
- 2) Do not authorize this sole source purchase. This is not recommended, as the existing truck has exceeded its useful life and would impact snow removal capability. With the change to upland snow disposal in the future, staff would not recommend that approach.
- 3) Do not authorize the award of the dump truck as requested, but request staff to issue a bid. This will not provide a significant savings that would overcome the advantages of staying with the same International trucks Public Works operates. Staff does not recommend this approach.

FINANCIAL IMPLICATIONS: The replacement of one dump truck is in the FY2017 budget in the amount of \$124,000. This budgeted amount will allow for additional lighting and safety equipment, including a radio. The annual contribution to the vehicle replacement fund based on a \$124,000 purchase will be \$10,296 annually for the 15-year expected life per the City's vehicle replacement policy.

LEGAL: Kodiak City Code 3.12.070 2(d) allows for the City Manager to recommend this sole source purchase.

STAFF RECOMMENDATION: Staff recommends Council authorize the purchase of a 2017 International 12/14 CuYd WorkStar 7400 Dump Truck from RWC International LTD in the amount of \$121,479 with funds coming from the Streets, Machinery and Equipment account.

CITY MANAGER'S COMMENTS: I support the Public Works Department recommendation for the purchase of this International truck. The benefits of a consistent fleet, (International) have been explained and replacing an aging work vehicle allows for greater efficiency and safety for the City. I recommend Council approve the purchase of the 2017 International 7400 Dump Truck from RWC International.

ATTACHMENTS:

Attachment A: RWC Quote

Attachment B: Public Works Shop Assessment

Attachment C: Photos of Truck No.29

PROPOSED MOTION:

Move to authorize the purchase of a 2017 International 7400 Dump Truck from RWC INTERNATIONAL LTD in the amount of \$ 121,479 with funding from the Streets, Machinery and Equipment Account and authorize the City Manager to execute the documents on behalf of the City.

JULY 14, 2016
Agenda Item V. k. Memo Page 3 of 3

INTERNATIONAL®**Prepared For:**

CITY OF KODIAK
 MARK KOZAK
 2410 Mill Bay Rd.
 Kodiak, AK 99615-6635
 (907)486 - 8060
 Reference ID: Stock Auto Dump

Presented By:

RWC INTERNATIONAL, LTD.
 Mike Lash
 1301 N POST RD.
 ANCHORAGE AK 99501 - 1705
 (907)279-9591

Thank you for the opportunity to provide you with the following quotation on a new International truck. I am sure the following detailed specification will meet your operational requirements, and I look forward to serving your business needs.

**Model Profile****2017 7400 SBA 6X4 (SF625)**

MISSION: Requested GVWR: 54000. Calc. GVWR: 54000
 Calc. Start / Grade Ability: 19.29% / 1.72% @ 55 MPH
 Calc. Geared Speed: 78.2 MPH

DIMENSION: Wheelbase: 181.00, CA: 113.90, Axle to Frame: 55.00

ENGINE, DIESEL: {Navistar N9} EPA 2010, SCR, 330 HP @ 2000 RPM, 950 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 330 Peak HP (Max)

TRANSMISSION, AUTOMATIC: {Allison 3000_RDS_P} 5th Generation Controls; Close Ratio, 6-Speed, With Double Overdrive; On/Off Hwy; Includes Oil Level Sensor, With PTO Provision, Less Retarder, With 80,000-lb GVW & GCW Max.

CLUTCH: Omit Item (Clutch & Control)

AXLE, FRONT NON-DRIVING: {Meritor MFS-14-143A} Wide Track, I-Beam Type, 14,000-lb Capacity

AXLE, REAR, TANDEM: {Meritor MT-40-14X-4DER} Single Reduction, 0.433"(11mm) Wall Housing Thickness, 40,000-lb Capacity, R Wheel Ends, Driver Controlled Locking Differential in Rear-Rear Axle Gear Ratio: 5.29

CAB: Conventional

TIRE, FRONT: (2) 12R22.5 HSC1 (CONTINENTAL) 482 rev/mile, load range H, 16 ply

TIRE, REAR: (8) 11R22.5 HDR2 (CONTINENTAL) 491 rev/mile, load range G, 14 ply

SUSPENSION, REAR, TANDEM: {Hendrickson HMX-400-52} Walking Beam Type 52" Axle Spacing; 40,000-lb Capacity, With Rubber End Bushings, Transverse Torque Rods, Less Shock Absorbers

PAINT: Cab schematic 100GN
 Location 1: 9219, Winter White (Std)
 Chassis schematic N/A

<u>Code</u>	<u>Description</u>
SF62500	Base Chassis, Model 7400 SBA 6X4 with 181.00 Wheelbase, 113.90 CA, and 55.00 Axle to Frame.
1570	TOW HOOK, FRONT (2) Frame Mounted
1CAJ	FRAME RAILS Heat Treated Alloy Steel (120,000 PSI Yield); 10.866" x 3.622" x 0.433" (276.0mm x 92.0mm x 11.1mm); 456.0" (11582mm) Maximum OAL
1LMY	BUMPER, FRONT Full Width, Aerodynamic, Chrome Plated Steel; 0.189" Material Thickness
1WGX	WHEELBASE RANGE 169" (430cm) Through and Including 219" (555cm)
2ARV	AXLE, FRONT NON-DRIVING {Meritor MFS-14-143A} Wide Track, I-Beam Type, 14,000-lb Capacity
3AGU	SUSPENSION, FRONT, SPRING Multileaf, Shackle Type; 14,000-lb Capacity; With Shock Absorbers, for Reduced Deflection Vocational Use
4091	BRAKE SYSTEM, AIR Dual System for Straight Truck Applications
4196	BRAKES, FRONT, AIR CAM 16.5" x 5", Includes 24 SqIn Long Stroke Brake Chambers
4619	TRAILER CONNECTIONS Four-Wheel, With Hand Control Valve and Tractor Protection Valve, for Straight Truck
4732	DRAIN VALVE {Berg} Manual; With Pull Chain, for Air Tank
4AZA	AIR BRAKE ABS {Bendix AntiLock Brake System} Full Vehicle Wheel Control System (4-Channel)
4EBS	AIR DRYER {Bendix AD-9} With Heater
4EXU	BRAKE CHAMBERS, REAR AXLE {Bendix EverSure} 30/30 Spring Brake
4EXV	BRAKE CHAMBERS, FRONT AXLE {Bendix} 24 SqIn
4LAA	SLACK ADJUSTERS, FRONT {Haldex} Automatic
4LGA	SLACK ADJUSTERS, REAR {Haldex} Automatic
4NDB	BRAKES, REAR, AIR CAM S-Cam; 16.5" x 7.0"; Includes 30/30 Sq.In. Long Stroke Brake Chamber and Spring Actuated Parking Brake
4SBC	AIR COMPRESSOR {Bendix Tu-Flo 550} 13.2 CFM Capacity
4WBX	DUST SHIELDS, FRONT BRAKE for Air Brakes
4WDM	DUST SHIELDS, REAR BRAKE for Air Brakes
4WDW	BRAKE CHAMBERS, SPRING on Rear/Rear Axle Located Inside Rear Tire Envelope (Meets Asphalt Spreader/Paver Clearance Requirements)
5708	STEERING COLUMN Tilting
5CAL	STEERING WHEEL 2-Spoke, 18" Dia., Black
5PSA	STEERING GEAR {Sheppard M100} Power
7BEP	EXHAUST SYSTEM Switchback Horizontal Aftertreatment Device, Frame Mounted Right Side Under Cab; Includes Single Vertical Tail Pipe, Frame Mounted Right Side Back of Cab
7SDL	ENGINE COMPRESSION BRAKE for Navistar N9/10 I6 Engines; Electronically Activated
7WBA	TAIL PIPE (1) Turnback Type, Bright, for Single Exhaust
7WCM	EXHAUST HEIGHT 8' 10"
8000	ELECTRICAL SYSTEM 12-Volt, Standard Equipment
8518	CIGAR LIGHTER Includes Ash Cup

<u>Code</u>	<u>Description</u>
8GXD	ALTERNATOR {Leece-Neville AVI160P2013} Brush Type; 12 Volt 160 Amp. Capacity, Pad Mount, With Remote Sense
8HAB	BODY BUILDER WIRING Back of Standard Cab at Left Frame or Under Extended or Crew Cab at Left Frame; Includes Sealed Connectors for Tail/Amber Turn/Marker/ Backup/Accessory Power/Ground and Sealed Connector for Stop/Turn
8MKL	BATTERY SYSTEM {International} Maintenance-Free, (3) 12-Volt 1950CCA Total
8RMA	RADIO AM/FM/WB/Clock/Bluetooth/USB Input/3MM Auxiliary Input, MP3, Apple Device Play & Control, Bluetooth for Phone & Music, with Multiple Speakers
8TMG	TRAILER CONNECTION SOCKET 7-Way; Mounted at Rear of Frame, Wired for Turn Signals Combined With Stop, Compatible With Trailers That Use Combined Stop, Tail, Turn Lamps
8VAY	HORN, ELECTRIC Disc Style
8VUL	BATTERY BOX Steel With Plastic Cover, 18" Wide, 2, 3, or 4 Battery Capacity, Mounted Left Side Back of Cab
8WCL	HORN, AIR Black, Single Trumpet, Air Solenoid Operated
8WGL	WINDSHIELD WIPER SPD CONTROL Force Wipers to Slowest Intermittent Speed When Park Brake Set and Wipers Left on for a Predetermined Time
8WPH	CLEARANCE/MARKER LIGHTS (5) {Truck Lite} Amber LED Lights, Flush Mounted on Cab or Sunshade
8WPZ	TEST EXTERIOR LIGHTS Pre-Trip Inspection will Cycle all Exterior Lamps Except Back-up Lights
8WRB	HEADLIGHTS ON W/WIPERS Headlights Will Automatically Turn on if Windshield Wipers are turned on
8WTK	STARTING MOTOR {Delco Remy 38MT Type 300} 12 Volt; less Thermal Over-Crank Protection
8WWJ	INDICATOR, LOW COOLANT LEVEL With Audible Alarm
8WXD	ALARM, PARKING BRAKE Electric Horn Sounds in Repetitive Manner When Vehicle Park Brake is "NOT" Set, With Ignition "OFF" and any Door Opened
8WZP	INDICATOR, BATTERY WARNING Green BATTERY ON Indicator, Mounted on Left Side of Instrument Panel, To be Used with Factory Installed or Customer Mounted Battery Disconnect Switch
8XAH	CIRCUIT BREAKERS Manual-Reset (Main Panel) SAE Type III With Trip Indicators, Replaces All Fuses Except For 5-Amp Fuses
8XGT	TURN SIGNALS, FRONT LED, Includes LED Side Marker Lights, Mounted on Fender
8XHD	BATTERY DISCONNECT SWITCH 300 Amp; Cab Mounted, Disconnects Charging Circuits; Locks with Padlock
9585	FENDER EXTENSIONS Rubber
9HAN	INSULATION, UNDER HOOD for Sound Abatement
9HBM	GRILLE Stationary, Chrome
9HBN	INSULATION, SPLASH PANELS for Sound Abatement
9WAC	BUG SCREEN Front End; Mounted Behind Grille
9WBC	FRONT END Tilting, Fiberglass, With Three Piece Construction; for 2007 & 2010 Emissions
10060	PAINT SCHEMATIC, PT-1 Single Color, Design 100
10761	PAINT TYPE Base Coat/Clear Coat, 1-2 Tone
10UAD	VEHICLE REGISTRATION IDENTITY ID for 49 States, Excluding California
10WCY	SAFETY TRIANGLES

<u>Code</u>	<u>Description</u>
10WJH	PROMOTIONAL PACKAGE Government and Municipal Silver Package; Two Year Limited Subscription of On-Command Service Information (Formerly Fleet ISIS), and On-Command Parts Information (Formerly Fleet Parts Catalog), Requires Specific Feature Combinations
11001	CLUTCH Omit Item (Clutch & Control)
12703	ANTI-FREEZE Red, Extended Life Coolant; To -40 Degrees F/ -40 Degrees C, Freeze Protection
12NWE	ENGINE, DIESEL {Navistar N9} EPA 2010, SCR, 330 HP @ 2000 RPM, 950 lb-ft Torque @ 1200 RPM, 2200 RPM Governed Speed, 330 Peak HP (Max)
12THZ	FAN DRIVE {Horton Drivemaster Polar Extreme} Direct Drive Type, Two Speed, With Residual Torque Device for Disengaged Fan Speed
12UCW	RADIATOR Aluminum, Cross Flow, Series System; 1228 SqIn Core and 648 SqIn Charge Air Cooler and With Transmission Oil Cooler
12UPA	FEDERAL EMISSIONS {Navistar N9 & N10} EPA, OBD and GHG Certified for Calendar Year 2016
12VBB	AIR CLEANER Dual Element
12VXT	THROTTLE, HAND CONTROL Engine Speed Control; Electronic, Stationary, Variable Speed; Mounted on Steering Wheel
12VZA	ENGINE CONTROL, REMOTE MOUNTED Provision for; Includes Wiring for Body Builder Installation of PTO Controls; With Ignition Switch Control for MaxxForce and Navistar post 2007 Emissions Electronic Engines
12WTH	BLOCK HEATER, ENGINE {Phillips} 120V/1250W, With "Y" Cord From Socket in Standard Location, For a Dealer Installed Oil Pan Heater, With Extended Life Coated Metal/Plastic/Metal Material Oil Pan
12WZE	EMISSION COMPLIANCE Federal, Does Not Comply With California Clean Air Idle Regulations
13AVR	TRANSMISSION, AUTOMATIC {Allison 3000_RDS_P} 5th Generation Controls; Close Ratio, 6-Speed, With Double Overdrive; On/Off Hwy; Includes Oil Level Sensor, With PTO Provision, Less Retarder, With 80,000-lb GVW & GCW Max.
13WBL	TRANSMISSION SHIFT CONTROL {Allison} Push-Button Type; for Allison 3000 & 4000 Series Transmission
13WLP	TRANSMISSION OIL Synthetic; 29 thru 42 Pints
13WUC	ALLISON SPARE INPUT/OUTPUT for Rugged Duty Series (RDS); General Purpose Trucks, Construction
13WYR	SHIFT CONTROL PARAMETERS Allison 3000 or 4000 Series Transmissions, 5th Generation Controls, with EcoCal and Dynamic Shift Sensing (FuelSense Basic)
14GVR	AXLE, REAR, TANDEM {Meritor MT-40-14X-4DER} Single Reduction, 0.433"(11mm) Wall Housing Thickness, 40,000-lb Capacity, R Wheel Ends, Driver Controlled Locking Differential in Rear-Rear Axle . Gear Ratio: 5.29
14UMB	SUSPENSION, REAR, TANDEM {Hendrickson HMX-400-52} Walking Beam Type 52" Axle Spacing; 40,000-lb Capacity, With Rubber End Bushings, Transverse Torque Rods, Less Shock Absorbers
14WBV	SHOCK ABSORBERS, REAR (4) for Hendrickson HMX Suspension Only, Mounted from Frame to Beam
15LKG	FUEL/WATER SEPARATOR with Thermostatic Fuel Temperature Controlled Electric Heater, and Filter Restriction/Change Indicator, Includes Standard Equipment Water-in-Fuel Sensor
15SGG	FUEL TANK Top Draw; D-Style, Non-Polished Aluminum, 19" Deep, 70 U.S. Gal., 265 L Capacity, with Quick Connect Outlet, Mounted Left Side, Under Cab
15WDG	DEF TANK 7 U.S. Gal. 26.5L Capacity, Frame Mounted Outside Left Rail, Under Cab
16030	CAB Conventional
16HBA	GAUGE CLUSTER English With English Electronic Speedometer
16HKT	IP CLUSTER DISPLAY On Board Diagnostics Display of Fault Codes in Gauge Cluster

<u>Code</u>	<u>Description</u>
16HLJ	GAUGE, DEF FLUID LEVEL
16JNV	SEAT, DRIVER {National 2000} Air Suspension, High Back With Integral Headrest, Cloth, Isolator, 1 Chamber Lumbar, 2 Position Front Cushion Adjust, -3 to +14 Degree Back Angle Adjust
16SEE	GRAB HANDLE Chrome; Towel Bar Type With Anti-Slip Rubber Inserts; for Cab Entry Mounted Left Side Only at "B" Pillar
16SMR	SEAT, PASSENGER {National} Non Suspension, High Back With Integral Headrest, Cloth, With Fixed Back, With Under Seat Storage
16SNC	MIRRORS (2) {Lang Mekra} Rectangular, Thermostatically Controlled Heated Heads, Bright Finish Heads, with Black Brackets and Arms, Breakaway Type, 7.55" x 14.1" Integral Convex Both Sides, 102" Inside Spacing,
16WBY	ARM REST, RIGHT, DRIVER SEAT
16WCT	AIR CONDITIONER {Blend-Air} With Integral Heater & Defroster
16WEE	CAB SOUND INSULATION Includes Dash Insulator and Engine Cover Insulator
16WJS	INSTRUMENT PANEL Center Section, Flat Panel
16WKY	HVAC FRESH AIR FILTER
16WRX	CAB INTERIOR TRIM Deluxe
16WSK	CAB REAR SUSPENSION Air Bag Type
16XWD	SUNSHADE, EXTERIOR Aerodynamic, Painted Roof Color; Includes Integral Clearance/Marker Lights
27DTJ	WHEELS, FRONT {Maxion 90541} DISC; 22.5x8.25 Rims, Painted Steel, 2-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with Steel Hubs
28DTJ	WHEELS, REAR {Maxion 90541} DUAL DISC; 22.5x8.25 Rims, Painted Steel, 2-Hand Hole, 10-Stud, 285.75mm BC, Hub-Piloted, Flanged Nut, with Steel Hubs
29PAR	PAINT IDENTITY, FRONT WHEELS Disc Front Wheels; With Vendor Applied White Powder Coat Paint
29PAS	PAINT IDENTITY, REAR WHEELS Disc Rear Wheels; With Vendor Applied White Powder Coat Paint
60AKG	BDY INTG, PTO ACCOMMODATION for (3) Latched Rocker Switches, (1) PTO Switch, (2) Generic Switches to Control (3) 30 amp relays, With Programmable Interlocks, for Body Builder Hook up in the Engine Compartment Left Side, Recommended for Automatic Transmissions
7372135423	(8) TIRE, REAR 11R22.5 HDR2 (CONTINENTAL) 491 rev/mile, load range G, 14 ply
7382155419	(2) TIRE, FRONT 12R22.5 HSC1 (CONTINENTAL) 482 rev/mile, load range H, 16 ply

Services Section:

40115	WARRANTY Standard for WorkStar 7300/7400 (4x2, 4x4, 6x4, 6x6), Effective with Vehicles Built January 2, 2015 or Later, CTS-2002U
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<u>Code</u>	<u>Description</u>
1	DUMP BODY, Duraclass HPT-316 15' x 7' 12.3/14.9 Cu Yd 3/16 AR400 Sides 1/4" AR400 Floor & Tailgate 10 Ga High Tensile Front 8" Side Board Pocketes with Center Board Pocket to Accomodate 4" Wide Nominal Boards 4" x 10" Wood Side Boards Hydraulic Lift Tailgate with Cylinder in Toprail Air/Air Tailgate Release with Overcenter Sloped Tailgate with Reverse Asphalt Taper Greaseable Tailgate Top Pins One (1) 18" Grip Strut Step on Driver's Side 2-Sets Each Rear Pillar Oval Rear LED Light Cutouts for S/T/T and Backup Lights 1/2 Cab Shield HPT53-130 Hoist with Chrome Telescopic Cylinder Dump Angle Limit Kit for Air Shift Control PTO & Pump for Direct Mount Hydraulics Hydraulic Tank with Oil Temp Gauge & Oil Level Return Line Filter Arctic Synthetic Hydraulic Oil Back Up Alarm Body Painted Midnight Blue Metallic Quick Disconnects for Cab Guard Wiring Premier 270 Air Compensated 45-Ton Pintle Hitch and Hitch Plate & Air Glad Hands Mud Flaps with Piano Hinch

(US DOLLAR)

Description

Price

Net Sales Price:

\$121,479.00

Price is quoted FOB Kodiak, AK (via Alaska Marine Highway ferry out of Whittier). Truck is in stock (Stk #N673902). Two (2) additional units with exact specifications will be in Anchorage by 7/15/16. Price does not include title and registration fees.

Thank you for the opportunity to provide this proposal.

Kind Regards,

Mike Lash
RWC International Ltd

Approved by Seller:

Accepted by Purchaser:

Official Title and Date

Firm or Business Name

Authorized Signature

Authorized Signature and Date

RWC INTERNATIONAL, LTD.
1301 N POST RD.
ANCHORAGE AK 99501 - 1705
(907)279-9591

This proposal is not binding upon the seller without Seller's Authorized Signature

Official Title and Date

The TOPS FET calculation is an estimate for reference purposes only. The seller or retailer is responsible for calculating and reporting/paying appropriate FET to the IRS.

City of Kodiak Equipment Evaluation

- Evaluation Date 4-20-16
- City vehicle ID number 29
- Equipment hour meter reading and mileage ENG HRS: 86,178 MILES: 074644
- Equipment history DUMP TRUCK
- Equipment test drive notes DRIVES GOOD
- Assess engine and transmission performance ENGINE + TRANS WORK, STILL STRONG, BUT THERE ARE MANY CONCERNING LEAKS.

Under equipment inspection

- Front end, draw bar, mold board and circle turn (inspect for cracks and multiple repair spots) RUSTED, CRACKS WERE REPAIRED PREVIOUSLY
- Rear tandem and differential GOOD, JUST COVERED IN RUST
- Brake hoses, lines and cables PTO CABLE IN CAB IS NOT INSTALLED, BRAKE CHAMBER HOSES ARE WEATHERED AND CRACKED, ~~RAHEDER~~ ~~LOOSE CABLE~~ IS LOOSE.
- Suspension and steering components, including tie rods, drag link, ball joints, springs shackles ALL RUSTED AND BOOTS AT JOINTS ARE TORN LEAVING GREASE EVERYWHERE.
- Condition of frame, frame hangers and body mounts RUSTED.
- Transmission fluid level, color, engagement DARK RED, LEVEL @ THE ADD DOT, RUNS GOOD.
- Underside of engine and engine compartment COVERED IN OIL
- Check hydraulic cylinders/ rams (check ends for excessive wear, check to see if rams are bent, leaking) ~~COULD NOT CHECK OPERATION OF RAM WITHOUT PTO ENGAGED.~~ WORKS GREAT, NO LEAKS & CYLINDERS CATCH WHEN LOUING BED.

Under hood inspection

- Check all fluid levels and record OIL - OVER FILLED, TRANS - NEEDS ADDED,
- Check battery and charging system GOOD
- Inspect engine for leaks, exhaust, oil, coolant MANY LEAK SPOTS ON ENGINE, COOLANT IS LOW, EXHAUST IS GOOD - NO VISIBLE LEAKS
- Inspect hoses, belts and accessories AIR COMPRESSOR BELT LOOSE AND AIR COMPRESSOR HAS A BAD SHAFT SEAL
- Inspect electrical components and wiring WIPERS WONT SHUT OFF
- Check cylinder power balance or compression ENGINE STILL HAS GOOD COMPRESSION, NO PROBLEMS STARTING.
- Check for abnormal engine, clutch noises NONE
- Inspect hydraulic pumps and drive GOOD

Equipment exterior

- Check for body damage/ rust FRONT BUMPER, BODY IS HEAVILY RUSTED
- Check glass—windows, windshield ALL GOOD
- Check lights and strobes for proper operation WORKS GOOD,

Equipment interior

- Check interior—seats, steering wheel, pedals and panels DRIVER SEAT TORN, OLD STEREO IS MISSING
- Check equipment comfort controls and accessories (heater, wipers and fans) WIPERS ARE INTERMITTENT IN OFF POSITION, THERES HEAT AND FAN WORKS
- Use all controls to check function WIPERS SW IN OFF POSITION IS INTERMITTENT

Added notes:

- INTERIOR IS TAKING ON WATER, LEAKS, THERES MOLD + MILDEW, RUSTY, HEAD LINER IS SAGGING, ROOF OF CAB IS RUSTED.
- ONLY HAS 1 GAS TANK.
- BATTERY BOX COVER/STEP HAS NO TIE DOWN

