

**City of Kodiak Regular Council Meeting Agenda for June 8, 2017**  
**7:30 p.m., at 710 Mill Bay Road, Assembly Chambers (Room 232)**

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<b>I. Call to Order/Roll Call</b>	
Invocation/Pledge of Allegiance	
<b>II. Previous Minutes</b>	
Approval of Minutes of the May 25, 2017, Regular Council Meeting.....	1
<b>III. Persons to Be Heard</b>	
a. Presentation of GFOA Award to the Finance Department .....	8
b. Proclamation: Filipino American Heritage Month .....	10
c. Public Comments (limited to 3 minutes) (486-3231)	
<b>IV. Unfinished Business</b>	
a. Second Reading and Public Hearing, Ordinance No. 1363, 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 2017 and Ending on the Thirtieth Day of June 2018.....	14
<b>V. New Business</b>	
a. Resolution No. 2017–16, Authorizing the Issuance of a Permit to the High School Tennis Team for the Use of Public Property for Its Tennis Clinic Fundraiser.....	28
b. Authorization of Service Agreement With Johnson Controls, Inc., for Annual Inspection and Preventative Maintenance of the Kodiak Police Station Building Control Systems .....	32
c. Authorization of the Financial Contributions for Salmon Work Group.....	54
d. Authorization to Cancel the July 27 and August 24, 2017, Regular Meetings and Authorize the City Manager to Schedule a Special Meeting if Needed .....	66
e. Authorization of the Delta Medical Transport Agreement .....	68
<b>VI. Staff Reports</b>	
a. City Manager	
b. City Clerk	
<b>VII. Mayor’s Comments</b>	
<b>VIII. Council Comments</b>	
<b>IX. Audience Comments</b> (limited to 3 minutes) (486-3231)	
<b>X. Adjournment</b>	

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<b>DRAFT</b>
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**MINUTES OF THE REGULAR COUNCIL MEETING  
OF THE CITY OF KODIAK  
HELD THURSDAY, MAY 25, 2017  
IN THE BOROUGH ASSEMBLY CHAMBERS**

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

Mayor Pat Branson called the meeting to order at 7:30 p.m. Councilmembers Laura B. Arboleda, Randall C. Bishop, Charles E. Davidson, Richard H. Walker and John B. Whiddon were present and constituted a quorum. Councilmember Gabriel T. Saravia was absent. Finance Director Kelly Mayes and Deputy Clerk Michelle Shuravloff-Nelson were also present.

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

**II. PREVIOUS MINUTES**

Councilmember Arboleda MOVED to approve the minutes of the May 11, 2017, regular meeting as presented.

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

**III. PERSONS TO BE HEARD**

**a. Proclamation: Salvation Army Week**

Mayor Branson read the proclamation, which recognizes the Salvation Army for its service to Kodiak and throughout Alaska.

Major Dave Davis accepted the proclamation on behalf of the Salvation Army. He said the Salvation Army has been in Kodiak for 25 years. He said he and Lola Davis are grateful to be in town and expressed appreciation for the proclamation.

**b. Proclamation: Mental Health Month**

Mayor Branson read the proclamation, which recognizes the importance of mental health treatment and encourages the community to increase awareness and understanding of mental health, the steps one can take to protect their mental health, and the need for appropriate and accessible services for all people with mental illnesses.

Mary Guiles Hawver, Director, Providence Kodiak Counseling Center, accepted the proclamation. She stated mental health and physical health are intertwined, and she spoke about the stigma of mental illnesses and reminded people to not feel shame. She spoke of having increased awareness and encouraged people to seek assistance. She provided an overview of Alaska's statistics of mental health; including the high suicide rate within the state. She stated there are depression screenings at Providence Kodiak Counseling Center.

**c. Public Comments**

**Christopher Johnson**, a salmon seiner, telephonically said he supports the crane on Oscar's dock in the budget.

**Bob Bowhac** said he supports the harbor budget as presented; he emphasized that fisherman need the infrastructure, and he said he supports the crane. He commented on the volume of pounds across the Kodiak docks and all permit holders that it would benefit. He thanked those that have worked on the crane project, and he indicated they have done a thorough job problem solving.

**Gary Lester** spoke in opposition of sales tax for tobacco. He spoke about the recent city, borough, and state increase to tobacco tax discussions. He said it is fair to tax all products, not to increase only tobacco. He said dealing with different taxation would impact his business adversely. He said he is in opposition of a smoking ban and commented that businesses should be able to make their own choices regarding tobacco.

**Theresa Peterson**, telephonically, said she supports funding for the crane and said it will benefit the community and asked the Council to support the project. She thanked the harbormaster, staff, fisherman, and PHAB for their work on the crane project. She said there was a petition regarding the Kodiak City Code that prohibits selling fish off the dock, and a group will plan to pick up the discussion in the fall after the salmon season at the PHAB and at the Fisheries Work Group meetings.

**Alexis Kwatcha** said he supports Oscar's dock getting a crane and referred to the success of Ouzinkie's crane. He spoke about improving the downtown area. He offered financial support to address the poor behaviors in the area; spoke about revitalizing the area; and increasing the island's economic engine. He commented the current tax rate for Kodiak should be reassessed.

**Darius Kapernak** a local fisherman and member of the Alaska Jig Association supports retaining funding in the FY2018 harbor budget for the crane and the harbor infrastructure improvements. He also supports rescinding the City's ordinance that prevents selling fish off the dock.

**Betty MacTavish** thanked the Council for reviewing Resolution No. 2017-15. She spoke about the following: a statewide survey and the statistics of smoke free work places; e-cigarette awareness and education; health issues caused by second hand smoke; and initiatives to reduce exposure to second hand smoke. She thanked the Council for their consideration and support of making Alaska's work places smoke free.

**Peter Allen**, telephonically, said he is a long time boat owner that supports the crane and the icehouse.

#### IV. UNFINISHED BUSINESS

None

#### V. NEW BUSINESS

**a. First Reading, Ordinance No. 1363, 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 2017 and Ending on the Thirtieth Day of June 2018**

Mayor Branson read Ordinance No. 1363 by title. Ordinance No. 1363 provides for the adoption of the City of Kodiak's FY2018 budget. The budget document, which supports the ordinance, estimates all sources of revenue the City anticipates receiving between July 1, 2017, and June 30, 2018. The budget document also establishes an operating and capital expenditure plan for FY2018, which is based on staff's assessment of operational, and community needs and the Council's FY2018 budget goals. Staff made the FY2018 budget presentation to Council and the public during a special budget work session on May 6, 2017.

Councilmember Davidson MOVED to pass Ordinance No. 1363 in the first reading and advance to second reading and public hearing at the next regular or special Council meeting.

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

**b. Resolution No. 2017-14, Establishing a City of Kodiak Economic Development Special Committee**

Mayor Branson read Resolution No. 2017-14 by title. The City Council has identified the need for an economic development plan. Economic Development Consultant Wanetta Ayers has been retained to assist with this plan and recommends the City establish a committee to achieve those economic development goals. Resolution No. 2017-14 establishes the membership and guidelines of this committee.

Councilmember Bishop MOVED to adopt Resolution No. 2017-14.

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

**c. Resolution No. 2017-15, Supporting a Law in Alaska to Make All Workplaces 100% Smoke Free to Protect the Health and Safety of All Workers and Visitors From the Dangers of Secondhand Smoke**

Mayor Branson read Resolution No. 2017-15 by title. Resolution No. 2017-15 voices support of a statewide Alaska law to make all workplaces 100 percent smoke free to protect the health and safety of all workers and visitors from the dangers of secondhand smoke.

Councilmember Bishop MOVED to adopt Resolution No. 2017-15.

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

**d. Authorization of Professional Services Contract for Auditing Services**

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

Councilmember Walker MOVED to authorize a three-year professional services contract, with an option to extend for an additional two years, with Altman Rogers & Co to perform an annual independent audit in the amount of \$69,300 for FY2017, \$70,925 for FY2018, and \$73,020 for FY2019 with funds from the Finance Administration Professional Services account.

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

## **VI. STAFF REPORTS**

### **a. City Manager**

Finance Director Kelly Mayes informed the public that the Parks and Recreation department is working on the swimming pool and it is scheduled to reopen on May 29, 2017; she provided a schedule of events. She said further pool updates can be referenced on the City's website. She stated the Crab Festival starts on May 25, 2017, through Memorial Day and reminded everyone to be safe and informed the public to be cautious of the pedestrians.

### **b. City Clerk**

Deputy Clerk Shuravloff-Nelson informed the public of the next scheduled Council work session and regular meeting.

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

Mayor Branson provided an update on the two Community Health Needs Assessment meetings held during the month of May, which were arranged by her and Mayor Dan Rohrer with Mary Guiles Hawver, Director Providence Counseling Center, and staff. She said the outcome will be an action plan this fall from the meetings, which included health care providers, law enforcement, drug enforcement agents, and other participants. She said the plan will outline the services within the community and involve participation and input from other agencies in the near future. She commended the staff on the preparation of the FY2018 budget and said it has been an ongoing process throughout the year and she appreciates the suggestions that have been provided. She said a budget is an ongoing process; she opposes quick cuts to a budget and prefers the review of priorities that are needed in order to maintain a quality of life for the community. She encourages comments from the public and said they will continue to work through the FY2018 budget. She reminded everyone the City is about infrastructure and services. She gave a brief overview of the visit to Washington DC, which was very productive, and voiced appreciation for the collaboration with the Coast Guard. She said they met with USCG Admirals in Kodiak this week.

## **VIII. COUNCIL COMMENTS**

Councilmember Walker congratulated the high school and middle school graduates and wished them luck into the future. He thanked Parks and Recreation Director Gronn for the pool maintenance and complimented the school district on the excellent graduation rate this year. He said the budget should reflect the quality of life to sustain into the future. He stated the City has a responsibility for a vast infrastructure. He encouraged the public to ask questions about the budget and he encouraged everyone to enjoy the Crab Festival.

Councilmember Bishop thanked staff and the department heads for their hard work and their conservative approach to the budget. He encouraged the community to enjoy Crab Festival.

Councilmember Whiddon provided an overview of his recent Washington D.C. the trip and the meetings that occurred. He said there was a focus on the Coast Guard to include: new cutters; aircraft; and additional personnel coming to Kodiak. He said it is important to recognize veterans during the Memorial Day weekend.

Councilmember Arboleda stated she wished everyone a fun and safe Crab Festival weekend.

Councilmember Davidson congratulated the high school graduating seniors. He wished everyone a great Crab Festival and he asked everyone to drive safety. He thanked the staff for the work that has been done on the budget.

## IX. AUDIENCE COMMENTS

**Bob Bowhac** said he is in support of Kodiak Harvest Co-op, a great economic development project. He spoke about enhancing the waterfront and encouraged the support of this group.

**Ryan Horwath**, telephonically, said he supports the crane project in the harbor budget.

**Betty MacTavish** thanked the Council for adopting Resolution No. 2017–15. She provided an update on SB63 in the legislative process.

**Jim Mullican**, Fire Chief, thanked the Council for their continued support. He said Medic No. 1 has arrived in town and is in the parking lot for viewing. He said it came in less than budgeted, and it has a ten-year life span with a potential rehabs up to three times. He said the City may have this ambulance for 40 years. He said this is important during the budget cycle. He thanked them for their support.

## X. ADJOURNMENT

Councilmember Davidson MOVED to adjourn the meeting.

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

The meeting adjourned at 8:40 p.m.

MAY 25, 2017

8215

CITY OF KODIAK

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MAYOR

ATTEST:

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CITY CLERK

Minutes Approved:



## **PERSONS TO BE HEARD**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager  
**Thru:** Kelly Mayes, Finance Director *KM*  
**Date:** June 8, 2017

**Agenda Item:** III. a. Presentation of GFOA Award to the Finance Department

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**SUMMARY:** The Government Finance Officers Association (GFOA) notified the City that the Finance Department received a Certificate of Achievement for Excellence in financial reporting for the City's FY2016 comprehensive annual financial report (CAFR). The award of this certificate represents one of the highest levels of achievement in governmental financial reporting for the Department and City. Our Finance Director Kelly Mayes and Finance Department staff did a very thorough job of preparing the CAFR and assisting the auditors.

**ATTACHMENTS:**

Attachment A: GFOA Certificate of Achievement for Excellence in Financial Reporting



Government Finance Officers Association

**Certificate of  
Achievement  
for Excellence  
in Financial  
Reporting**

Presented to

**City of Kodiak  
Alaska**

For its Comprehensive Annual  
Financial Report  
for the Fiscal Year Ended

**June 30, 2016**

A handwritten signature in black ink, reading "Jeffrey R. Emer". The signature is written in a cursive style.

Executive Director/CEO

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## MEMORANDUM TO COUNCIL

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**Date:** June 8, 2017

**Agenda Item:** III. b. Proclamation: Filipino American Heritage Month

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**SUMMARY:** This proclamation 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.

**ATTACHMENT:**

Attachment A: Proclamation: Declaring Filipino American Heritage Month

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# PROCLAMATION

## Declaring Filipino American Heritage Month

WHEREAS, the City of Kodiak is made up of a wonderful mosaic of culturally diverse people; and

WHEREAS, Filipino Americans have enriched our city through their vital contributions to the economic, social, political, and cultural quality of life in the community; and

WHEREAS, June 12, 2017, marks the 119th anniversary of the declaration of Philippine independence; and

WHEREAS, this momentous occasion provides an opportunity for all Filipino Americans to share their cultural heritage with people of all races, ethnicities, and nationalities; and

WHEREAS, local observances will include a traditional church service and potluck.

NOW, THEREFORE, I, Pat Branson, Mayor of the City of Kodiak, do hereby proclaim June 2017, as

### Filipino American Heritage Month

in Kodiak and urge all citizens to participate in the festivities celebrating the rich heritage and traditions of the Philippine Islands.

Presented this 8th day of June 2017.

City of Kodiak

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Pat Branson, Mayor

# **UNFINISHED BUSINESS**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager  
**Thru:** Kelly Mayes, Finance Director *KMM*  
**Date:** June 8, 2017

**Agenda Item:** IV. a. **Second Reading and Public Hearing, Ordinance No. 1363, 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 2017 and Ending on the Thirtieth Day of June 2018**

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**SUMMARY:** Ordinance No. 1363 provides for the adoption of the City of Kodiak's FY2018 budget. The budget document, which supports the ordinance, estimates all sources of revenue the City anticipates receiving between July 1, 2017, and June 30, 2018. The budget document also establishes an operating and capital expenditure plan for FY2018 that is based on staff's assessment of operational and community needs and the Council's FY2018 budget goals. Staff made the FY2018 budget presentation to Council and the public during a special budget work session on May 6, 2017. Staff recommends Council adopt Ordinance No. 1363.

**PREVIOUS COUNCIL ACTION:**

- Prior to the start of each fiscal year, the City Council adopts the City's operating and capital budget by ordinance.
- Council reviewed projected FY2018 revenues and the FY2018 budget calendar on February 7, 2017.
- Council adopted Resolution No. 2017-05, establishing budget goals for FY2018, on February 28, 2017.
- Staff presented the proposed FY2018 budget to the Mayor and Council at a special work session on May 6, 2017.
- On May 23, 2017, Council reviewed Ordinance No. 1363 at their work session.
- On May 25, 2017, Council passed Ordinance No. 1363 in the first reading and advanced to second reading and public hearing at the next regular or special Council meeting.

**DISCUSSION:** The FY2018 budget funds the services provided by the City of Kodiak to residents and visitors: law enforcement (including animal control and contract jail services), fire and emergency medical services (including ambulance services), public works (public water system, wastewater system, street and property maintenance), engineering, port and harbor facilities, parks and recreation facilities and programs, public library, and general administrative functions (municipal recordkeeping and financial management).



The proposed FY2018 budget was developed as a maintenance level budget and will attempt to provide the same level of services as the current year's budget with a reduction in expenses. This is a prudent approach since revenues are expected to remain static as expenses continue to increase. The City Council adopted FY2018 budget goals by resolution in February of this year (Attachment B), and staff used the goals to develop and evaluate the proposed operating budget. The proposed budget is consistent with the Council's FY2018 budget goals.

#### Combined Revenues and Expenses for All Funds

The FY2018 budget projects combined revenues from all funds excluding capital projects to be \$35,282,406, which is a decrease of 2.26 percent from FY2017's combined budgeted revenues of \$36,094,739. Revenues are forecasted based on the current fiscal year even though some sources may fluctuate slightly. Expenses for all City funds, excluding capital projects, is expected to also be \$35,282,406, an overall decrease of 2.26 percent from FY2017. Fewer capital equipment purchases account for the largest decreases in expenses.

#### Operating Budget

The FY2018 operating budget is primarily a maintenance budget as it has been for at least the past eight years. As directed, City staff developed a conservative budget. The City, like everyone in the community, continues to face rising costs, but the departments are careful to absorb cost increases whenever and wherever possible. As outlined in the City Council FY2018 goals, a review of all categories of General Fund expenditures was conducted to identify ways to decrease expenses. Even with all the budget cuts, unavoidable cost increases resulted in a 0.525 percent decrease in General Fund expenses before transfers from FY 2017.

#### General Fund

The General Fund provides funding for those City services that aren't required to be accounted for differently, like the enterprise funds. The General Fund uses revenues from sources such as sales and property taxes to fund the City's administrative functions such as tax collection and audits, billing, emergency preparedness, information technology, and management of all City functions. It also funds services such as municipal recordkeeping functions, law enforcement, fire and ambulance, library and recreational services and facilities, and public works and engineering services.

General Fund revenues for FY2018 are projected at \$19,583,887, a decrease of approximately 0.07 percent from FY 2017 projections with the largest changes due to an increase in the appropriation of the fund balance (12%) which was required in FY2018 to fund the operating expenses. The General Fund is projected to recognize a deficit in the amount of \$2,238,227. These budget figures are consistent with Council's FY2018 goal that the General Fund would be budgeted without a deficit with appropriations from the fund balance when/if necessary, and that General Fund operating expenses (non-personnel) will be consistent with those of FY2017.

### Fund Balance

The City's General Fund balance has been accumulated from various revenue sources, large and small. Even with conservative budgeting, this fund no longer takes in more revenues than it must spend for expenses to operate the General Fund departments and to provide the necessary services. The FY2017 budget is projected to have \$7.6 million remaining in the fund balance. The FY 2018 budget is projected to have an estimated \$5.4 million remaining in the fund balance after the FY18 deficit of \$2,238,227 and transfers in the operating budget. The estimated FY2018 fund balance, if projections are correct, will be needed to offset expenses and provide the City with approximately 3.01 months of operating reserves. Of course there are many budget variables, so this is only a projection and cannot be guaranteed so early in the budgeting process. The proposed FY2018 budget anticipates greater use of fund balance than the FY2017 budget because less revenue is being received from intergovernmental revenue sharing sources and slightly lower sales tax projections.

### Personnel

Salaries, wages and benefits are the single largest expense in the City's annual budget, totaling 49 percent. Salaries and wages for FY2018 are estimated to total \$9.4 million or 26 percent of the City's overall expenses. This is less than 1 percent change from FY2017 citywide salaries and wages and reflects the Personnel Rules and Regulations scheduled salary increases. Employee benefit costs are projected at \$8.3 million, 23 percent of the City's overall expense budget, which is a 2.00 percent increase from FY 2017.

The FY2017 budget reflects an increase of one full-time employee for the new HR Manager. This increases the number of City employees from 128.15 to 129.15 for both FY2017 and FY2018. The City's work force for FY2018 remains at 124 regular full-time employees and 5.15 regular part-time positions working from 20-30 hours per week for a total of 129.15 FTEs.

These changes to the FY2018 budget meet Council's personnel goals. The tracking of part-time personnel is a necessary step in meeting Council's goal to complete an analysis of the need, costs, and hiring process for the City's use of temporary or seasonal employees.

### Enterprise Funds

The City has eight separate enterprise funds; the Harbor Department's Cargo Terminal, Boat Harbor, Harbor Electric Utility, and the Boat Yard/Vessel Lift funds; the Water, Sewer, and Trident Basin funds managed by Public Works; and the E911 Fund. The FY2018 budgets for these funds reflect a balance of revenues to expenses.

The E911 Fund was established in FY2010 in preparation for the transfer of E911 extraterritorial authority from the Borough to the City. This transfer has not yet taken place, but the Borough staff has

agreed to work toward the transfer of authority or find another way to fairly share in the expenses and responsibilities of providing the service to Kodiak.

#### Enhancement Fund

The FY2018 budget proposes no use of Enhancement Fund monies. Enhancement Fund monies have not been used since FY2013, so the fund balance can build up, per Council's budget goals. The projected fund balance for the Enhancement Fund in FY2017 is estimated to be \$4.1 million, which is an increase of \$106,000 from the FY2016 balance.

#### Capital Projects

The FY2018 budget recommends \$2.1 million in capital project expenditures. This includes nine new capital projects in FY2018 ranging in size from \$25,000 to \$600,000. It also includes additional funding for established or ongoing capital projects such as annual curb and sidewalk repairs, maintenance projects, and the vehicle replacement fund. Costs for the projects will be covered through use of capital project fund balances and a transfer from the General fund. Staff presented the capital projects in detail at the budget work session on May 6, 2017.

#### **ALTERNATIVES:**

- 1) Adopt Ordinance No. 1363 after the public hearing at the next regular or special Council meeting. This is staff's recommendation.
- 2) Council may also amend Ordinance No. 1363.

**FINANCIAL IMPLICATIONS:** The City Council must make appropriations and adopt an annual budget. As presented, this budget retains ongoing service levels while meeting maintenance level budgetary criteria established by Council. The budget meets operational needs and estimates an adequate retention of fund balance in the General Fund.

**LEGAL:** The Kodiak City Charter and Kodiak City Code grant Council the authority to make appropriations and adopt and amend budgets as required. Article V, Section 2 of the City Charter states the City Manager will prepare and present a proposed budget to the City Council in advance of the fiscal year which begins on July 1st and ends on June 30th. Article V, Section 4 of the City Charter gives the City Council the authority to make appropriations for the next fiscal year and may approve or amend the budget. Appropriations must be made and the budget approved by a majority vote of the City Council no later than the third day before the beginning of the new fiscal year, and if the Council fails to approve the budget by that date, the budget as submitted shall go into effect and be considered adopted by the Council.

**STAFF RECOMMENDATION:** Staff recommends Council adopt Ordinance No. 1363.

**CITY MANAGER'S COMMENTS:** We have managed to provide Council with another lean budget without affecting services provided, per Council's FY2018 budget goals. The task becomes more

challenging as costs continue to rise and other sources of governmental funding become more limited. We do expect to have a modest amount of projected revenues for use on capital project needs, many of which are critical. The preparation of this document and the presentations at the May 6, 2017, budget work session reflect a great deal of work by the City staff, including an assessment of operational and community needs necessary to create this annual financial plan. I want to thank our management team for their serious commitment to meeting Council's goals and for their fiscal responsibility, not just in preparation of this draft budget, but throughout the year.

**ATTACHMENTS:**

Attachment A: Ordinance No. 1363

Attachment B: Resolution No. 2017-05, FY2018 Council Budget Goals

**PROPOSED MOTION:**

Move to adopt Ordinance No. 1363.

**CITY OF KODIAK  
ORDINANCE NUMBER 1363**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK 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 2017 AND ENDING ON THE THIRTIETH DAY OF JUNE 2018**

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

**Section 1:** A tax in the amount of 2.0 mills is hereby levied against all taxable real property within the City of Kodiak for the fiscal year commencing on the first day of July 2017 and ending on the thirtieth day of June 2018.

**Section 2:** The following sums of money are hereby appropriated for corporate purposes and objects of the City of Kodiak for the fiscal year commencing on the first day of July 2017 and ending on the thirtieth day of June 2018 to defray expenses and liabilities of the City during the fiscal year.

**FY2018 BUDGET SUMMARY**

**GENERAL FUND**

	Anticipated Revenues	
Taxes	\$ 12,756,000	
Licenses & Permits	58,800	
Intergovernmental Revenues	1,113,300	
Charges for Services	1,661,217	
Fines & Forfeitures	10,000	
Interest	15,000	
Rents & Royalties	175,000	
Miscellaneous	22,000	
Interfund Charges	1,534,343	
Appropriation from Fund Balance	2,238,227	
<b>Total Anticipated Revenues</b>	<b>19,583,887</b>	
		Planned Expenditures
Legislative		\$ 266,408
Legal		75,000
Executive-Administration		827,691
Executive-Emergency Preparedness		38,000
City Clerk-Administration		359,905
City Clerk-Records Management		197,115

**GENERAL FUND EXPENDITURES CONTINUED**

Finance	1,676,759
Police	6,913,240
Fire	2,459,976
Public Works	2,188,350
Engineering	281,914
Parks & Recreation	1,434,270
Library	929,750
Non-Departmental	1,935,509
<b>Total Planned Expenditures</b>	<b>19,583,887</b>

**SPECIAL REVENUE FUND**

	Anticipated
	Revenues
Tourism Fund	\$ 189,500
City Enhancement Fund	-
<b>Total Anticipated Revenues</b>	<b>189,500</b>

	Planned
	Expenditures
Tourism Fund	\$ 189,500
City Enhancement Fund	-
<b>Total Planned Expenditures</b>	<b>189,500</b>

**CAPITAL PROJECTS FUND**

	Anticipated
	Revenues
General Capital	\$ 50,000
Street Improvements	325,000
Building Improvement Fund	-
Water Capital Fund	600,000
Sewer Capital Fund	600,000
Cargo Development Fund	-
Harbor Development Fund	243,000
Parks & Recreation Fund	25,000
Vehicle Replacement Fund	260,901
<b>Total Anticipated Revenues</b>	<b>2,103,901</b>

**CAPITAL PROJECTS FUND CONTINUED**

	Planned Expenditures
General Capital	\$ 50,000
Street Improvements	325,000
Building Improvement Fund	-
Water Capital Fund	600,000
Sewer Capital Fund	600,000
Cargo Development Fund	-
Harbor Development Fund	243,000
Parks & Recreation Fund	25,000
Vehicle Replacement Fund	260,901
<b>Total Planned Expenditures</b>	<b>2,103,901</b>

**ENTERPRISE FUNDS**

	Anticipated Revenues
Cargo Fund	\$ 1,290,355
Harbor Fund	3,807,436
Boat Yard Lift	1,231,367
Harbor Electric Fund	626,908
Water Utility Fund	3,297,238
Sewer Utility Fund	4,325,212
Trident Basin Fund	302,253
E-911 Services	13,771
<b>Total Anticipated Revenues</b>	<b>14,894,540</b>

	Planned Expenditures
Cargo Fund	\$ 1,290,355
Harbor Fund	3,807,436
Boat Yard Lift	1,231,367
Harbor Electric Fund	626,908
Water Utility Fund	3,297,238
Sewer Utility Fund	4,325,212
Trident Basin Fund	302,253
E-911 Services	13,771
<b>Total Planned Expenditures</b>	<b>14,894,540</b>

**INTERNAL SERVICE FUNDS**

	Anticipated	
	Revenues	
Self Insurance Fund	\$	614,479
<b>Total Anticipated Revenues</b>		<b>614,479</b>
		Planned
		Expenditures
Self Insurance Fund	\$	614,479
<b>Total Planned Expenditures</b>		<b>614,479</b>
<b>Grand Total Anticipated Revenues</b>	\$	<b>37,386,307</b>
<b>Grand Total Planned Expenditures</b>	\$	<b>37,386,307</b>
	<b>Non- Projects</b>	<b>35,282,406</b>
	<b>Non- Projects</b>	<b>35,282,406</b>
	<b>Projects</b>	<b>2,103,901</b>
	<b>Projects</b>	<b>2,103,901</b>
	<b>Total</b>	<b>37,386,307</b>
	<b>Total</b>	<b>37,386,307</b>

**Section 3:** All unexpended appropriation balances, with the exception of capital project fund appropriations, shall lapse to the appropriate fund as of June 30, 2018.

**Section 4:** This ordinance shall go into effect July 1, 2017.

CITY OF KODIAK

\_\_\_\_\_  
MAYOR

ATTEST:

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

First Reading: May 25, 2017  
 Second Reading:  
 Effective Date:



**CITY OF KODIAK  
RESOLUTION NUMBER 2017-05**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK APPROVING  
THE CITY COUNCIL'S BUDGET GOALS FOR FY2018**

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

WHEREAS, the City Council discussed and selected the list of budget goals at their January 14, 2017, planning meeting; and

WHEREAS, management will use the listed budget goals as a framework when developing the FY2018 budget.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that the following budget goals will be used in the development of the City of Kodiak's FY2018 budget:

**Revenue**

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

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

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

**Operating Expenses**

General Fund operating (non-personnel) expenses for FY2018 will be at a level consistent with FY2017. Required increases will be justified to the City Manager in writing and, if approved, presented by department heads to the City Council for final consideration during budget presentations.

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

City management will continue to examine ways to maintain efficiencies of expenditures without significant impact to level and quality of services provided to residents.

### **Personnel Goals**

The increase in personnel includes the Council approved Human Resource Manager. The City will not increase the current number of FTEs from 129.15 in FY2018 unless new operational needs or mandates require additional employee positions.

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

### **General Fund**

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

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

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

### **Enterprise Funds**

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

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

The Shipyard will strive to maintain positive cash flows through charges for services to meet debt service payments and maintain facilities operations and maintenance costs. The Shipyard will highlight the services offered by developing a business plan and marketing campaign to maximize revenues. This plan will be reviewed annually for marketing effectiveness.

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

### **Community Support**

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

### **Capital**

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

The City Manager and management staff developed the City's first formal five-year capital improvement plan (CIP) that identifies and ranks projects for capital and major maintenance projects. The plan has additional information for ten-year expense projections for all departments and funds. The City will utilize the planning document and develop policies and procedures identifying criteria and steps for implementation. The capital budget will link to, and flow from, the multi-year capital improvement plan.

**Debt Service**

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

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

**Quality of Life**

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

**Economic Development**

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



CITY OF KODIAK

MAYOR

ATTEST:

for CITY CLERK

Adopted: February 28, 2017

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# **NEW BUSINESS**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers

**From:** Mike Tvenge, City Manager

**Thru:** Corey Gromm, Parks and Recreation Director *CG*

**Date:** June 8, 2017

**Agenda Item:** V. a. **Resolution No. 2017–16, Authorizing the Issuance of a Permit to the High School Tennis Team for the Use of Public Property for Its Tennis Clinic Fundraiser**

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**SUMMARY:** 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 8<sup>th</sup> through October 31<sup>st</sup>. The purpose is to promote the sport and use of the courts while raising money for the high school tennis team. 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. Staff recommends Council approve this use by adopting Resolution No. 2017–16.

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

**DISCUSSION:** The high school tennis team began in 2004. The team represents the school in the Alaska State High School Tennis Tournament. All expenses are met with self-generated funds.

City staff supports the tennis team and coach's efforts to promote tennis in the community and to raise funds for the team and recommends that Council adopt the resolution to authorize the use of the Baranof Park tennis court(s).

**ALTERNATIVES:**

- 1) Adopt Resolution No. 2017–16, which is staff's recommendation because it promotes the use of the City's tennis courts and helps the high school team raise money for their expenses.
- 2) Do not adopt the resolution, which is not recommended, because it is inconsistent with past actions to support school sports team fundraising events and would impact their opportunity to raise money for their program.

**FINANCIAL IMPLICATIONS:** There are no financial implications involved in allowing this permitted use.

**STAFF RECOMMENDATION:** Staff recommends Council approve the high school tennis team's use of the City's tennis courts to provide tennis clinics and lessons to offset their travel and other expenses by adopting Resolution No. 2017-16.

**CITY MANAGER'S COMMENTS:** This tennis team is raising funds to promote and participate in their sports. They have been active since 2004 and I encourage Council to allow the KHS tennis team to fundraise during their events at Baranof Park. This teaches these athletes skills outside of their sport and I support this earn to play approach.

**ATTACHMENTS:**

Attachment A: Resolution No. 2017-16

Attachment B: Letter from Steve Johnston, dated April 28, 2017.

**PROPOSED MOTION:**

Move to adopt Resolution No. 2017-16.

**CITY OF KODIAK  
RESOLUTION NUMBER 2017-16**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE ISSUANCE OF A PERMIT TO THE HIGH SCHOOL TENNIS TEAM FOR THE USE OF PUBLIC PROPERTY FOR ITS TENNIS CLINIC FUNDRAISER**

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

WHEREAS, the Team is sponsoring a tennis clinic for the Kodiak community to raise funds for team travel and to purchase tennis equipment; and

WHEREAS, the Team has requested use of the Baranof Park tennis court(s) from June 8, 2017 through October 31, 2017, and will charge a fee and/or request donations; and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Kodiak, Alaska, that a permit be issued, with the permit fee waived, to the Kodiak High School Tennis Team as provided in section 5.04.050(b) and (d) of the City Code for use of public property for its 2017 tennis clinic on the condition that the Team agrees to comply with the stipulations set forth in this section and section 5.04.060 of the City Code.

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

CITY OF KODIAK

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MAYOR

ATTEST:

\_\_\_\_\_

CITY CLERK

Adopted:





# KHS Tennis Team

Attachment B

**Coach Steve Johnston**  
PO Box 2244 - Kodiak, AK 99615  
Phone: 907-654-7014  
e-mail: sfjohnston@hotmail.com

Date: 28 April 2017

To: Mayor Ms. Pat Branson  
City of Kodiak  
722 Mill Bay Rd  
Kodiak, AK 99615

From: Mr. Stephen F. Johnston

Re: Use of Baranof Park Tennis Courts for KHS Tennis Team Funding

Dear Ms. Pat Branson,

My name is Steve Johnston and I am the head coach for the Kodiak High School (KHS) Tennis Team. This program is a sport at the high school and currently has a membership of some 25+ students. The season runs from the last week of July thru the first or second week of October. The club has existed since 2004 when it was started by Craig Johnson and Derrik Magnuson. It was the development of this team in Region 3 that allowed this important Alaska state tournament to take place. Over the last 2 years 5 more Region 3 High Schools have developed tennis programs and in 2016 Kodiak High School won the Region 3 Championships.

Like most KHS sports we are constantly dealing with funding issues. The team raises money through its own efforts which include an administrative fee and fund raising activities such as car washes and bake sales. In addition we receive support from the Kodiak High School Booster Club which we pay back by assisting in the Bear's Den during various other sporting events. Also, the team will receive some funding from the Kodiak Island Borough School District. However, to replace worn equipment, buy uniforms and enhance our facilities the tennis team needs a greater amount of funding than can be supplied by the above efforts. As with all sports at KHS, travel is the all consuming problem, typical expenses include a \$200+ round trip airfare Kodiak to Anchorage and \$80 round trip fare for the Alaska State Ferry Kodiak to Homer. Some equipment costs are: new ball machines \$700 to \$1500 (or more), stringing tennis racquets: \$25 per racquet, uniforms: \$20.00 to \$35.00.

Other fund raising opportunities would be to run tennis clinics and/or tournaments for the greater Kodiak Community for a fee and/or donations. As such I am requesting the use of the Baranof Park tennis courts for various tennis related activities such as competitions and skills clinics to assist with funding. These various activities would be planned from now through the end of October .

The team appreciates your consideration of this request and I will be happy to answer any questions you may have about this.

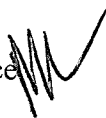
Sincerely,

Stephen F. Johnston

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager  
**Thru:** Ronda Wallace, Chief of Police   
**Date:** June 8, 2017

**Agenda Item: V. b. Authorization of Service Agreement With Johnson Controls, Inc., for Annual Inspection and Preventative Maintenance of the Kodiak Police Station Building Control Systems**

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**SUMMARY:** This authorization would award a multi-year service agreement to Johnson Controls, Inc. (JCI) to provide preventative maintenance and correction of minor deficiencies encountered during routine inspections of the fire, security, and mechanical systems utilized within the Kodiak Police Station. Staff recommends the Council authorize this three-year agreement. The amounts are as follows: \$35,768 for FY2018; \$37,199 for FY2019; and \$38,687 for FY2020.

**PREVIOUS COUNCIL ACTION:**

- Council authorized the three-year service agreement with Johnson Controls, Inc. during the June 12, 2014, regular meeting.
- Council reviewed the proposed three-year agreement with Johnson Controls, Inc., at the June 6, 2017, work session.

**DISCUSSION:** The Kodiak Police Station incorporates a number of automated systems that control and operate the buildings fire, security and mechanical systems. JCI was contracted to provide preventative maintenance and corrections of minor deficiencies encountered during routine inspections of the fire, security and mechanical system controls in the Kodiak Police Station when it came on line in 2010. While staff has participated in owner training intended to familiarize them with these sophisticated operating and control systems, City staff does not possess the training or qualifications to maintain and service these systems. These sophisticated systems must be routinely inspected and serviced for optimal performance. The three-year agreement with JCI terminates at the end of FY2017.

The purpose of this three-year service agreement is to ensure that qualified individuals properly maintain the fire, security and mechanical system in the police station. JCI's proposed scope of work includes technician visits twice per year, for two days per visit, to inspect building systems and to correct minor deficiencies encountered. A qualified mechanic, for one annual visit of two days, to perform needed mechanical preventative maintenance tasks, with specific focus on facility mechanical cooling system. Furthermore, JCI is offering the three-year agreement, which benefits the City, as it would secure fixed

pricing for upcoming years. Agreement amounts follow Year 1) \$35,768, Year 2) \$37,199 and Year 3) \$38,687. JCI recognizes the City's concerns about multiple year agreements. Consequently, they have included language in the agreement that gives the City the option of not renewing the agreement, provided notice of nonrenewal is made to JCI within forty-five days prior to the end of the agreement term.

**ALTERNATIVES:**

- 1) Authorize the award of a new three-year agreement, as it would allow the City to continue properly maintaining these sophisticated systems. This is the recommendation staff makes to Council.
- 2) Do not authorize this agreement. Staff does not recommend this alternative, as it would result in emergency maintenance should we encounter a system failure.

**FINANCIAL IMPLICATIONS:** The first year amount of this multi-year agreement is included in the FY2018 General Fund, Police Administration, Professional Services.

**LEGAL:** N/A

**STAFF RECOMMENDATION:** Staff recommends Council authorize the three-year service agreement with Johnson Controls, Inc., to provide annual inspections and preventative maintenance of the Kodiak Police Station building control systems, with first year funds in the amount of \$35,768, coming from the FY2018 General Fund, Police Administration, Professional Services account.

**CITY MANAGER'S COMMENTS:** Along with the high technology of this system, it requires understanding and specialized tools to provide maintenance and service. Since it is a Johnson Controls system it would seem logical they are best suited to keep it running. I recommend continuing of their service agreement.

**ATTACHMENTS:**

Attachment A: Johnson Controls, Inc., Service Agreement

**PROPOSED MOTION:**

Move to authorize the three-year service agreement with Johnson Controls, Inc. in the amount of \$111,654 for annual inspection and preventative maintenance of the Kodiak Police Station building control systems, with first-year funds in the amount of \$35,768, coming from FY2018 General Fund, Police Administration, Professional Services account.

# Planned Service Proposal



**CUSTOMER**  
KODIAK POLICE STATION

**LOCAL JOHNSON CONTROLS OFFICE**  
2000 W INTERNATIONAL ROAD, UNIT #B-1  
ANCHORAGE, AK 99502

**AGREEMENT START DATE:**  
07/01/2017

**PROPOSAL DATE:**  
03/20/2017

**ESTIMATE NO:**  
1-LXLN7JG



## Partnering with you to deliver value-driven solutions

A Planned Service Agreement with Johnson Controls provides you with a customized service strategy designed around the needs of your facility. Our approach features a combination of scheduled, predictive and preventative maintenance services that focus on your goals.

As your building technology services partner, Johnson Controls delivers an unmatched service experience delivered by factory-trained, highly skilled technicians who optimize operations of the buildings we work with, creating productive and safe environments for the people within.

By integrating our service expertise with innovative processes and technologies, our value-driven planned service solutions deliver sustainable results, minimize equipment downtime and maximize occupant comfort.



## Executive Summary

### PLANNED SERVICE PROPOSAL FOR KODIAK POLICE STATION

Dear Rhonda Wallace,

We value and appreciate your interest in Johnson Controls as a service provider for your building systems and are pleased to provide a value-driven maintenance solution for your facility. The enclosed proposal outlines the Planned Service Agreement we have developed on your facility.

Details are included in the Planned Service Agreement summary (Schedule A), but highlights are as follows:

- In this proposal we are offering a service agreement for 3 Years - starting 07/01/2017 and ending 06/30/2020.
- The agreement price for first year is \$35,768.00; see Schedule A, Supplemental Price and Payment Terms, for pricing in subsequent years.
- The equipment options and number of visits being provided for each piece of equipment are described in Schedule A, Equipment list.

As a manufacturer of both mechanical and controls systems, Johnson Controls has the expertise and resources to provide proper maintenance and repair services for your facility.

Again, thank you for your interest in Johnson Controls and we look forward to becoming your building technology services partner.

Please contact me if you have any questions.

Sincerely,



Matt H. Webster  
Service Manager  
(907) 243-3737

## Benefits of Planned Service

A Planned Service Agreement with Johnson Controls will allow you to optimize your building's facility performance, providing dependability, sustainability and energy efficiency. You'll get a value-driven solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

With this Planned Service Agreement, Johnson Controls can help you achieve the following five objectives:



1. **Identify Energy Savings Opportunities**

Since HVAC equipment accounts for a major portion of a building's energy usage, keeping your system performing at optimum levels may lead to a significant reduction in energy costs.

2. **Reduce Future Repair Costs**

Routine maintenance may maximize the life of your equipment and may reduce equipment breakdowns.

3. **Extend Asset Life**

Through proactive, factory-recommended maintenance, the life of your HVAC assets may be extended, maximizing the return on your investment.

4. **Ensure Productive Environments**

Whether creating a comfortable place where employees can be productive or controlling a space to meet specialized needs, maintenance can help you achieve an optimal environment for the work that is being accomplished

5. **Promote Environmental Health and Safety**

When proper indoor conditions and plant requirements are maintained, business outcomes may be improved by minimizing sick leave, reducing accidents, minimizing greenhouse gas emissions and managing refrigerant requirements.

All of the services we perform on your equipment are aligned with "The 5 Values of Planned Maintenance" and our technicians understand how the work they perform can help you accomplish your business objectives.

## Personalized Account Management

A Planned Service Agreement also provides you with the support of an entire team that knows your site and can closely work with you on budget planning and asset management. Your local Johnson Controls account management team can help guide planned replacement, energy retrofits and other building improvement projects. You'll have peace of mind that an entire team of skilled professionals will be looking out for what is best for your facility and budget.

## A Culture of Safety

Johnson Controls technicians take safety seriously and personally, and integrate it into everything they do. All of our technicians participate in regular and thorough safety training. Because of their personal commitment, we are a leader in the HVAC service industry for workplace safety performance. This means that you do not have to worry about us when we are on your site.



## Commitment to Customer Satisfaction

Throughout the term of your Planned Service Agreement, we will periodically survey you and use your feedback to continue to make improvements to our service processes and products. Our goal is to deliver the most consistent and complete service experience possible. To meet this goal, we've developed and implemented standards and procedures to ensure you receive the ultimate service experience – every time.

## Energy & Sustainability

A more sustainable world one building at a time – Johnson Controls is a company that started more than 125 years ago with a product that reduced energy use in buildings. We've been saving energy for customers ever since. Today, Johnson Controls is a global leader in creating smart environments where people live, work and play, helping to create a more comfortable, safe and sustainable world.

## The Value of Integrity

Johnson Controls has a long, proud history of integrity. We do what we say we will do and stand behind our commitments. Our good reputation builds trust and loyalty. In recognition for our commitment to ethics across our global operations, we are honored to be named one of the World's Most Ethical Companies by Ethisphere Institute, a leading think tank dedicated to business ethics and corporate social responsibility. In addition, *Corporate Responsibility Magazine* recognizes Johnson Controls as one of the top companies in its annual "100 Best Corporate Citizens" list.



## Service Plan Methodology

As part of the delivery of this Planned Service Agreement, Johnson Controls will dedicate a local customer service agent responsible for having a clear understanding of the agreement scope, and your facility procedures and protocols.

A high-level overview around our service delivery process is outlined below including scheduling, emergency service, on-site paperwork, communication and performing repairs outside of the agreement scope.

### Scheduling

Preventative maintenance service will be scheduled using our automated service management system. In advance of the scheduled service visit, our technician is sent a notice of service to a smartphone. Once the technician acknowledges the request, your customer service agent will call or e-mail your on-site contact to let you know the start date and type of service scheduled.

The technician checks in, wears personal protective equipment, performs the task(s) as assigned, checks out with you and asks for a screen capture signature on the smartphone device. A work order is then e-mailed, faxed or printed for your records.

### Emergency Services

Emergency service can be provided 7 days a week, 24 hours a day, 365 days a year. During normal business hours, emergency service will be coordinated by the customer service agent. After hours, weekends and holidays, the emergency service number transfers to the Johnson Controls after-hours call center and on-call technicians are dispatched as needed.

Johnson Controls is committed to dispatching a technician within hours of receiving your call through the service line. A work order is e-mailed, faxed or printed for your records. Depending on the terms of your agreement, you may incur charges for after hour services.

### Communication

A detailed communication plan will be provided to you so you know how often we will provide information to you regarding your Planned Service Agreement. The communication plan will also provide you with your main contacts at Johnson Controls.

### Approval Process for Non-Covered Items

Johnson Controls will adhere to your procurement process. No work will be performed outside of the agreement scope without prior approval. Johnson Controls will work with you closely to ensure your procurement process is followed before any non-covered item work is started.



## Summary of Services and Options

### Comprehensive and Operational Inspections

During comprehensive and operational inspections, Johnson Controls will perform routine checks of the equipment for common issues caused by normal wear and tear on the equipment. Additional tests can be run to confirm the equipment's performance.

Routine maintenance, such as lubrication, cleaning and tightening connections, can be performed depending on the type of equipment being serviced. Routine maintenance is one of the keys to the five values of maintenance – it can help identify energy saving opportunities, reduce future repair costs, extend asset life, ensure productive environments, and promote health and safety.

### Filter Replacement

Clean air filters help maintain proper airflow throughout your building. Decreased airflow can impair the performance of the cooling coil and may lead to occupant discomfort and inefficient operation of the HVAC system. Johnson Controls will replace the filters on a regular basis to maintain airflow and maximize air quality.

## Summary

Thank you for considering Johnson Controls as your building technology services partner. The following agreement document includes all the details surrounding your Planned Service Agreement.

With planned service from Johnson Controls, you'll get a value-driven solution that can help optimize your building controls and equipment performance, providing dependability, sustainability and energy efficiency. You'll get a solution that fits your specific goals, delivered with the attention of a local service company backed by the resources of a global organization.

We'll be your building technology services partner

### Planned Service Agreement

Customer Name : KODIAK POLICE STATION  
Address: 2160 MILL BAY RD KODIAK,AK 99615-6633  
Proposal Date: 03/20/2017  
Estimate #: 1-LXLN7JG

### Scope of Service

Johnson Controls, Inc. ("JCI") and the Customer (collectively the "Parties") agree Preventative Maintenance Services, as defined in Schedule A ("Services"), will be provided by JCI at the Customer's facility. This Planned Service Agreement, the Equipment List, Supplemental Price and Payment Terms, Terms and Conditions, and Schedules attached hereto and incorporated by this reference as if set forth fully herein (collectively the "Agreement"), cover the rights and obligations of both the Customer and JCI.

### Extended Service Options for Premium Coverage

If Premium Coverage is selected, on-site repair services to the equipment will be provided as specified in this Agreement for the equipment listed in the attached Equipment List.

### Equipment List

Only the equipment listed in the Equipment List will be covered as part of this Agreement. Any changes to the Equipment List must be agreed upon in writing by both Parties.

### Term / Automatic Renewal

This Agreement takes effect on 07/01/2017 and will continue until 06/30/2020 ("Original Term"). The Agreement will automatically renew on a year-to-year basis after the Original Term ends unless the Customer or JCI gives the other written notice it does not want to renew. The notice must be delivered at least (45) days prior to the end of the Original Term or of any renewal period. The Original Term and any renewal periods are sometimes collectively referred to in this Agreement as the "Term". Renewal price adjustments are discussed in the Terms and Conditions.

### Refrigerant Charges

Refrigerant is not included under this Agreement and will be billed separately to the Customer by JCI.

**Price and Payment Terms**

The total Contract Price for JCI's Services during the 1st year of the Original Term is \$35,768.00. This amount will be paid to JCI in Semi-Annual installments. Pricing for each subsequent year of a multiyear original term is set forth in the Supplemental Price and Payment Terms. All payments will be due and payable within 30 days of the invoice date and such timely payment by Customer shall be a condition precedent to JCI's obligation to perform its Services. A penalty of one and a half percent (1.5%) of the amount due per month shall accrue for payments received after the payment due date. Renewal price adjustments are set forth in the Terms and Conditions.

Invoices will be sent to the following location:

CITY OF KODIAK  
710 MILL BAY RD #220  
KODIAK, AK 99615

This proposal is valid for thirty days from the proposal date.

**JOHNSON CONTROLS Inc.**

<u>By: Matthew Bintz</u>	<u>By:</u>
<u>Signature: <i>[Signature]</i></u>	<u>Signature:</u>
<u>Title: Customer Service Agent</u>	<u>Title:</u>
<u>Date: 3/20/17</u>	<u>Date:</u>
<u>Signature: <i>Mark W. Wilt</i></u>	<u>Customer PO#:</u>
<u>Title: Service Manager</u>	
<u>Date: 3/20/17</u>	

JCI Branch: JOHNSON CONTROLS ANCHORAGE AK CB - 0N60  
Address: 2000 W INTERNATIONAL ROAD, UNIT #B-1  
ANCHORAGE, AK 99502  
Branch Phone: (907) 243-3737

**Schedule A - Equipment List**

<b>KODIAK POLICE STATION</b>	<b>2160 MILL BAY RD, KODIAK, AK 99615-6633</b>
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<b>Block Hours - Controls</b>			
Quantity: 1		<b>Services Provided</b>	
Coverage Level: Basic		2 Preventive Maintenance (Controls Technician On-Site Visit)	
<b>Customer Tag</b>	<b>Manufacturer</b>	<b>Model #</b>	<b>Serial #</b>
Kodiak Police Station Controls PSA			

<b>Block Hours - Mechanical Heavy</b>			
Quantity: 1		<b>Services Provided</b>	
Coverage Level: Premium		1 Preventive Maintenance (Mechanic On-Site Visit)	
<b>Customer Tag</b>	<b>Manufacturer</b>	<b>Model #</b>	<b>Serial #</b>
	JCI_YORK		1-LKJLTW0

<b>Block Hours - Security System Rep</b>			
Quantity: 1		<b>Services Provided</b>	
Coverage Level: Premium		1 Preventive Maintenance (Fire Testing, On-Site)	
<b>Customer Tag</b>	<b>Manufacturer</b>	<b>Model #</b>	<b>Serial #</b>
	Write-In		SF-44437016-1-1

<b>Filters, HEPA, Large - Quarterly</b>			
Quantity: 1		<b>Services Provided</b>	
Coverage Level: Basic		4 Operational	
<b>Customer Tag</b>	<b>Manufacturer</b>	<b>Model #</b>	<b>Serial #</b>

<b>Filters, Standard Pleated, Medium - Quarterly</b>			
Quantity: 1		<b>Services Provided</b>	
Coverage Level: Basic		4 Operational	
<b>Customer Tag</b>	<b>Manufacturer</b>	<b>Model #</b>	<b>Serial #</b>

## Equipment Tasking

### Block Hours - Controls

Preventive Maintenance Use appropriate eye protection in work environment  
Use appropriate Head protection on worksite  
Use appropriate hand gloves on worksite  
Use and follow the JCI safety policy for Fall Protection while performing work  
Use and follow the JCI Ladder Safety processes while performing work  
Use and follow the JCI Lock-out Tag-out on all electrical machinery  
Check with appropriate customer representative for operational deficiencies  
Perform scheduled block hour tasks  
Complete any required maintenance checklists, report observations to appropriate customer representative

### Block Hours - Mechanical Heavy

Preventive Maintenance Use appropriate eye protection in work environment  
Use appropriate Head protection on worksite  
Use appropriate hand gloves on worksite  
Use and follow the JCI safety policy for Fall Protection while performing work  
Use and follow the JCI Ladder Safety processes while performing work  
Use and follow the JCI Lock-out Tag-out on all electrical machinery  
Check with appropriate customer representative for operational deficiencies  
Perform scheduled block hour tasks  
Complete any required maintenance checklists, report observations to appropriate customer representative

### Block Hours - Security System Rep

Preventive Maintenance Use appropriate eye protection in work environment  
Use appropriate Head protection on worksite  
Use appropriate hand gloves on worksite  
Use and follow the JCI safety policy for Fall Protection while performing work  
Use and follow the JCI Ladder Safety processes while performing work  
Use and follow the JCI Lock-out Tag-out on all electrical machinery  
All work must be performed in accordance with Johnson Controls safety policies  
Check with appropriate customer representative for operational deficiencies  
Perform scheduled block hour tasks  
Remove and dispose any debris from any maintenance activity  
Document tasks performed during visit and report any observations to appropriate customer representative

### Filters, HEPA, Large - Quarterly

Operational Use appropriate eye protection in work environment  
Use appropriate Head protection on worksite  
Use appropriate hand gloves on worksite  
Use and follow the JCI safety policy for Fall Protection while performing work  
Use and follow the JCI Ladder Safety processes while performing work  
Use and follow the JCI Lock-out Tag-out on all electrical machinery

- Check with appropriate customer representative for operational deficiencies
- Replace air filters per agreement
- Turn equipment off
- Remove dirty filters
- Install new filters
- Turn equipment on
- Dispose of dirty filter appropriately
- Complete any required maintenance checklists, report observations to appropriate customer representative

**Filters, Standard Pleated, Medium - Quarterly**

Operational

- Use appropriate eye protection in work environment
- Use appropriate Head protection on worksite
- Use appropriate hand gloves on worksite
- Use and follow the JCI safety policy for Fall Protection while performing work
- Use and follow the JCI Ladder Safety processes while performing work
- Use and follow the JCI Lock-out Tag-out on all electrical machinery
- Check with appropriate customer representative for operational deficiencies
- Replace air filters per agreement
- Turn equipment off
- Remove dirty filters
- Install new filters
- Turn equipment on
- Dispose of dirty filter appropriately
- Complete any required maintenance checklists, report observations to appropriate customer representative

**Supplemental Price & Payment Terms (Applies to Multi-Year Contracts Only)**

<b>Year</b>	<b>Total Annual Dollar Amount</b>	<b>Payment Frequency</b>
Year 1 (7/2017 - 6/2018)	\$35,768.00	Semi-Annual
Year 2 (7/2018 - 6/2019)	\$37,199.00	Semi-Annual
Year 3 (7/2019 - 6/2020)	\$38,687.00	Semi-Annual



**Special Additions and Exceptions**

The purpose for a multi-year contract is to secure fixed pricing for upcoming years. See Term/Automatic Renewal for Cancellation.

This is a combined service contract for both HVAC and Fire Testing Services.

**The scope of this proposal will provide the following:**

- Johnson Controls will provide one annual visit, and all associated travel, transportation, and lodging costs, to include standard service and inspection of the fire alarm system and the annual required 100% system test and re-certification. Emergency visits will take the place of the next scheduled PSA visit if possible; else they will be billed separately. Materials will be billed separately.
- Johnson Controls will provide a Factory Trained Controls Technician for two annual visits of two days per visit to perform needed Metasys Building Automation System Preventative Maintenance tasks. Minor repairs and/or adjustments will be performed during on-site visits. A quote will be provided for any major repairs or above and beyond work requested by the customer.
- Johnson Controls will provide a Qualified Mechanic for one annual visit of two days per visit to perform needed Mechanical Preventative Maintenance tasks, with specific focus on facility mechanical cooling equipment. Minor repairs and/or adjustments will be performed during on-site visits. A quote will be provided for any major repairs or above and beyond work requested by the customer
- Johnson Controls will provide the filters required to perform a complete replacement of Air Handler filters on a quarterly basis.

**Detailed Pricing Breakout Details:**

- HVAC Services (including filters)
  - Year 1 = \$20,745.00
  - Year 2 = \$21,575.00
  - Year 3 = \$22,438.00
- Fire Testing Services
  - Year 1 = \$15,023.00
  - Year 2 = \$15,624.00
  - Year 3 = \$16,249.00

Last Item Entry

**TERMS AND CONDITIONS**  
**DEFINITIONS**

**CONNECTED SERVICES** are the services and related equipment that allow JCI to access, monitor, and trend data remotely, and which may be available for certain types of Covered Equipment.

**CONTRACT PRICE** means the price that Customer shall pay to JCI for the Services.

**COVERED EQUIPMENT** means the equipment for which Services are to be provided under this Agreement. Covered Equipment is set forth in Schedule A - Equipment List.

**EQUIPMENT FAILURE** means the failure, under normal and expected working conditions, of moving parts or electric or electronic components of the Covered Equipment that are necessary for its operation.

**SCHEDULED SERVICE VISITS** are the on-site labor visits required to perform JCI recommended inspections and preventive maintenance on Covered Equipment.

**SCHEDULED SERVICE MATERIALS** are the materials required to perform Scheduled Service Visits on Covered Equipment, unless excluded from the Agreement.

**PREMISES** means those Customer premises where the Covered Equipment is located.

**REPAIR LABOR** is the labor necessary to restore Covered Equipment to working condition following an Equipment Failure, but does not include services relating to total equipment replacement due to obsolescence or unavailability of parts.

**CENTRAL STATION MONITORING** means remote monitoring of Covered Equipment and/or systems including building automation, HVAC equipment, and fire alarm, intrusion, and/or other life safety systems for alarm and event notifications.

**REMOTE OPERATING SERVICES** means remote interrogation, modification and/or operation of building automation, HVAC equipment, and/or other Covered Equipment.

**REPAIR MATERIALS** are the parts and materials necessary to restore Covered Equipment to working condition following an Equipment Failure, but excludes total equipment replacement due to obsolescence or unavailability of parts, unless excluded from the Agreement. At JCI's option, Repair Materials may be new, used, or reconditioned.

**SERVICES** are the work, materials, labor, service visits, and repairs to be provided by JCI pursuant to this Agreement.

**JCI'S SERVICES FOR COVERED EQUIPMENT**

**1. BASIC COVERAGE** means Scheduled Service Visits, plus Scheduled Service Materials (unless excluded from this Agreement). No parts, equipment, Repair Labor or Repair Materials are provided for under BASIC COVERAGE.

**2. PREMIUM COVERAGE** means BASIC COVERAGE plus Repair Labor, plus Repair Materials (unless excluded from the Agreement).

**3. EXTENDED SERVICE** means Services performed outside JCI's normal business hours and is available only if Customer has PREMIUM COVERAGE. Extended Service is available either 24/5 or 24/7, at Customer's election. The price for Extended Service, if chosen by Customer, is part of the total Contract Price.

**4. CONNECTED SERVICES.** If Customer is receiving Connected Services on any Covered Equipment as more fully described in Schedule A, Customer may be required to allow JCI to install hardware and/or software to enable communication with Customer's Covered Equipment ("Gateway Device"). In order for JCI to deliver Connected Services on the Covered Equipment, Customer shall provide a secure Internet connection to allow remote access to the Gateway Device in order to remotely access, transmit, store, and trend data for the purposes of providing Services. JCI will not use Connected Services to remotely operate or make changes to Customer's Equipment. The Gateway Device shall remain JCI's property, and JCI may upon reasonable notice remove it at any time. JCI makes no warranty or guarantee relating to the Connected Services.

**5. CENTRAL STATION MONITORING OR REMOTE OPERATING SERVICES.** If Central Station Monitoring Services or Remote Operating Services are provided, Customer agrees to furnish JCI with a list of the names, titles, addresses, and phone numbers of all persons authorized to enter the Premises during periods when such premises are closed for business. If JCI's Services include "Central Station Monitoring Services with Open and Close," Customer also agrees to furnish JCI with Customer's daily and holiday opening and closing schedules.

**6. CUSTOMER SERVICE INFORMATION PORTAL.** Customer may be able to utilize JCI's Customer Service Information Portal during the term of the Agreement, pursuant to the then applicable Terms of Use Agreement.

**A. INITIAL EQUIPMENT INSPECTION NECESSARY FOR PREMIUM COVERAGE**

If Customer has ordered PREMIUM COVERAGE, JCI will inspect the Covered Equipment within forty-five (45) days of the date of this Agreement, or as seasonal or operational conditions permit. JCI will then advise Customer if JCI finds any Covered Equipment not in working order or in need of repair. With Customer's approval, JCI will perform the work necessary to put the Covered Equipment in proper working condition, subject to the terms of this Agreement. Customer will pay for such work at JCI's standard rates for parts and labor in effect at the time that the work is performed. If Customer does not want JCI to perform the work identified as necessary by JCI, any equipment thereby affected will be removed from the list of Covered Equipment, and the Contract Price will be adjusted accordingly. Should Customer not make JCI's recommended repairs or proceed with the modified PREMIUM COVERAGE, JCI reserves the right to invoice Customer for the cost of the initial equipment inspection.

**B. OUT OF SCOPE SERVICES**

If, during any Service Visit, JCI detects a defect in any of Customer's equipment that is not Covered Equipment under this Agreement (an "Out of Scope Defect"), JCI may (but shall have no obligation to) notify Customer of such Out of Scope Defect. If Customer elects

**JOHNSON CONTROLS PLANNED SERVICE PROPOSAL**  
**PREPARED FOR KODIAK POLICE STATION**

for JCI to repair such Out of Scope Defect, or if JCI otherwise performs any Services or provides any materials, parts, or equipment outside the scope of the Services (collectively, "Out of Scope Services"). Customer shall direct JCI to perform such Out of Scope Services in writing, and Customer shall pay for such Out of Scope Services at JCI's standard fees or hourly rates. If, after receiving notice of an Out of Scope Defect, Customer elects not to engage JCI to repair such Out of Scope Defect, Customer shall defend and indemnify JCI from and against any and all losses, damages, claims, costs and expenses arising directly or indirectly out of such Out of Scope Defect. Any Out of Scope Services performed by JCI at the direction of Customer pursuant to this Section shall be subject to the terms of this Agreement.

**C. ADDITIONAL TERMS RELATING TO CENTRAL STATION MONITORING OF INTRUSION, FIRE, AND OTHER LIFE SAFETY SYSTEMS**

**1. Alarm Dispatches.** JCI, upon receipt of an alarm or other signal from the Premises, shall make reasonable efforts to transmit the signal to the appropriate police, fire department, or other emergency response agency having jurisdiction (unless there is reason to believe that an emergency condition does not exist), and JCI shall make a reasonable effort to notify Customer or its designated representative by telephone, unless instructed to do otherwise by Customer in writing. JCI, upon receipt of an industrial process signal from the Premises, shall take reasonable steps to notify Customer's representative pursuant to Customer's written instructions. Customer acknowledges that if the signals transmitted from the Premises will be monitored in a monitoring facility not operated by JCI, the personnel in such monitoring facilities are not the agents of JCI, nor does JCI assume any responsibility for the manner in which such signals are monitored or the response to such signal.

**2. Communications Media.** Customer acknowledges that monitoring of Covered Equipment requires transmission of signals over standard telephone lines and/or the Internet and that these modes of transmission may be interrupted, circumvented, or compromised, in which case no signal can be transmitted from the Premises to the monitoring facility. Customer understands that to allow the monitoring facility to be aware of such a condition, additional or alternative protection can be installed, such as line security devices, at Customer's cost and expense and for transmission via telephone line only. Customer acknowledges it is aware that line security devices are available and, unless expressly identified in Schedule A - Equipment List, has declined to purchase such devices. Customer further acknowledges that such additional protection is not available for Internet transmission under this Agreement.

**3. False or Unnecessary Alarms and Service Calls.** At JCI's option, an additional fee may be charged for any false alarm or unnecessary Service Visit caused or necessitated by Customer. In addition, Customer shall be fully responsible and liable for any fines, penalties, or charges assessed as the result of any false alarm and shall reimburse JCI for any costs incurred by JCI in connection therewith.

**D. EXCLUSIONS**

**1.** JCI's Services and warranty obligations expressly exclude:

- (a) the repair or replacement of ductwork, casings, cabinets, structural supports, tower fill/slats/basin, hydronic and pneumatic piping, and vessels, gaskets, and piping not normally replaced or maintained on a scheduled basis, and removal of oil from pneumatic piping;
- (b) disposal of hazardous wastes (except as otherwise expressly provided herein);
- (c) supplies, accessories, or any items normally consumed during the use of Covered Equipment, such as ribbons, bulbs and paper;
- (d) the furnishing of materials and supplies for painting or refinishing equipment;
- (e) the repair or replacement of wire in conduit, buried cable/transmission lines, or the like, if not normally replaced or maintained on a scheduled basis; and
- (f) replacement of obsolete parts.

**2.** JCI's Services and warranty obligations do not include repairs or service required as the result of:

- (a) abuse, misuse, alterations, adjustments, attachments, combinations, modifications, or repairs to Covered Equipment not performed, provided, or approved in writing by JCI;
- (b) issues caused by or related to equipment not covered by this Agreement or attachments made to Covered Equipment;
- (c) acts or omissions of the Customer, including but not limited to operator error, Customer's failure to conduct preventive maintenance, issues resulting from Customer's previous denial of JCI access to the Covered Equipment, and Customer's failure to keep the site clean and free of dust, sand, or other particles or debris, unless such conditions are previously expressly acknowledged by JCI in writing;
- (d) use of the Covered Equipment in a manner or environment, or for any purpose, for which it was not designed by the manufacturer;
- (e) issues resulting from site-related and environmental conditions, including but not limited to power failures and fluctuations in electrical current (or "power surges");
- (f) the effects of erosion, corrosion, acid cleaning, or damage from unexpected or especially severe freezing weather;
- (g) any other issues or failures not specifically covered by this Agreement; or
- (h) any other issues caused by occurrences beyond JCI's reasonable control and without JCI's fault or negligence.

**E. PAYMENT OBLIGATION**

Customer shall pay all invoices when due in accordance with the payment terms provided for in the Agreement, and such payment is a condition precedent to JCI's obligation to perform Services under the Agreement. In issuing any purchase order related to this Agreement, and notwithstanding any language to the contrary therein, Customer acknowledges and agrees that any and all JCI invoices for an amount greater than \$25,000 shall be paid only via wire transfer, check, or money order. If this Agreement is renewed, JCI will provide Customer with notice of any adjustments in the Contract Price applicable to any renewal period no later than forty-five (45) days prior to the commencement of that renewal period. Unless Customer terminates the Agreement at least thirty (30) days prior to the start of such renewal period, the adjusted price shall be the price for the renewal period.

**F. STANDARD OF CARE AND WARRANTIES**

JCI warrants its Services will be provided in a good and workmanlike manner. JCI will promptly re-perform any non-conforming Services for no charge, as long as Customer provides written notice to JCI within one (1) calendar year from the date the Services were performed. If JCI installs or furnishes goods or equipment under this Agreement, and such goods or equipment are covered by an end-user warranty from their manufacturer, JCI will transfer the benefits of such warranty to Customer. Customer must promptly notify JCI in writing of any defect or non-conformance of the Services, parts, or equipment. Upon receipt of such written notice from Customer, JCI will repair or replace (at JCI's option) the defective equipment or re-perform the defective Services. These warranties do not extend to any Services or equipment that have been misused, altered, or repaired by Customer or third parties without the supervision of and prior written approval of JCI, or if JCI serial numbers or warranty decals have been removed or altered. All replaced parts or equipment shall become JCI's property. This warranty is not assignable. Warranty service will be provided during normal business hours, excluding holidays. The remedies set forth herein shall be Customer's sole and exclusive remedy with regards to any warranty claim under this Agreement. Any lawsuit based upon the warranty must be brought no later than one (1) year after the expiration of the applicable warranty period. This limitation is in lieu of any other applicable statute of limitations. **CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THESE WARRANTIES ARE JCI'S SOLE WARRANTIES AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.** Except with respect to goods or equipment manufactured by JCI and furnished to Customer hereunder, for which JCI shall provide its express written manufacturer's warranty, JCI shall not be considered a merchant or vendor of goods or equipment.

**G. CUSTOMER OBLIGATIONS AND COMMITMENTS TO JCI**

Customer warrants it has given JCI all information concerning the condition of the Covered Equipment.

The Customer agrees and warrants that, during the Term of this Agreement, Customer will:

- (1) operate the Covered Equipment according to the manufacturer's and/or JCI's recommendations;
- (2) keep accurate and current work logs and information about the Covered Equipment as recommended by the manufacturer and/or JCI;
- (3) provide an adequate environment for Covered Equipment as recommended by the manufacturer and/or JCI, including, but not limited to adequate space, electrical power, water supply, air conditioning, and humidity control;
- (4) notify JCI immediately of any Covered Equipment malfunction, breakdown, or other condition affecting the operation of the Covered Equipment;
- (5) provide JCI with safe access to its Premises and Covered Equipment at all reasonable and necessary times for the performance of the Services;
- (6) allow JCI to start and stop, periodically turn off, or otherwise change or temporarily suspend equipment operations so that JCI can perform the Services required under this Agreement;
- (7) as applicable, provide proper condenser and boiler water treatment for the proper functioning of Covered Equipment;
- (8) carefully and properly set and test the intrusion alarm system each night or at such other time as Customer shall close the Premises;
- (9) obtain all necessary licenses and permits required for and pay all taxes associated with the Services;
- (10) notify JCI immediately of any claimed inadequacy in, or failure of, the Covered Equipment or other condition affecting the operation of the Covered Equipment;
- (11) furnish any necessary 110 volt A/C power and electrical outlets at its expense;
- (12) properly maintain, repair, service, and assure the proper operation of any other property, system, equipment, or device of Customer or others to which the Covered Equipment may be attached or connected, in accordance with manufacturer recommendations, insurance carrier requirements, or the requirements of any fire rating bureau, agency, or other authorities having jurisdiction thereof;
- (13) not tamper with, alter, adjust, disturb, injure, remove, or otherwise interfere with any Covered Equipment (including any related software) and not permit the same to be done; and
- (14) refrain from causing false alarms, and reimburse JCI for any fine, penalty, or fee paid by or assessed against JCI by any governmental or municipal agency as a result thereof.

Customer acknowledges that its failure to meet these obligations will relieve JCI of any responsibility for any Covered Equipment breakdown, or any necessary repair or replacement of any Covered Equipment. If Customer breaches any of these obligations, JCI shall have the right, upon written notice to Customer, to suspend its Services until Customer cures such breach. In addition, Customer shall be responsible for paying or reimbursing JCI for any costs associated with corrective work required as a result of Customer's breach of these obligations.

#### H. INDEMNITY

JCI and Customer shall each indemnify the other party and its officers, agents, directors, and employees, from any and all damages, losses, costs and expenses (including reasonable attorneys' fees) arising out of third party claims, demands, or suits for bodily injury (including death) or damage to tangible property to the extent arising out of the negligence or intentional misconduct of the indemnifying party or its employees or agents. Customer expressly agrees that JCI shall be responsible for injury, damage, or loss only to the extent caused directly by JCI's negligence or intentional misconduct. The obligations of JCI and Customer under this section are further subject to sections I and J below.

#### I. LIMITATION OF LIABILITY

**NEITHER JCI NOR CUSTOMER WILL BE RESPONSIBLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS). JCI'S TOTAL LIABILITY TO CUSTOMER FOR DAMAGES RESULTING FROM ANY CAUSE WHATSOEVER SHALL BE LIMITED TO \$250,000. IN NO EVENT SHALL JCI'S INDEMNIFICATION OBLIGATION EXCEED THE AMOUNTS PAID TO JCI UNDER THIS AGREEMENT OR THE AMOUNT OF INSURANCE REQUIRED BY THIS AGREEMENT, WHICHEVER IS GREATER. CUSTOMER UNDERSTANDS THAT JCI IS NOT AN INSURER REGARDING THE WORK OR THE SERVICES. JCI SHALL NOT BE RESPONSIBLE FOR ANY DAMAGE OR LOSS THAT MAY RESULT FROM FIRE SAFETY OR SECURITY EQUIPMENT THAT FAILS TO PERFORM PROPERLY OR FAILS TO PREVENT A CASUALTY OR LOSS.**

#### J. FORCE MAJEURE

**JCI WILL NOT BE RESPONSIBLE FOR DAMAGE, LOSS, INJURY OR DELAY CAUSED BY CONDITIONS THAT ARE BEYOND THE REASONABLE CONTROL, AND WITHOUT THE INTENTIONAL MISCONDUCT OR NEGLIGENCE, OF JCI. SUCH CONDITIONS INCLUDE, BUT ARE NOT LIMITED TO: (A) ACTS OF GOD; (B) ACTS OF GOVERNMENT AGENCIES; (C) STRIKES; (D) LABOR DISPUTES; (E) FIRE; (F) EXPLOSIONS OR CASUALTIES; (G) THEFTS; (H) VANDALISM; (I) RIOTS OR WAR; (J) TERRORISM; AND (J) UNAVAILABILITY OF PARTS, MATERIALS, OR SUPPLIES.**

#### K. RESOLUTION OF DISPUTES

If a dispute arises under this Agreement, the parties shall promptly attempt in good faith to resolve such dispute by negotiation. In the event the dispute is unable to be resolved, either party shall have the right to initiate arbitration by filing with the American Arbitration Association provided no other legal action has been previously filed. Upon filing of the arbitration, the AAA shall have the exclusive jurisdiction over the Dispute. Thus, either party may decide to file an action in a court of competent jurisdiction and if that court filing is the first legal proceeding filed, that court shall have jurisdiction over the Dispute to the exclusion of any arbitration. Arbitration shall be conducted in accordance with the then current arbitration rules of the American Arbitration Association or other arbitration service mutually agreed to by the parties. Arbitration must be completed within sixty (60) days after the Dispute is submitted to arbitration unless the parties mutually agree otherwise. The award rendered by the arbitrator shall be final, and judgment issued by the Arbitrator may be entered in accordance with applicable law in any court having competent jurisdiction. The party prevailing in the arbitration or court proceeding shall be entitled to an award of its reasonable costs, including reasonable attorneys' fees, incurred as a result of the Dispute. **CUSTOMER MUST BRING ANY CLAIM AGAINST JCI WITHIN ONE (1) YEAR AFTER THE CLAIM AROSE. IF CUSTOMER DOES NOT, CUSTOMER WILL HAVE IRREVOCABLY WAIVED ITS RIGHT TO SUE JCI AND/OR INSTITUTE OTHER PROCEEDINGS, AND JCI SHALL HAVE NO LIABILITY TO CUSTOMER FOR SUCH CLAIM. TIME IS OF THE ESSENCE RELATIVE TO CUSTOMER PURSUING ANY SUCH CLAIM. THE PROVISIONS OF THIS AGREEMENT WHICH APPLY TO ANY CLAIM SHALL REMAIN IN EFFECT EVEN AFTER THE AGREEMENT IS TERMINATED. JCI AND CUSTOMER EACH WAIVE THEIR RIGHT TO A JURY TRIAL.**

#### L. TERMINATION

1. Central Station Monitoring, Remote Operating Services, and Central Station Monitoring with Open or Close Services may be immediately canceled by either party if JCI's central station, connecting wires, or monitoring systems are destroyed by fire or other catastrophe, or where the Premises are so substantially damaged that it is impractical to continue Services.
2. If either party fails to perform any of its obligations under this Agreement, the other party shall provide written notice thereof to the party alleged to be in default. Should the party alleged to be in default fail to respond in writing or take action to cure the alleged default within ten (10) days of receiving such written notice, the notifying party may terminate this Agreement by providing written notice of such termination.
3. Upon termination of this Agreement for any reason, Customer shall pay to JCI all undisputed amounts owed through the date of termination within thirty (30) days of such termination. Customer shall also provide JCI with reasonable access to the Premises to remove the Gateway Device and any other JCI property and to un-program any intrusion, fire, or life safety system, as applicable. Customer shall be liable for all fees, costs, and expenses that JCI may incur in connection with the enforcement of this Agreement, including without limitation, reasonable attorney fees, collection agency fees, and court costs.
4. If the Agreement is for a multi-year term, either party may terminate the Agreement after the first full year of Services by giving the other party no less than forty-five (45) days written notice; provided, however, that if Customer has ordered PREMIUM COVERAGE, Customer may terminate the Agreement only upon JCI's written consent

#### M. ASBESTOS, MOLD AND HAZARDOUS MATERIALS

"Hazardous Materials" means any material or substance that, whether by its nature or use, is now or hereafter defined or regulated as a hazardous waste, hazardous substance, pollutant, or contaminant under any local, state, or federal law, regulation, or ordinance relating to or addressing public and employee health and safety and protection of the environment, or which is toxic, explosive, corrosive, flammable, radioactive, carcinogenic or otherwise hazardous or which is or contains petroleum, gasoline, diesel, fuel, another petroleum hydrocarbon product or polychlorinated biphenyls. "Hazardous Materials" specifically includes mold, lead-based

paints, and asbestos-containing materials ("ACM").

Neither Customer nor JCI desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of ACM. It is JCI's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Customer shall provide such certification for buildings it owns, or aid JCI in receiving such certification from facility owners in the case of buildings that it does not own, if JCI will undertake Services in the facility that could disturb ACM.

JCI will be responsible for removing or disposing of any Hazardous Materials that it uses in providing the Services ("JCI Hazardous Materials") and for the remediation of any areas affected by the release of JCI Hazardous Materials. For other Hazardous Materials that may be present at its facilities ("Non-JCI Hazardous Materials"), Customer shall supply JCI with any information in its possession relating to the presence of Hazardous Materials if their presence may affect JCI's performance of the Services. If either Customer or JCI becomes aware of or suspects the presence of Non-JCI Hazardous Materials that may interfere with JCI's Services, it shall immediately stop the Services in the affected area and notify the other party. As between Customer and JCI, Customer shall be responsible at its sole expense for removing and disposing of Non-JCI Hazardous Materials from its facilities and for the remediation of any areas impacted by the release of the Non-JCI Hazardous Materials and must provide a certificate of abatement before JCI will be obligated to perform or continue its Services, unless JCI had actual knowledge that Non-JCI Hazardous Materials were present and acted in disregard of that knowledge, in which case (i) JCI shall be responsible at its sole expense for the remediation of any areas impacted by its release of such Hazardous Materials, and (ii) Customer shall remain responsible at its sole expense for the removal of Hazardous Materials that have not been released and for releases not resulting from JCI's performance of the Services. Customer shall defend and indemnify JCI against any losses, costs, damages, expenses, and claims arising out of its failure to comply with this Section M.

#### **N. CUSTOMER DATA**

Customer data is owned by and shall belong to Customer. JCI will access and use Customer data to provide Services to Customer. JCI will not disclose to any third party any individual Customer data acquired through performance of the Services without Customer's consent. Customer agrees that JCI and its subsidiaries, affiliates and approved third party contractors and developers may collect and use Customer data for any reason, as long as any external use of the data is on a de-identified basis that does not personally identify Customer or any individual. Customer hereby grants JCI a perpetual, worldwide, irrevocable, royalty free license to use, modify, manipulate, sublicense, and create derivative works from such data. JCI shall retain all rights to any intellectual property, data, materials and products created as a result of its performance of Services.

#### **O. JCI'S INTELLECTUAL PROPERTY**

JCI shall retain all right, title and interest in any (a) work provided to Customer, including without limitation, all software source and object code, documentation, technical information or data, specifications and designs and any changes, improvements or modifications thereto ("Deliverables"), and (b) Know-How (defined below) employed by JCI in the creation of the Deliverables or performance of the Services, whether known to JCI prior to, or developed or discovered or acquired in connection with, the performance of its obligations under this agreement. Ownership of all Deliverables and Know-How shall vest solely in JCI and no Deliverables shall be deemed "works made for hire." Without limiting the generality of the foregoing, ownership of all source files used in the course of performing the Services shall remain the exclusive property of JCI. For purposes of this Agreement, "Know-How" means any know-how, processes, techniques, concepts, methodologies, tools, analytical approaches, database models and designs, discoveries, and ideas furnished, produced by, developed, or used by JCI in the creation or provision of the Deliverables or in the performance of the Services, and any changes, improvements, or modifications thereto or derivatives thereof.

#### **P. MISCELLANEOUS PROVISIONS**

1. All notices required to be given hereunder shall be in writing and shall be considered properly given if: (a) delivered in person, (b) sent via the United States Postal Service, postage prepaid, registered or certified with return receipt requested, (c) sent by overnight delivery service (e.g., FedEx, UPS), or (d) sent by facsimile, email or other electronic means and confirmed by facsimile, return email or telephone.
2. This Agreement may not be assigned by Customer without JCI's prior written consent. JCI shall have the right to assign this Agreement to any other person, firm, or corporation without Customer's consent. JCI shall also have the right, in its sole discretion, to subcontract any portion of the Services. This Agreement inures to the benefit of and is applicable to any assignees or subcontractors of JCI, and is binding upon Customer with respect to said assignees or subcontractors with the same force and effect as it binds Customer to JCI.
3. This Agreement shall be subject to and governed by the laws of the State where the Services are performed.
4. If any provision of this Agreement is found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
5. This Agreement is the entire contract between JCI and Customer and supersedes any prior oral understandings, written agreements, proposals, or other communications between the parties.
6. Customer acknowledges and agrees that any purchase order issued by Customer in connection with this Agreement is intended only to establish payment authority for Customer's internal accounting purposes and shall not be considered to be a counteroffer, amendment, modification, or other revision to the terms of this Agreement. No term or condition included or referenced in Customer's purchase order will have any force or effect and these terms and conditions shall control. Customer's acceptance of any Services shall constitute an acceptance of these terms and conditions. Any proposal for additional or different terms, whether in Customer's purchase order or any other document, unless expressly accepted in writing by JCI, is hereby objected to and rejected.
7. If there are any changes to Customer's facilities or operations, or to applicable regulations, laws, codes, taxes, or utility charges, that materially affect JCI's performance of the Services or its pricing thereof, JCI shall have the right to an equitable and appropriate adjustment to the scope, pricing, and other affected terms of this Agreement. **[END OF DOCUMENT]**

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmember's

**From:** Mike Tvenge, City Manager

**Date:** June 8, 2017

**Agenda Item:** V. c. **Authorization of the Financial Contributions for Kodiak Salmon Work Group**

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**SUMMARY:** The Kodiak Salmon Work Group (KSWG) has been re-established to address the present salmon allocation crisis. The group provided a presentation to the City Council and Borough Assembly at a Joint work session on April, 19, 2017. The KSWG requested \$15,000 from each governing body for FY2017 and FY2018.

**PREVIOUS COUNCIL ACTION:** The City Council discussed the funding request during their May 11, 2017, work session. There was Council consensus to support this allocation.

**DISCUSSION:** The Kodiak Fisheries Work Group an advisory group of the Council reviewed and discussed this request during a February 16, 2017, meeting. These funds will help support a third party genetic study.

**ALTERNATIVES:**

- 1) Authorize a funding request of \$15,000 in FY2017.
- 2) Do not authorize the funding allocation as presented.
- 3) Amend the funding request.

**FINANCIAL IMPLICATIONS:** This will be charged to the Economic Development Line Item. This expense has not been reflected in the FY2017 budget.

**CITY MANAGER'S COMMENTS:** This financial support of the Kodiak Salmon Work Group shows continued Council support of the Kodiak fishing community.

**ATTACHMENTS:**

- Attachment A: Letter from Kodiak Salmon Work Group requesting funds dated 4/19/17
- Attachment B: Fisheries Analyst Reports dated 2/15/17 and 5/1/17

**PROPOSED MOTION:**

Move to authorize a payment to the Kodiak Salmon Work Group of \$15,000 for FY2017 from the Economic Development Line Item.



April 19, 2017

To: City of Kodiak & Kodiak Island Borough

From: Kodiak Salmon Work Group

Re: Funding Request for Kodiak Salmon Work Group

A new genetic stock identification study in the Kodiak Management Area assessing sockeye catches from 2014-2016 commercial salmon fishery has identified the presence of Cook Inlet origin sockeye in all Kodiak fishing areas. This was not a surprise to local fishermen or Alaska Department of Fish and Game managers. Nevertheless, sockeye users (commercial, sport, personal use and subsistence) in the Cook Inlet area view the study as documenting a substantial “intercept” fishery in Kodiak.

Cook Inlet salmon user groups immediately called for the Alaska Board of Fisheries to restrict Kodiak salmon fishermen. The Board added a discussion of the genetic study to their February agenda and then expanded their October 2017 meeting by one day to more fully review the genetic assessment. This circumstance creates substantial “risk” for Kodiak salmon fishermen. Kodiak’s salmon fishery during the period of concern often generates between \$5 million and \$10 million in exvessel value.

Kodiak Salmon fishermen recall a similar circumstance during the 1989 –1996 time-frame when Cook Inlet fishermen made 3 attempts to restrict the Kodiak fishery. At that time, an ad hoc group of Kodiak fishermen came together and formed the Kodiak Salmon Working Group to research the Kodiak and Cook Inlet fisheries and to prepare strong presentations for the Alaska Board of Fisheries. The Work Group needed money for expert assessments, administration and document development. The Kodiak Island Borough, recognizing the economic importance of the Kodiak salmon fishery, authorized the Borough Manager to spend up to \$30,000 to assist the Kodiak Salmon Working Group. A couple dozen salmon fishermen spent countless hours in “like kind” contribution.

The Kodiak Salmon Working Group has been re-established to address the present salmon allocation crisis. Once again, the group is in need of funding. The group provided a detailed presentation to the joint city/borough fisheries committee. It is recognized that both bodies are facing difficult financial circumstances. Nevertheless, costs associated with the loss of Kodiak salmon fishing opportunities would quickly outweigh municipal investment in the Kodiak Salmon Workgroup’s defense effort. Consequently, the Work Group is requesting that both the City of Kodiak as well as the Kodiak Island Borough budget \$15,000 in authorized spending (Perhaps \$7,500 in the 2017 and \$7,500 in the 2018 fiscal year.) to support the workgroup. A budget is attached.

The Kodiak Salmon Workgroup is also requesting the assistance of the City/Borough’s fisheries consultant. The Joint fisheries committee would continue to monitor and direct the Consultant’s activities in assistance of the Kodiak Salmon Workgroup.

Some folks have asked why the salmon fishermen can't fund their own effort. There are several responses:

1. Fishery groups are loosely organized and don't currently have a "war chest". Given the time frame of October 2017, waiting until funds are raised before expert assessment is engaged could be too late.
2. Salmon fishermen already pay a substantial amount to government. In addition to the 1.8% resource extraction tax, the Kodiak salmon fishery has more than 400 permit holders resident in the community paying sales and property taxes. Consequently, it is appropriate for local government to support the fleet.
3. The Community and the salmon fishing fleet are equally at risk. Ex-vessel dollars earned by resident salmon fishermen circulate in the community from 7 to 10 times.
4. The Kodiak salmon fleet and local salmon organizations have committed their time and human resources to the project and, in addition, have realistically assessed that, perhaps, \$10,000 could be raised for the effort in the short term.

Kodiak Salmon Workgroup membership includes:

**United Fishermen's Marketing Association**—Jeff Stephan, Pat Pikus, D.J. Vinberg

**Kodiak Seiners Association**—Nathan Rose, Matt Alward, Bruce Schactler, Luke Lester, Oliver Holm, Ray May

**NW Setnetters Association**-- Duncan Fields, Chris Berns, Virginia Adams, Thom Wischer, Lacy Berns, Kip Thomet, Mark Beardsley, Wes Wiley, Wallace Fields,

**Alitak setnet fishermen**—Theresa Peterson, Brad Underwood, Pete Hanna, Rick Metzger

**Cape Barnabas, Inc.** – Rick Berns, Melissa Berns, Al Cratty,

**Ouzinkie Community Holding** – Nick Katelnikoff, James Skonberg, Darren Skonberg

**Kodiak Regional Aquaculture Association**—Tina Fairbanks

It is important to note that workgroup expenditures will be approved by the Borough and/or City manager before expenses are incurred. The attached budget outlines anticipated scope of work, following are some of the specific tasks:

1. Expert critical review and analysis of the 2016 Genetic Report
2. A printed presentation of the "past" for each BOF member, to include:
  - a. KSWG publications from 1995
  - b. A list in chronological order of Board considerations of "Kodiak incidental harvest" of CI-bound Sockeye salmon from 1989 to 2008
  - c. Robust defense of Kodiak's Current Salmon Management Plan
3. Assuming there is an Agenda Change Request or Emergency Petition, a fully reasoned and official Kodiak Community response at the designated Board of Fisheries meeting, including community economic impact analysis.

## Kodiak Salmon Workgroup Operating Budget Summary

Beginning Funds - 4/13/17		\$0
<b>Revenue Sources</b>		
City of Kodiak - Requested Support / Appropriation	15,000	
Kodiak Island Borough - Requested Support / Appropriation	15,000	
Kodiak Salmon Workgroup - Stakeholder Fundraising	10,000	
KRAA - "In-Kind" Support	10,000	
Total Revenue	15,000	\$50,000
<b>Expenditures</b>		
Independent Review & Analysis of Genetic Report & Historical Fishery	20,000	
KSWG Administrative Assistant (\$2,000/mo. @ 5 months)	10,000	
Potential Agenda change or Emergency Petition response costs, data requests, document formation. (like kind support)	10,000	
Printing, Production and Mailing costs	5,000	
Meeting and Travel Costs	5,000	
Total Expenditures	50,000	\$50,000
Ending Fund Balance		\$0

February 15, 2017

From: Fisheries analyst

To: Kodiak Fisheries Work Group

Re: Board of Fisheries (BOF) action on Kodiak salmon management

This report is limited to a preliminary summary and analysis of the current situation regarding potential BOF action on Kodiak salmon management, out of the normal cycle for Kodiak regulatory proposals.

Background:

At the BOF meeting in Kodiak last month, the ADF&G staff presented the results of genetic analysis of salmon caught in the Kodiak region. There was a high percentage of salmon found to have originated in other regions, including Cook Inlet. That genetics report is part of the material provided to you for this meeting. Kodiak salmon fishermen immediately feared that the Cook Inlet stakeholders would attempt to initiate BOF action to change salmon management in the Kodiak region to minimize catch of salmon bound for Cook Inlet.

Indeed, the BOF has received requests from Cook Inlet harvesting organizations asking for the Board to schedule consideration of Kodiak salmon management changes in light of the genetic origin information. Darren Platt provided a letter (sender unknown) at your last meeting with information on this matter, and I provided you at the last meeting with two documents submitted to the BOF. One request was authored by the United Cook Inlet Drift Association, and one was from the Kenai Peninsula Fishermen's Association.

The potential for reduction in time and area of Kodiak salmon fisheries has broad economic implications for Kodiak and other Kodiak Island communities. The seine fleet as well as the setnet sector could be constrained or otherwise negatively affected if the fisheries in the Kodiak Management Area were reduced either geographically or temporally in response to proposals from Cook Inlet (CI) designed to avoid intercepting fish that are perceived to be bound for CI. Reduction in Kodiak landings would have obvious effects on the major salmon contributions to the economy, quantified in the recent McDowell report on the links between the fishing industry and the community's economic well-being.

Such attempts were most recently made in the mid-1990's. At that time, the fishermen and others formed a Kodiak Salmon Work Group, and with the help of funding from the Kodiak Island Borough, mounted a comprehensive defense of Kodiak area fisheries. Some of the documents (from 1994 and 1995) produced during that years-long and successful effort are attached here for your review.

According to February 15 information from Glenn Haight, Executive Director of the Board of Fisheries, BOF Chair John Jensen has told the staff that ADF&G will again

present the genetics report to the BOF in the “Reports” section of their Cook Inlet meeting scheduled to run from February 23 through March 8 in Anchorage. The reports are likely to take all of the first day, and perhaps part of the second day.

Following the reports, public testimony will take place on the second, third and potentially the fourth day. Public testimony will of course be focused on the more than 180 CI proposals on the agenda, but testimony can also be given on the genetics report and its implications – from any perspective. The Commercial Fisheries Division headquarters staff will be at the meeting, but no management staff from the Kodiak region is expected to be present.

Following consideration of the Cook Inlet proposals, Chair Jensen intends the BOF to take up the genetics report and its implications during the “Miscellaneous Business” section of the meeting. This will be the last day of the meeting, March 8. Haight reports that the discussion could result in the Board establishing a working group to further investigate this issue.

That working group would be chaired by a BOF member and would include representation from the Kodiak area, and would concern itself – over a period of as long as a year – with analyzing the situation from all perspectives. This could and should include reviews of Cook Inlet and Kodiak area management plans; historic information on pre-season estimates and actual catches in both areas; biological, geographic and oceanographic information on salmon migration and returns; and perhaps a peer review of the genetics study or studies. I believe that stakeholders at your meeting tomorrow will suggest detailed information needs.

Potential action:

The Kodiak seiners are in the process of establishing a formal association, and determining their strategy and approach to this issue. The City of Kodiak and the Kodiak Island Borough have multiple reasons to help the area salmon harvesters succeed in whatever they plan to do to meet the coming challenge from Cook Inlet. This support could come in the form of letters, advocacy for the chosen approach, and offering the help of the Fisheries Analyst.

The first step is determining a solid approach to the upcoming BOF meeting.

In terms of in-person participation, the first two days of reports and public testimony will be important. Some public testimony from Kodiak interests right up front will help prevent testimony from Cook Inlet being all that the BOF hears. In addition, personal individual contacts with BOF members will be very helpful. It might also be helpful to request of the Commercial Fisheries Division that Kodiak management staff be present at the beginning and end of the meeting, to answer any questions that might be posed regarding Kodiak salmon management.

On the last day of the meeting it will be crucial to have Kodiak participation. Kodiak stakeholders should be ready and willing to volunteer to be members of the working group if one is formed. The discussion of the BOF at this juncture will be essential to understanding the direction and the tenor of the process as it moves forward.

Once the BOF direction is clear, much work will need to be done going forward to prepare for and participate in working group meetings (if a group is formed), prepare documents and testimony, and maintain positive working relationships with ADF&G and the Board.

May 1, 2017

To: Kodiak Fisheries Work Group

From: Fisheries Analyst

### **A. Chinook Salmon Genetics**

In April, the North Pacific Fishery Management Council (NPFMC) received genetics reports on the stock of origin of Chinook and chum salmon bycatch in the 2015 Bering Sea pollock fishery, the GOA pollock fishery, GOA rockfish (and arrowtooth) CV trawl fishery and the GOA non-pollock CP trawl fisheries.

A genetic analysis of samples from the Chinook salmon bycatch of the 2015 Gulf of Alaska (GOA) trawl fisheries for pollock, rockfish and arrowtooth flounder determined the stock composition of the sample sets. Samples were genotyped for 43 single nucleotide polymorphism (SNP) DNA markers and results were estimated using the Alaska Department of Fish and Game (ADF&G) SNP baseline.

In 2015, genetic samples from Chinook salmon taken in GOA pollock trawl fisheries used a simple random sample protocol, with trip being the primary unit. This is the second year for this sampling protocol and resulted in the largest available genetic sample set to date with 17.8% of the salmon bycatch successfully genotyped. Based on the analysis of 2,414 Chinook salmon bycatch samples, British Columbia (51%), West Coast U.S. (32%), Coastal Southeast Alaska (14%), and Northwest Gulf of Alaska stocks (3%) comprised the largest stock groups.

In 2015, genetic samples from the bycatch of the GOA rockfish catcher vessel (CV) fishery were collected by the fishing industry using a census sampling protocol where every Chinook salmon encountered was sampled. Based on the genotyping of 635 Chinook salmon bycatch samples collected from the GOA rockfish CV trawl fishery in NMFS Statistical Areas 620 and 630, West Coast U.S. stocks (WA/OR/CA) represented the largest stock grouping (73%) with smaller contributions from British Columbia (19%), Coastal Southeast Alaska (5%), and Northwest GOA (3%) stocks.

Based on the genotyping of 300 Chinook salmon bycatch samples collected throughout the 2015 GOA arrowtooth flounder trawl fishery from the catcher-processors (CP), West Coast U.S. stocks (WA/OR/CA) represented the largest stock grouping (47%), with smaller contributions from British Columbia (38%), Coastal Southeast Alaska (12%), and Northwest GOA (1%) stocks.

At the conclusion of the presentation, the Council passed a motion requesting the Salmon Genetics working group be expanded to include members of the SSC. The Council also requested the working group hold a public workshop to facilitate industry feedback on how these reports can be improved to better inform industry bycatch avoidance efforts.

The workshop should seek advice on appropriate spatial and temporal resolution, or other analysis from stakeholders.

The Council also directed staff to retrospectively apply the same spatial and temporal strata used to report 2015 stock composition to samples from 2013 and 2014, and earlier years if possible.

The Council supported the SSC's recommendations for the working group to consider:

- The feasibility and benefits of collection of fin status (i.e. presence/absence) and otoliths in the Gulf of Alaska to help inform hatchery contributions to the total Chinook salmon bycatch.
- The updating of the baseline groupings as additional genetic markers or baseline refinements become available.

Additionally, under the Staff Tasking agenda item at the conclusion of the meeting, the Council passed a motion that requested staff to initiate an analysis evaluating increasing the Gulf of Alaska catcher vessel non-pollock Chinook salmon prohibited species cap by:

#### Rockfish Program

- 300 fish
- 600 fish
- 900 fish

#### Non-pollock non-rockfish program

- 1,000 fish
- 2,000 fish
- 3,000 fish

The analysis should include:

- comparison of observer information available when the cap was established and observer information available after the cap was implemented; and
- consideration of the Chinook salmon genetic stock composition analysis.

According to testimony given by the Alaska Groundfish Data Bank and trawl fishermen, the Gulf of Alaska (GOA) catcher vessel non-pollock groundfish trawl fisheries continue to be negatively impacted by the Chinook salmon Prohibited Species Catch (PSC) limits. Increased observer data since 2013 for trawl vessels less than 60 feet indicate higher incidental take of Chinook salmon in these fisheries compared to the historical time period that was analyzed to select the caps. Testimony said that consistent genetic information shows that the vast majority of the Chinook salmon bycatch are from areas of high hatchery production. Finally, PSC limits are managed on a sector-wide basis and there is no management program in place to mitigate the impacts of a derby-style race for fish.



According to Julie Bonney, the existing PSC caps may not be practicable based on the current conditions in the fishery and may not appropriately balance National Standard 1 and National Standard 9. She said that increasing the Chinook salmon bycatch caps slightly may increase the likelihood that groundfish resources are more fully harvested, and minimize the adverse socioeconomic impacts of fishery closures on harvesters, processors, and communities, yet not exceed the overall 40,000 ESA threshold established for Chinook salmon bycatch in the Gulf of Alaska.

### **B. Bering Sea cod trawl catcher vessel (CV) action**

Under the Staff Tasking agenda item, the Council passed a motion made by Council member Craig Cross requesting the staff to prepare a discussion paper to evaluate participation and effort in the Bering Sea Pacific cod trawl catcher vessel fishery in response to a potential need to limit entry and participation in the trawl catcher vessel sector and the sector's deliveries to Amendment 80 catcher-processors acting as motherships.

Brent Payne of United Catcher Boats (a trade association of catcher vessels) requested in testimony that the Council establish a control date for the harvesting of Pacific cod in the trawl catcher vessel fishery. Establishing a control date for this fishery, he said, would send a signal to the CV trawl fleet that the NPFMC realizes that there is a problem with too much effort entering this fishery. He said that it would signal that any vessel that has not participated in this fishery by the control date may not be able to participate in the future. In addition, this action would send a signal to the industry that catch of P. Cod after the control date might not be considered or used in the determination of catch history if the Council pursues some form of a Catch Share program in the future. He asked that the control date be the date of the testimony, April 10, 2017.

The Council did not establish a control date in its motion.

Payne said that participants were asking the Council for this action because the Bering Sea P. Cod trawl fishery is one of the last remaining open access fisheries in the BSAI, and is experiencing a "Race for Fish." More and more effort is entering the EBS trawl CV P. cod fishery and the increase in recent participation is having a significant negative impact on the historic participants of this fishery who are dependent on this fishery, he testified.

Interest in the fishery includes that of trawl vessels from the Gulf, who are concerned that the effort to limit the fishery would remove their opportunity to enter and/or continue or increase participation.

### **C. Kodiak Salmon Work Group update**

Since the last KFWG meeting, the Salmon Work Group has worked on solidifying its plans and raising funds to carry out the strategy. I have attended two meetings by phone.

Some group members had an informal meeting with former Kodiak fisheries management to outline history of Kodiak management plans – 72 management units. They also developed potential data requests of ADF&G.

The full group meeting had a discussion about a request to KRAA that the entity be the administrative conduit for funds to the work group. The request was later presented to the KRAA Board and approved.

#### Assessment of Genetic Study:

I reported contact follow-up with individuals who have shown interest in the project and will be getting back with a proposal.

Oliver Holm made contact with Denby Lloyd, who provided a brief outline of work that he could do as well as a budget. He would compare parallel studies in recent years and address board policies and procedures.

Duncan indicated he thought it was too early to make decisions on employment, but that the group needed to continue to explore options and focus on obtaining funding.

#### Raising funds:

The group discussed fund raising event/s, reaching out to the processors and expected donations from individuals and trade associations. There was a broad discussion regarding cumulative economic needs for defense efforts.

#### Administrative person:

This person would work with other staff and advisors, and communicate with the fleet, oversee data acquisitions and administer fund raising. The group would rather find someone internally than advertise.

#### Oceanographic changes:

Duncan indicated that he would try to find someone with this type of expertise.

#### Municipal funding:

On 4/28/17 the KIB had a specific discussion at their work session regarding the group's funding request of \$15,000. There was some discussion regarding a "match" that could reduce funding to \$13,333.00. Generally, around the table there was support at the higher number.

Discussion shifted to "how" to fund. Larry LeDoux suggested splitting it between two fiscal years. This was a consensus, and the plan is to add the FY2017 portion to existing budget revision ordinance and the FY2018 portion to the new budget.

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers

**From:** Mike Tvenge, City Manager

**Date:** June 8, 2017

**Agenda Item: V. d. Authorization to Cancel the July 27 and August 24, 2017, Regular Meetings and Authorize the City Manager to Schedule a Special Meeting if Needed**

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**SUMMARY:** The regularly scheduled Council meetings for July and August may be cancelled to reflect the summer meeting schedule. Elected officials and staff will attend the summer Alaska Municipal League conference August 15 through August 18. Staff discussed the meeting schedule with the Council at the May 23 work session, and Council recommended cancelling the July 27 and August 24, 2017, regular meetings and scheduling a special meeting if needed.

**PREVIOUS COUNCIL ACTION:** The City Council cancels regular meetings and schedules special meetings from time to time due to travel and other scheduling conflicts.

**LEGAL:** Kodiak City Code identifies regular meetings are held on the second and fourth Thursdays of each month. If a regular meeting must be cancelled, a special meeting may be scheduled. The attendance requirements do not apply to special meetings.

**PROPOSED MOTION:**

Move to cancel the July 27 and August 24, 2017, regular meetings and authorize the City Manager to schedule a special meeting if needed.

JUNE 8, 2017  
Agenda Item V. d. Memo Page 1 of 1

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## MEMORANDUM TO COUNCIL

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**To:** Mayor Branson and City Councilmembers  
**From:** Mike Tvenge, City Manager  
**Thru:** James R. Mullican <sup>RM</sup> Jr., Fire Chief and Kelly Mayes, Finance Director  
**Date:** June 8, 2017  
**Agenda Item:** V. e. Authorization of the Delta Medical Transport Agreement

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**SUMMARY:** The city operates a medical treatment and transport (ambulance) service via the City of Kodiak Fire Department. Currently Dr. Gregory Culver, is on contract with the City of Kodiak as the Medical Director, which is responsible for medical oversight, protocol and policy development, quality improvement activities, liaison with PKIMC, and corrective actions related to patient care actions by providers. Due to recent staff turnover in the Fire Department, the City is requesting temporary outsourcing of ambulance transportation services to Delta Medical Transport, LLC.

**DISCUSSION:** The City Fire Department provides medical treatment and transport for citizens of the City as well as those living along the road system or transported in from the Island communities. The professional services agreement between the City and Delta Medical Transport, LLC would include the following terms:

- Delta Medical Transport, LLC would provide six (6) personnel at ALS level or above to provide ambulance transportation services in coordination with the Kodiak Fire Department personnel.
- The Delta Medical Transport, LLC personnel would be contract personnel within the City of Kodiak Fire Department.
- The Delta Medical Transport, LLC personnel would be under the direction of their medical director through the North Star Borough.
- The City of Kodiak Fire Department will provide an ambulance, medications, medical supplies, equipment, and any necessary peripheral items currently in use for ambulance transportation services.
- All existing provisions with the EMS Medical Director for the City of Kodiak, noted in Professional Services Contract No. 221998 would remain unchanged.
- Under the direction of the City of Kodiak Fire Department, all EMS responses (including those performed by Delta Medical Transport, LLC personnel) are required to be signed off by the City's Medical Director and City of Kodiak Fire Chief.

**ALTERNATIVES:**

- 1) Authorize the agreement for emergency ambulance transportation services.
- 2) Do not authorize the agreement for emergency ambulance transportation services.

**FINANCIAL IMPLICATIONS:** The City would pay a flat contract payment to Delta Medical Transport, LLC. All contract personnel travel, salaries and wages and related expenses, lodging, and workman's compensation insurance would be paid for by Delta Medical Transport, LLC. Funding for the services being contracted will come from the Fire Department budget.

**STAFF RECOMMENDATION:** Staff recommends Council authorize the City Manager to execute the contract with Delta Medical Transport Agreement.

**CITY MANAGER'S COMMENTS:** The City Manager's comments will be made during the regular meeting.

**ATTACHMENTS:**

Attachment A: Delta Medical Transport Agreement LLC

**PROPOSED MOTION:**

Move to authorize the service agreement for Emergency Ambulance Transportation Services between Delta Medical Transport, LLC and the City of Kodiak in the amount of \$\_\_\_\_\_ From the Fire Department budget and authorize the City Manager to execute the agreement on behalf of the City.

**AGREEMENT FOR EMERGENCY AMBULANCE  
TRANSPORTATION SERVICES**

THIS AGREEMENT FOR EMERGENCY AMBULANCE TRANSPORTATION SERVICES (the “Contract”) is made and entered into by and between Delta Medical Transport, LLC (the “Contractor”), and the City of Kodiak, an Alaska municipality (the “City”), effective July 1, 2017 (the “Effective Date”).

**RECITALS:**

- A. Contractor is a provider of certain emergency ambulance transportation and related services.
- B. City desires to contract with Contractor to provide emergency ambulance transportation and related services to its citizens.
- C. Contractor desires to provide City with such services and has the necessary basic uniforms, training, expertise, professional certifications and licenses to do so.

**NOW THEREFORE**, in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**I. Provisions of Services**

Contractor agrees to provide City emergency ambulance transportation services consistent with the scope of services detailed in Item II. These services shall be rendered by Contractor to all areas located inside the Service Area which is the geographic area depicted by the service area map located in Exhibit A.

**II. Scope of Services**

**A. Overview**

The City of Kodiak is contracting EMS emergency ambulance transportation advanced life support (“ALS”) personnel. These personnel should be certified and licensed within the state of Alaska. These personnel will work in conjunction with the Kodiak Fire Department.

The purpose of this contract is to provide additional personnel trained in advanced life support for emergency ambulance transportation. The contract will be utilizing the City’s priority dispatch system. This contract is to include comprehensive medical direction including both online and offline medical oversight. The Medical Oversight Authority is outlined in Item II F.

The contractor will be required to fully integrate into the City’s various medical receiving facilities for pre-hospital emergency care.

The Contractor will provide six (6) Advanced Life Support personnel to assist the Kodiak Fire Department emergency ambulance transport services for the entire population of the service area. These personnel will work in shifts of three (3) contract personnel and one (1) Kodiak Fire Department personnel through ambulance transport services. Each shift will be comprised of forty-eight (48) hours on duty and forty-eight (48) hours off duty for the duration of the contract.



The City will monitor service delivery and contractual compliance through a series of independent performance measurements. These performance measurements are outlined in Item VIII.

It is the City's desire to provide high quality clinical care, provide efficient and reliable EMS services at a reasonable cost to consumers, and provide the community with an operationally and financially viable system.

**B. Description of Service Area**

The transport area is within the City of Kodiak city limits and the Kodiak Island Borough road system. Exhibit A provides a service area map.

**C. Historic Service Volume**

The City of Kodiak Fire Department service area generated the following ambulance responses for fiscal year 2016:

- Kodiak Road System: 776
- Inside City Limits – Code 3 responses only: 361

**D. City's Responsibilities**

The City represents the interests of its taxpayers and the general public as consumers of emergency services within its boundaries.

In this performance-based approach, it is the City's responsibility to:

- Monitor contractor compliance and enforce contractual terms;
- Provide ALS / BLS response based on current City of Kodiak Fire Department response protocols
- Provide the contractor with information that will allow completion of contract requirements in a timely manner
- Provide and operate an ambulance dispatch and radio system
- Provide local office space within the Kodiak Fire Department for patient care reporting and administrative oversight
- Provide all necessary ambulances and maintenance for ambulances operated by the contractor for ambulance transportation services
- Supplying all medical supplies, medications and disposable equipment for the contractor, utilizing the current service levels provided by the City's Fire Department
- The City is responsible for providing all billing services. Billing and collection services will be maintained by the City. The Contractor will integrate into the City's ambulance billing system and related reports and records maintenance.

**E. Contractor's Responsibilities**

The Contractor is responsible for providing qualified trained personnel to assist with ambulance transportation services in the designated service area. The requirements for all operations are delineated throughout these specifications and will become the basis of the performance-based contract between the City and the Contractor.

The Contractor shall be responsible for the following:

- Furnishing and managing six (6) personnel required in the delivery of ALS emergency ambulance transport operations;
- All personnel wages and related personnel benefits (i.e. payroll taxes, medical insurance, workman's compensation insurance, retirement benefits, vacation leave, sick leave) including travel arrangements, per diem, temporary lodging, and basic uniforms will be the responsibility of the Contractor.
- Adhering to the Medical Oversight Authority located in Item II.F.
- Providing in-service training, quality assurance, and improvement monitoring for contract personnel.
- Providing ALS and BLS training for Kodiak Fire Department personnel
- Providing notification and access of the contractor's EMS training to personnel from City's Fire Department
- Integrating with the City's standing orders and medical protocols through the City's Medical Oversight Authority
- Providing the required insurance coverage for all employees and response personnel operating under the oversight of the contractor's medical director
- Providing EMS stand by at special events, as requested
- Providing mutual aid and disaster response services, and other associated support functions in coordination with the City and the Emergency Services Director
- The contractor is expected to comply with all applicable City, State, and federal guidelines in the delivery of pre-hospital medical care and to provide the necessary licensing and or permits required to provide emergency transport services to the City.
- The contractor will apprise the City fully of any changes or modification in its deployment practices or anticipated deployment practices that could alter service delivery
- The contractor personnel will utilize the City's patient care reporting practices through the State of Alaska Aurora system
- The contract personnel will utilize the City's protocols for billing and records maintenance quality assurance policies and procedures
- The Contractor will utilize existing medication, supplies, and equipment supplied by the City

**F. Medical Oversight Authority**

The City of Kodiak medical director is Dr. Carver with Providence Hospital. All City EMS responses are required to be signed off by the City's Medical Director and City of Kodiak Fire Chief.

The contractor's medical director is through the North Star Borough.

The City and the Contractor will coordinate the requirements of the respective medical directors related to contractor personnel.

All EMS services provided within the service area will be coordinated through the City's medical director and City of Kodiak Fire Chief.

### **G. Integration with the City of Kodiak Fire Department**

Currently, the City of Kodiak Fire Department provides ALS service from its responding units. On all incidents, the City Fire Chief or designee will be responsible for incident command. The shift captain will designate the contractor's personnel for incident response. City of Kodiak personnel will support the care provided by the contractor on-scene, and when the situation warrants, will accompany ambulance personnel in the ambulance by providing care enroute to the hospital.

The contractor's personnel will complete patient care reporting requirements through the City of Kodiak's portal to the State of Alaska Aurora system. The patient care reporting will follow City of Kodiak Fire Department protocols and quality assurance procedures for review by the shift captain and review by the Deputy Fire Chief.

The City of Kodiak Deputy Fire Chief will maintain responsibility for ambulance billing and records maintenance protocols and quality assurance policies and procedures.

### **H. Disaster Response**

The contractor personnel may be involved in responding to any declared or undeclared disaster in the designated service area. Disaster coordination is to be facilitated through the City of Kodiak Fire Department, the City of Kodiak Emergency Services Director, and the City of Kodiak Emergency Operations Center.

In the event of a disaster within the designated service area, the contractor may experience suspension in normal shift rotations and activities. The contractor shall respond in accordance with the City of Kodiak Fire Chief and City of Kodiak Emergency Services Director. The contractor shall use the best efforts to maintain primary emergency services within the designated service area of the City. During the period of a disaster situation, the City will not impose performance requirements for response times and other performance criteria.

### **I. Service Inquiries and Managing Complaints**

The contractor shall log all inquiries and service complaints and forward the information to the City of Kodiak duty fire captain. The contractor shall provide prompt response and follow-up to such inquiries and complaints. Such responses shall be subject to the limitation imposed by patient confidentiality restrictions and HIPPA privacy rules.

The contractor shall submit to the City of Kodiak Deputy duty fire captain a list of all complaints received and their appropriate disposition / resolution. Copies of any inquiries and resolutions of a clinical nature shall also be referred to the City's Medical Director within twenty-four (24) hours.

It is the desire of the City that the contractor notify the City of Kodiak Fire Chief regarding the most egregious or criminal actions that could reflect negatively on the City or its employees. In these situations, it is essential that this notification be made as soon as possible and apart from all other reporting processes.

## **J. Prohibition of Contract Transfer**

The contractor agrees that they will not transfer or assign any provisions of the contract to another entity or service provider.

## **III. Employment Practices**

### **A. Personnel Qualifications and Staffing**

All ambulances provided by the City to render services under the contract shall be staffed and equipped to render ALS level care. The paramedic shall be the primary caregiver for all emergency patients and shall accompany all patients in the back of the ambulance during any patient transportation except as otherwise permitted under City of Kodiak Fire Department protocols.

1. **Minimum Staffing:** The contract is required to staff a minimum of six (6) personnel at ALS level or above.
2. **Qualifications:** Personnel will be appropriately certified or licensed by the State of Alaska and their functional privileges will be specifically authorized by the contractor's Medical Director in accordance with medical oversight policies.
3. **Professionalism:** The City expects and requires professional and courteous control and appearance at all times from the contractor's personnel. The contractor shall address and correct any occasional departure from this standard of conduct.
4. **Background Checks:** The contractor shall provide a certification of background checks on all contractor personnel. These background checks should include, but not be limited to, the following:
  - Convictions related to driving under the influence
  - Drug related offenses
  - Sexual offences including rape, child abuse, and spousal abuse
5. **Employment Practices:** The contractor shall provide the City with its specific policies concerning sexual harassment. In addition, the contract shall provide its employment policies relating to the hiring of employees with felony and misdemeanor convictions. The contractor shall provide adequate documentation to the City that all contractor personnel maintain a valid State of Alaska driver's license.

### **B. Risk Management and Loss Control Provisions**

The City believes that education and aggressive prevention of conditions in which losses occur, is the best mechanism to avoid injuries to the contractor personnel, City personnel, and patients. Therefore, the City requires the contractor, at a minimum, to employ the following risk management procedures:

- Pre-screening of contractor personnel – including drug testing
- Initial and ongoing driver training using a curriculum equivalent to EVOC
- Significant event investigations (e.g. motor vehicle accident with injuries or any vehicle accident which requires towing of the ambulance from the scene of the accident)
- Lifting technique training
- Hazard reduction training
- Other training or policy guidelines that are directed towards injury prevention and accident avoidance

### **C. OSHA and Other Regulatory Compliance**

It is the City's expectation that the contractor adhere to procedures specifically for the City of Kodiak contract that will meet or exceed the regulatory requirements for occupational safety and health including but not limited to infection control, blood borne pathogens, and Tuberculosis. These precautions are for both the safety of ambulance personnel and City of Kodiak Fire Department personnel. Additionally, such measures would include, but not be limited to, written procedures and directives, universal precautions, periodic training and safety alerts, annual medical screenings, and the wearing of personal protection equipment. The Contractor shall insure adherence to all Health Insurance Portability and Accountability Act (HIPPA) guidelines.

### **D. Discrimination Prohibited**

Throughout the performance of the contract, the contractor agrees that it will comply with all applicable provisions of federal, state, and local laws and regulations prohibiting discrimination. Specially, the contractor warrants that it will fully comply with the Title VI and VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act (ADA), and all other regulations promulgated hereunder. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, disability, national origin, sex, sexual orientation, or age.

### **E. Establish a Drug-Free Workplace**

The contractor agrees, in accordance with State of Alaska laws and City of Kodiak laws, that the City of Kodiak is a drug-free workplace and all contractor personnel will abide by these laws and regulations. The contractor will provide the City an acknowledgement that all contractor personnel have been duly notified that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

As the State of Alaska has passed laws regarding recreational use of marijuana, the City of Kodiak disallows the use of marijuana for any of its employees. The contractor will provide the City with an acknowledgement that all contractor personnel have been duly notified of the City's regulations regarding use of marijuana.

## **IV. Insurance**

The contractor shall maintain at all applicable times, at its own expense, the insurance coverage reflecting the minimum amounts and conditions required by the City.

The Contractor shall not commence any work in connection with the contract until all of the following types of insurance have been obtained and such insurance has been approved by the City.

The contractor's insurance policy shall include the following provisions:

### **A. Loss Deductible Clause**

The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the contractor.

## **B. Workers' Compensation Insurance**

The Contractor shall obtain during the life of the contract, Worker's Compensation Insurance with Employer's Liability Limits of \$500,000 / \$500,000 / \$500,000 for all of the contractor's personnel connected with the work of the contract. Such insurance shall comply fully with the State of Alaska Worker's Compensation laws and regulations. In case any class of employees engaged in hazardous work under the contract for the City is not protected under the Workers' Compensation statute, the Contractor shall provide adequate insurance, satisfactory to the City, for the protection of the Contractor's employees not otherwise protected. The policy shall include a Waiver of Subrogation in favor of the City.

## **C. Contractor's Public Liability and Property Damage Insurance**

The contractor shall obtain during the life of this contract, automobile coverage for personal use of its employees. During the duration of the contract, contractor personnel operating City vehicles and equipment during working hours will be covered by the City's insurance policy. Any vehicles operated by contract personnel during nonworking hours (i.e. personal time) will not be covered by the City's insurance policies.

The contractor's insurance policies shall name the City of Kodiak as an additional insured, and shall protect the Contractor and the City from claims for damage for personal injury, including accidental death, as well as claims for property damages which may arise from operations under this contract whether such operations be by the contractor or by anyone indirectly or directly employed by the Contractor, and the amounts of such insurance shall be the minimum limits as follows:

### **1. Automobile Bodily Injury Liability & Property Damage Liability**

- \$1,000,000 combined single limit per occurrence (each person, each accident)
- Liability coverage will include hired and non-owned automobile liability
- Include Waiver of Subrogation in favor of the City

### **2. Comprehensive General Liability**

This policy shall name the City as an additional insured and shall indicate that the insurance of the Contractor is primary and non-contributory. When coverage is written on a claims-made basis, any change in carriers requires that the retroactive date will include the previous terms and the Contractor shall provide the City with thirty (30) days advice notice of such change.

- \$2,000,000 General Aggregate
- \$2,000,000 Products-Completed Operations Aggregate
- \$1,000,000 Per Occurrence
- \$1,000,000 Personal and Advertising Injury
- Include Waiver of Subrogation in favor of the City

### **3. Contractual Liability**

If the project is not bonded, the Contractor's insurance shall also include contractual liability coverage to insure the fulfillment of the contract. For Public Liability and Automobile Liability Insurance, the City shall be named as the additional insured.

- \$1,000,000 Per Occurrence
- \$2,000,000 Aggregate

#### **4. Commercial Umbrella**

- \$1,000,000 Per Occurrence
- \$2,000,000 Aggregate
- Including Employer's Liability and Contractual Liability

#### **5. Certificate of Insurance**

The Certificate of Insurance naming the City as an additional insured will be furnished by the Contractor prior to commencement of the contract. The certificate shall be dated and show the name of the insured contractor, the name of the insurer, the number of the policy, its effective date, and its termination date.

### **V. Ownership of Records and Confidential Information**

In addition to protected health information, as defined in 45 CFR § 164.504, or individually identifiable health information, as defined in 42 U.S.C. § 1320d ("Protected Health Information"), during the course of performing this Contract, each party may from time to time receive confidential information about the other including but not limited to information about the party's customers, patients, practices, procedures, strategies, organization, financial and other related information. Neither party shall use or disclose any such confidential information for any purpose other than the limited purpose of performing its obligations under this Contract, without the prior express written permission of the supplying party.

All documents and records that are prepared, maintained, handled or otherwise related to Contractor's performance of services hereunder are and shall be the property of the City.

Contractor's copyrighted materials and procedures shall be and remain the sole property of Contractor.

If a party is served with a public records request, subpoena or other legal process concerning confidential information of the other party, that party shall immediately (not more than 48 hours after the receipt) notify the supplying party and shall, at no cost to City, cooperate with it in any lawful effort to contest the legal validity of such process the supplying party may wish to pursue. Nothing herein shall be construed to preclude City and Contractor from complying with the requirements of the State of Alaska Public Records Act. Contractor acknowledges and agrees that the City is a public entity that is subject to the Public Records Act and as such, public records in Contractor's control and possession relating to any services performed under this Contract shall, at no cost to City, be secured, maintained, preserved, and retained in the manner specified pursuant to the City of Kodiak records management protocols and the State of Alaska Public Records Act and available for inspection and copying pursuant to the Public Records Act unless otherwise exempt or excepted by applicable law.

### **VI. Availability of Information**

During the term of this Contract and pursuant to any record retention law or regulation the parties are subject to, each party shall make available upon written request of the other, to the Secretary of the Department of Health and Human Services, or to the Comptroller General of the United States, or of any duly authorized representatives of any government agency, this Contract and the books, documents and records of the party that are necessary to certify the nature and extent of the costs of this Contract and/or compliance with the law.

## **VII. Warranties and Representations**

### **A. Contractor warrants and represents**

1. that it shall perform its services in accordance with industry standards;
2. that to the best of its knowledge all goods and services have been reflected in its reporting to the City of Kodiak Fire Department; and,
3. it shall perform all its obligations and maintain all records and patient information used for the performance of services under this Contract in compliance with all applicable law including but not limited to any applicable state Consumer Protection laws, as amended, and the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. §§ 1320d through d-8, as amended ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009, 45 CFR Parts 142,160,162 and 164 (the "HITECH Act").

### **B. Each party represents and warrants to the other that**

1. it has the right to enter into this Contract, to grant the rights granted in this Contract and to perform fully all of the services and obligations contemplated by this Contract;
2. all necessary laws, consents, resolutions, and corporate/political actions have duly authorized the execution and performance of this Contract, and this Contract constitutes a valid and enforceable obligation of each of the parties;
3. the person entering into this Contract is authorized to sign this Contract on behalf of the party; and
4. the parties have reviewed this Contract with their respective legal counsel to the party's satisfaction or voluntarily waived their right to do so. The parties acknowledge that HIPAA and the HITECH Act, and the regulations promulgated thereunder apply to the activities described in this Contract, and that both parties are "covered entities" as that term is used in HIPAA and the HITECH Act. In that regard, the parties acknowledge and warrant to each other that their respective activities undertaken pursuant to this Contract shall conform to HIPAA and the HITECH Act no later than the effective date of each such requirement.

### **C. City warrants and represents that**

1. to the best of its knowledge, all information supplied to and all representations made to Contractor shall be true, accurate and complete and in the event such information or representation(s) made herein become inaccurate or incomplete, City will promptly notify Contractor in writing of such occurrence;
2. it shall perform all its obligations and maintain all records and patient information used for the performance of services under this Contract in compliance with all applicable law including but not limited to the Fair Debt Collection Practices Act, 15 U.S.C. §§1601 *et seq.*, as amended, any applicable state Consumer Protection laws, as amended, the Bankruptcy Code, 11 U.S.C. §§ 101 *et. seq.*, as amended, and HIPAA and the HITECH Act.



## **VIII. Response Time**

### **A. Response Time Performance**

During City declared emergencies, the Fire Chief may suspend time-based performance requirements. Response times are a combination of dispatch operations and field operations. Because this Contract is performance based, the City will not limit the Contractor's flexibility in the methods of providing EMS service other than the requirements described herein. However, the City reserves the right to review and approve Contractor's deployment plans and encourages a strong and ongoing working relationship between City staff, the City of Kodiak Fire Department, and the Contractor. This Contract is based on the Contractor's commitment to perform within the response time standards. Appropriate response time performance is the result of a coordinated effort of the Contractor's total operation. This system will be based on the City's processing requests for service, and then dispatching resources in accordance with the City's deployment plan. Response time shall be measured in minutes and integer seconds, and shall be "time stamped" by the City provided ambulance CAD system or dispatch and radio system.

### **B. Response Time Requirements**

#### **1. Emergency Request**

The contractor shall produce an ambulance response time of five minutes, zero seconds (5:00 minutes) or less for at least 90% of all incoming emergency request calls from fire/police dispatch or the public as determined by the dispatcher in strict accordance with approved telephone protocols.

Ambulance response times begin with departing the City of Kodiak Fire Station. All ambulance requests must be responded to within ninety (90) seconds of receiving the initial request.

Per current City of Kodiak Fire Department protocols, response time on scene is limited to ten minutes, zero seconds (10:00 minutes) for trauma incidents.

#### **2. Use of Mutual Aid Providers**

The contractor may be required to utilize mutual aid agreements that are in effect with the City.

#### **3. Severe or Chronic Non-Compliance**

If contractor fails to comply with response time requirements more than five (5) per week, or twenty (20) per month, such failure shall be considered "severe or chronic" non-compliance of the Contract and the City shall have the right to terminate this Contract.

### **C. Response Time Measurement Methodology**

The response time measurement methodology employed can significantly influence operational requirements for EMS systems. The following are applicable:

1. Response times are measured from the time the call is received by the City of Kodiak Fire Department until the first arriving ALS unit is on scene.
2. For the purpose of this Contract, the Contractor's emergency response times shall be measured from the time the Contractor is notified by radio, telephone, data link, or other

means that its services are required at a particular location until unit arrival at the incident location by the Contractor's first arriving ALS unit.

3. Arrival at the incident location means the moment a crew notifies that it is fully stopped at the location where the ALS unit shall be parked while the crew exits to approach the patient. In situations where the ALS unit has responded to a location other than the scene (e.g., staging areas for hazardous materials, violent crimes incidents, or non-secured scenes) arrival at scene shall be the time the unit arrives at the designated staging location.
4. Each incident will be counted as a single response regardless of the number of units that are utilized. The response time of the first arriving contractor ALS transport unit will be used to compute the response time for the incident.

#### **D. Reporting Requirements**

The ability of the City to monitor and evaluate the effectiveness of its EMS delivery system is greatly dependent upon the availability of valid data and statistical analysis that measures system performance including both clinical and financial outcomes. The contractor shall require all contract personnel to provide reporting in compliance with the Kodiak Fire Department policies and procedures and patient care reporting in the State of Alaska Aurora system.

In addition, the contractor will provide the City of Kodiak Fire Department all necessary training records for ALS and BLS training performed with City of Kodiak Fire Department personnel.

#### **IX. Fair Market Value**

This Contract has been negotiated at arm's length and in good faith by the parties. Nothing contained in this Contract, including any compensation paid or payable, is intended or shall be construed: (i) to require, influence or otherwise induce or solicit either party regarding referrals of business or patients, or the recommending the ordering of any items or services of any kind whatsoever to the other party or any of its affiliates, or to any other person, or otherwise generate business between the parties to be reimbursed in whole or in part by any Federal Health Care Program, or (ii) to interfere with a patient's right to choose his or her own health care provider.

#### **X. Indemnification**

Each party, for itself and its officers, directors, and employees ("Indemnitor") shall indemnify and hold harmless the other party, their officers, directors, and employees ("Indemnitee") for, from and against all costs, claims, losses, liabilities, penalties, fines, citations, expenses, forfeitures or other damages, including but not limited to settlements, defense costs, judgments, court costs, expert(s) fees and reasonable fees of attorneys, incident to, and which it may incur, become responsible for, or payout as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of applicable law, to the extent that such damage was caused by, in whole or in part, incident to or arose out of this Contract and the Indemnitor's: (i) breach of this Contract; or (ii) negligent or willful act(s) or omission(s); or (iii) violation of applicable law; or (iv) any employment, workers' compensation or other related claim by Indemnitor's employees, agents or subcontractors. Nothing in this section shall limit any right to contribution or other allocation of fault between the parties as determined by a court of competent jurisdiction and as permitted by all Applicable Law.

## **XI. Termination**

### **A. Mutual Consent**

Notwithstanding any other provision in this contract, this contract may be terminated upon mutual written consent of the parties.

### **B. Default**

If conditions or circumstances, constituting a default as set forth in this section exists, the City shall have all rights and remedies available at law and in equity, specifically including the right to terminate this Contract, the right to pursue the Contractor for damages and the right of emergency takeover of the services to be provided by Contractor hereunder. All the City's remedies shall be non-cumulative and shall be in addition to any other remedy available to the City. Conditions and circumstances, which constitute default of this Contract, shall include the following:

1. Failure of the Contractor to operate the EMS system in a manner which enables the City and the Contractor to remain in compliance with federal state or City laws, rules, or regulations, medical control policies and/or related rules and regulations adopted pursuant thereto;
2. Failure of the Contractor to meet system standards of care;
3. Breach of any of the warranties or representations contained in this Contract;
4. Falsification of information supplied by the Contractor during or subsequent to this procurement process;
5. Failure of the Contractor to provide data or falsification of data supplied during the course of operations, including by way of example but not by way of exclusion, dispatch data, patient report data, response time data, performance measurements, financial data or falsification of any other data under the Contract;
6. Failure of the Contractor to operate equipment in accordance with the manufacturer recommended maintenance practices;
7. Failure of the Contractor's employees to conduct themselves in a professional and courteous manner and to present a professional appearance;
8. Failure of the Contractor to comply with the City of Kodiak's patient care reporting requirements and public records policies and procedures
9. Contractor makes an assignment for the benefit of creditors, files a petition of bankruptcy, is adjudicated insolvent or bankrupt, petitions to apply for any custodian, receiver or trustee for a substantial part of its property, commences and proceeding relating to it under bankruptcy, reorganization, arrangement, readjustment of debt, dissolution or liquidation law or statute of any jurisdiction;
10. Failure of Contractor to cooperate with and assist the City after a default has been declared as provided for herein, even if it is later determined that such breach never occurred or that the cause of such breach was beyond Contractor's reasonable control;
11. Acceptance or payment by Contractor or any of Contractor's employees of any bribe, kick-back or consideration of any kind in exchange for any consideration whatsoever, when such consideration or action on the part of Contractor or Contractor's employees could reasonably be construed as a violation of federal, state or local law;
12. Failure of Contractor to maintain insurance in accordance with this Contract;
13. Chronic failure of Contractor to consistently meet response time requirements as set forth in this Contract;

14. Any other failure of performance, clinical or other system standards of care as required in this Contract and which is determined by the City of Kodiak to constitute a default or endangerment to public health and safety;
15. Restriction, suspension, or revocation of operating licenses or certifications imposed by the City of Kodiak or the State of Alaska; or
16. Contractor debarment by Centers for Medicare and Medicaid Services (CMS)

### **C. Provisions for Curing Default**

The Contractor is required to meet with the Fire Chief to remedy any violations. In the event of a default, the City shall give the Contractor written notice to the Contractor setting forth with reasonable specificity the nature of the default. Contractor shall have the right to cure such default within five (5) calendar days of receipt of such notice. Within 24 hours of receipt of such notice, Contractor shall deliver to City, in writing, a plan of action to cure such default; or in the event Contractor is alleging that its default is due to breach of the City's obligations, written notice of the alleged breach.

### **XII. Rights and Remedies Not Waived**

Contractor covenants that the provision of services to be performed by the Contractor under this Contract shall be completed without further compensation than that provided for in this Contract. The acceptance of work under this Contract and the payment therefore shall not be held to prevent maintenance of an action for failure to perform work in accordance with this Contract. In no event shall payment of consideration by City constitute or be construed to be a waiver by City of any default or covenant or any default by Contractor. City's payment shall in no way impair or prejudice any right or remedy available to the City with respect to such default.

### **XIII. Regulatory Changes**

Contractor reserves the right to seek modification of this Contract, upon thirty (30) days notice to City in the event any applicable law, government policy or program change is passed or adopted affecting Contractor's rates, provisions of services and/or obligations, and in such event the parties shall work in good faith to modify this Contract accordingly.

### **XIV. Permits and Licenses**

Contractor shall be responsible for and shall hold any and all required federal, state, or local permits or licenses required to perform its obligations under this Contract. It shall be entirely the responsibility of the Contractor to schedule and coordinate all such applications and application renewals as necessary to ensure that the Contractor is in complete compliance with federal, state, and local requirements for permits and licenses as necessary to provide the services. The Contractor shall be responsible for ensuring that its employees' state and local certifications and licenses as necessary to provide the services, if applicable, are valid as of the Effective Date and are valid and current at all times throughout this Contract.

### **XV. Compliance with Anti-Kickback Statute**

Each party shall comply with the Federal Health Care Programs' Anti-Kickback Statute (42 U.S.C. § 1320a-7b) and any applicable regulations promulgated thereunder. The parties further recognize that this Contract shall be subject to the amendments of the Anti-Kickback Statute or any of its applicable regulations. In the event any applicable provisions of the Anti-Kickback Statute or its regulations invalidate, or are otherwise inconsistent with the terms of this Contract, or would cause one or both of the parties to be in violation of the law, the parties shall exercise

their best efforts to accommodate the terms and intent of this Contract to the greatest extent possible consistent with the requirements of the Statute and its applicable regulations.

**XVI. Compliance with Applicable Law**

The parties agree to be in full compliance with all applicable law and shall immediately notify the non-breaching party in the event it has failed to comply with this Section. In such an event, the non-breaching party may immediately terminate this Contract.

**XVII. Exclusion of Certain Damages**

Notwithstanding any provisions in this contract to the contrary, in no event shall any party and its affiliates or any of their respective directors, officers, members, shareholders, employees, or agents be liable to the other party or any third party for lost profits, special consequential, incidental, or punitive damages, regardless of the basis of the claim, whether in contract, tort, strict liability, or other legal or equitable theory, whether or not the party has been advised of the possibility of such damages.

**XVIII. Independent Contractor**

Contractor is an independent contractor and nothing in this Contract shall be construed as creating an employment relationship, agency, partnership, or joint venture between the parties. Each party shall control and direct the methods by which it performs its responsibilities hereunder. Except as provided herein, neither party is authorized to act on behalf of the other in any other matter whatsoever. In the event of medical necessity, City or contractor personnel may be requested to assist the other party in the continued medical care medically necessary for the care of the patient by accompanying the patient during Contractor transportation. Under no circumstances shall City's employees be considered an employee of Contractor.

**XIX. Waivers**

The failure by either party to insist on strict performance by the other party of any provision of this Contract shall not be a waiver of any subsequent breach or default of any provision of this Contract.

**XX. Governing Law**

This Contract shall be subject to and governed according to the laws of the State of Alaska, regardless of whether either party is or may become a resident of another state. The parties agree that the venue and jurisdiction shall be exclusively in the state and federal courts governing the jurisdiction of the City of Kodiak in the State of Alaska.

**XXI. Binding Effect**

This Contract shall be binding upon and shall inure to the benefit of the parties hereto, their respective successors, assigns or other legal representatives.

**XXII. Assignment**

Contractor shall not assign any portion of this Contract. Any change in Contractor's ownership shall, for purposes of this Contract, be considered a form of assignment. The City shall not unreasonably withhold its approval of a requested change in ownership, so long as the transferee is of known financial and business integrity for the undertaking.

**XXIII. Severability**

If any portion or portions of this Contract shall be for any reason invalid or unenforceable, the remaining portion(s) shall be valid and enforceable and carried into effect unless to do so would clearly violate the present legal and valid intention of the parties hereto.

**XXIV. Survival**

Any provisions of this Contract creating obligations extending beyond the term of this Contract shall survive the expiration or termination of this Contract, regardless of the reason for such termination.

**XXV. Authorization for Contract**

All necessary laws, resolutions, and corporate actions have duly authorized the execution and performance of this Contract and this Contract constitutes the valid and enforceable obligations of the parties in accordance with its terms.

**XXVI. Force Majeure**

Either party shall be excused for failures and delays in performance of its respective obligations under this Contract due to any cause beyond its control and without fault, including without limitation, any act of God, war, riot or insurrection, law or regulation, strike, flood, fire, terrorism, explosion or inability due to any of the aforementioned causes to obtain labor, materials, roadways or facilities. In addition to the above, Contractor shall be excused for failures and delays in performance of its obligations under this Contract due to adverse weather conditions, natural physical barriers, such as mountains, hills or washes, natural disasters and/or other limitations of access to the person requiring Services. Such conditions may impede or effect or block Contractor's efforts to provide Services and/or ability to utilize some or all of its Services' equipment. Nevertheless, each party shall use its best efforts to avoid or remove such causes and to continue performance whenever such causes are removed, and shall notify the other party of the problem.

**XXVII. Entire Contract**

This Contract constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes any previous agreements or understandings, whether oral or written.

**XXVIII. Amendments**

Any amendments to this Contract shall be effective only if in writing and signed by authorized representatives of both parties.

**XXIX. Contract Execution**

This Contract may be executed by email, and shall be deemed effectively executed upon the receipt by both parties duly executed by the other party. Each party to this Contract agrees to deliver two original, inked and signed Contracts within two days of execution.

**XXX. Legal Fees**

In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Contract, or on account of any breach or default hereof, or to enforce the Dispute Resolution section, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees, costs, and expenses.

**XXXI. Omnibus Provision**

Contractor understands and agrees that following the conclusion of the Contract it may be required to make available upon written request to the secretary of the U.S. Department of Health and Human Services, or any other fully authorized representatives, the specifications and subsequent agreements, and any such books, documents, and records that are necessary to certify the nature and extent of the reasonable costs of services.

**XXXII. No Third Party Beneficiary**

No party intends in any manner whatsoever to create an interest or beneficiary in a third party.

**XXXIII. Warranty Regarding Consideration and Procurement**

Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for the Contractor to procure or solicit this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or other consideration contingent upon or resulting from this procurement. Further, Contractor represents that its pricing has been independently arrived at without collusion.

**XXXIV. Exhibits**

All Exhibits referenced herein are incorporated into this Contract in their entirety. Contract when used throughout this Contract shall include all referenced Exhibits.

**XXXV. Publicity Provision**

Neither party shall use any trademarks, service marks, visual product representations, trade names, logos or other commercial or product designations of the other party, or disclose such without said party's express prior written consent. In particular, neither party shall identify or make reference to the other party in any advertising or other promotional modality regardless of its form without explicit prior written consent from said party.

**XXXVI. Product Endorsement / Advertising**

Contractor shall not use the name of the City or the City's fire agencies for the endorsement of any commercial products or services without the expressed written permission of the City.

**XXXVII. FCC Compliance**

Contractor acknowledges that the FCC license is held by City and that any shared transmitter use under this Contract and pursuant to Section 90.179 of the FCC's Rules shall be subject to City's control.

**XXXVIII. End of Term Provisions**

Contractor shall have 30 days after termination of this Contract in which to supply the required documentation necessary to facilitate the close out of the Contract at the end of the term.

**XXXIX. Notice of Litigation**

Contractor agrees to notify City within 24 hours of any litigation or significant potential for litigation of which Contractor is aware. Further, Contractor is required to warrant that it will disclose in writing to the City all litigation involving the Contractor, Contractor's related organizations, owners, and key personnel.

**XL. Dispute Resolution**

In the event of a dispute, the parties will consider the use of mediation to resolve the dispute prior to the commencement of litigation.

**XLI. Sovereign Immunity**

Nothing contained in this Contract shall be considered or deemed a waiver of City's sovereign immunity protections or a waiver of any other defense or immunities to lawsuits.

**XLII. Term**

This Contract shall be for a period of three (3) months beginning July 1, 2017. The City may offer, at its sole option, and based in part upon the Contractor's superior performance one (1) three (3) month renewal. The offer of extension shall be for three-months after the completion of the initial three month contract period. This extension will be offered at the sole option of the City.

If the City determines that an extension of this contract is warranted, such offer shall be made at least fifteen (15) days prior to the schedule end of the term of the contract.

**XLIII. Contract Payment Provisions**

**A. Payment**

The contract payment will be in the amount of **XXXXX dollars (\$XXXXX)** for the duration of the contract. These payments will be made as follows:

- 25% due on July 1, 2017 at contract commencement
- 50% due on August 15, 2017 at the mid-point of contract term
- 25% due on October 1, 2017 at the completion of the contract

All payments to the contractor must be completion prior to awarding an extension. An extension of services will commence a new payment schedule under the same provisions noted within this section.

**B. Prohibited Payments**

Any and all fees related to ambulance services remain the property of the City of Kodiak. The contractor, or its personnel, under no circumstances, will be allowed to collect on behalf of the City.

**C. Contractor Identification**

The contractor shall provide all vital and accurate information relating corporate information as registered with the State of Alaska and the federal government. Such information shall include:

- Name of entity
- Type of entity
- Authorization to conduct business in the State of Alaska
- Registration of any additional entity names (i.e. Doing Business As)
- Name of officer(s)
- Entity Address
- Federal Identification Number
- Contact Person
- W9



**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be executed by their authorized representatives on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Signed and delivered in the presence of:

CITY OF KODIAK:

CONTRACTOR:  
Delta Medical Transport, LLC

\_\_\_\_\_  
Signed: Mike Tvenge, City Manager

\_\_\_\_\_  
Signed: Anthony White, CEO

ATTEST:

\_\_\_\_\_  
Signed: Debra Marlar, City Clerk

(SEAL)

DRAFT