

CITY OF KODIAK
ORDINANCE NUMBER 1428

AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK AUTHORIZING THE CITY MANAGER TO SIGN A LOAN AGREEMENT BORROWING FROM THE ALASKA CLEAN WATER FUND FIVE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$5,400,000) TO PAY THE COST OF THE LIFT STATION 5 & FORCE MAIN REPLACEMENT PROJECT PN 11-06/7524

WHEREAS, pursuant to AS 46.03.032 the Alaska Department of Environmental Conservation ("DEC") may make loans to municipalities from the Alaska Clean Water Fund ("Clean Water Fund") to pay the cost of planning, designing, building, constructing, and rehabilitating public wastewater collection, treatment and discharge systems; and

WHEREAS, the City of Kodiak ("City") is eligible to borrow from the Clean Water Fund for the purpose described above, and the interest rates to be paid by the City on loans from the Clean Water Fund are favorable compared to the rates charged by other sources of funds that are available to the City; and

WHEREAS, the City of Kodiak needs to finance the cost of the Lift Station 5 & Force Main Replacement Project ("the Project"); and

WHEREAS, Article VI, Section 3 of the Kodiak City Charter authorizes the City to borrow money and issue evidences of indebtedness; therefore, the principal and interest of which are payable solely out of and the only security for which is the revenue of a revenue producing utility or enterprise when authorized by the Council for the acquisition, construction, reconstruction, repair, improvement, extension, enlargement, and/or equipment of the utility or enterprise; and

WHEREAS, Article VI, Section 3 of the Kodiak City Charter requires that utility revenue obligations of the City be ratified by a majority of the qualified voters of the City only so long as voter approval is required by state law, and under the constitution and statutes of the State of Alaska, the City may issue utility revenue obligations without voter approval; and

WHEREAS, the Kodiak City Council adopted Resolution 2021-30 on December 9, 2021 authorizing the City Manager to apply for a loan for the Project in the amount of up to \$5,400,000; and

WHEREAS, on or about June 3, 2022 the State of Alaska Department of Environmental Conservation offered to loan the City of Kodiak \$5,400,000 for the Project from the Clean Water State Revolving Fund to be repaid over twenty years at an interest rate of 1.65625 per cent to be repaid solely from the Net Operating Revenues of the wastewater utility of the City pursuant to terms set forth in Loan Agreement No. 503181 ("Loan Agreement" or "the Loan") ; and

WHEREAS, Article V, Section 17(2) of the City of Kodiak Charter requires that agreements that cannot be fully executed within five (5) years and are not terminable by the City with less than one month's notice be authorized by ordinance; and

WHEREAS, borrowing the money for the Project upon the terms contained in the Loan Agreement is in the public interest.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KODIAK, ALASKA that:

Section 1. Classification. This is a non-code ordinance.

Section 2. Definitions. In addition to the terms defined in the recitals above, the following terms shall have the following meanings in this Resolution:

"Gross Revenues" means all rates and charges and other income, in each case derived by or for the account of the City from the ownership, leasing, or operation of the Wastewater Utility, except proceeds from the sale of bonds or notes, any grants received for the Wastewater Utility, and interest received and profits derived from the investment of moneys obtained from such sources or from moneys held in any fund solely to pay or secure the payment of any bonds or notes issued in connection with the Wastewater Utility.

"Operating Expenses" means the current expenses incurred for operation, maintenance, or repair of the Wastewater Utility of a non-capital nature, and shall include without limitation payments required by any source of supply expenses; fuel expenses; treatment, transmission and distribution expenses; customer accounts expenses, administrative and general expenses, insurance premiums, lease rentals, legal, regulatory and engineering expenses; payments to pension, retirement, group life insurance, health and hospitalization funds; or other employee benefit funds which are properly chargeable to current operations; interest on customers' deposits, payroll tax expenses, and any other expenses required to be paid by law or permitted by standard practices for public utility systems similar to the properties and business of the Wastewater Utility (adjusted to reflect public ownership) and applicable in the circumstances. Operating Expenses shall not include any allowances for depreciation or amortization or any principal, redemption price or purchase price of, or interest on, any obligations of the City incurred in connection with the Wastewater Utility and payable from Gross Revenues or any fee or charge in lieu of City taxes.

"Wastewater Utility" means the wastewater utility of the City as the same may be added to, improved, and extended for as long as the Loan is outstanding.

Section 3. Obligation of Loan. The obligation to repay the Loan shall be a special obligation of the City, payable and secured only as provided herein. Neither the faith and credit nor the taxing power of the City is pledged to the payment of the principal of or interest on the Loan. The Gross Revenues less the Operating Expenses of the Wastewater Utility are hereby pledged to repayment of the Loan.

Section 4. Authorization to Sign Loan Agreement. The City Manager hereby is authorized to sign the Loan Agreement.

Section 5. Effective Date. If one or more referendum petitions with signatures are properly filed within one month after the passage and publication of this ordinance, this ordinance shall not go into effect until the petition or petitions are finally found to be illegal and/or insufficient, or, if any such petition is found legal and sufficient, until the ordinance is approved at an election by a majority of the qualified voters voting on the question. If no referendum petition with signatures is filed, this ordinance shall go into effect one month after its passage and publication.



CITY OF KODIAK

Pat Bauer

MAYOR

ATTEST:

Michelle Shorrock-Tulsa

CITY CLERK

First Reading: July 14, 2022
Second Reading & Public Hearing: August 25, 2022
Effective Date: October 1, 2022