

**CITY OF KODIAK
ORDINANCE NUMBER 1432**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF KODIAK
AUTHORIZING ENTERING INTO A LOAN AGREEMENT WITH THE STATE OF
ALASKA DRINKING WATER FUND IN AN AMOUNT NOT TO EXCEED TWO
MILLION SEVEN HUNDRED THIRTY THOUSAND (\$2,730,000) TO PAY THE
CONSTRUCTION COST OF THE CT TANK PAINTING IMPROVEMENT PROJECT
PN 17-06/7043**

WHEREAS, pursuant to AS 46.03.032 the Alaska Department of Environmental Conservation ("DEC") may make loans to municipalities from the Alaska Drinking Water Fund ("Drinking 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 Drinking Water Fund for the purpose described above, and the interest rates to be paid by the City on loans from the Drinking Water Fund are favorable compared to the rates charged by other sources of funds that are available to the City; and

WHEREAS, Article VI, Section 3 of the Kodiak City Charter authorizes the City to borrow money and issue evidence 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, it is necessary and in the best interest of the City and its residents that the City borrow from the Drinking Water Fund an amount not to exceed \$2,730,000 ("Loan") to pay part of the cost of designing, constructing, and equipping the following water capital improvement CT Tank Painting project; and

WHEREAS, Resolution No. 2022-27 adopted October 13 2022, authorized the City Manager to submit an application for a loan to the Alaska Department of Environmental Conservation ("ADEC") to apply for a Loan for the Project and to determine the principal amount, interest rate, maturity and other details of the Loan; and

WHEREAS, the City Manager, as authorized, submitted loan applications to ADEC; and

WHEREAS, Resolution No. 2022-27 provides that the Loan Agreement requires council authorization by ordinance pursuant to City of Kodiak Charter Section V.17(2); and

WHEREAS, the Loan is not a general obligation of the City but is payable solely out of the revenue of the wastewater utility enterprise fund;

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

Section 1. Definitions. In addition to the terms defined in the recitals above, the following terms shall have the following meanings in this Ordinance:

"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 2. Obligation of Loan. The obligation to repay the Loan shall be a special obligation of the City, payable and secured only as provided in the Loan Agreement. 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, the only funds pledged and legally available for repayment of the Loan.

Section 3. Authorization for Loan Agreement. For the purpose of providing part of the funds required to pay the cost of the Project, the City Manager is hereby authorized to execute the Loan Agreement with the State of Alaska for \$2,730,000.

Section 4. Effective Date. This ordinance shall be effective one month after final passage and publication.

CITY OF KODIAK



MAYOR

ATTEST:



For: CITY CLERK

First Reading: April 13, 2023
Second Reading: May 11, 2023
Effective Date: June 17, 2023