

KODIAK  
ANNEX.  
TRAVELING  
FILE

**KODIAK ISLAND BOROUGH**

P.O. Box 1246  
Kodiak, Alaska 99615

Second Class Borough

Phone: (907) 486-5736

INCORPORATION DATE: September 24, 1963  
POPULATION: 8,926  
REGULAR ELECTION: First Tuesday of October  
SALES TAX: None  
ASSEMBLY MEETS: First Thursday of each month

MAYOR: Betty Wallin 1979

ASSEMBLY MEMBERS

Dr. Michael Emmick 1979  
Edward Jack 1980  
Sandra Kavanaugh 1979  
Arnold Hansen 1981  
James Peotter 1980  
William Fearn 1981  
Danforth Ogg 1981

PLANNING AND ZONING COMMISSION

Ron Ball 1979  
Dan Busch 1979  
John Pugh 1979  
Gene Erwin 1980  
Tom Perez 1980

BOROUGH POWERS

Areawide: Education, health,  
planning and zoning, assessment  
and taxation. Non-areawide: Fire  
districts (2), parks and recreation.

SCHOOL BOARD

Stan Baltzo 1980  
David Crowe 1979  
Joan Johnson 1979  
Louise Collins 1981  
Jim Olson 1981  
Fran Flick (non voting rep)

Service areas: Road maintenance.

MANAGER.....Stuart Denslow  
CLERK/TREASURER.....Shirley "Mickie" Miller  
HEALTH OFFICER.....Harry Brighton  
PLANNING DIRECTOR.....Harry Milligan  
SUPERINTENDENT OF SCHOOLS.....John Anttonen  
ATTORNEY.....Richard Garnett  
ASSESSOR.....Edwin Haney  
ADMINISTRATIVE ASSISTANT.....Marilyn McKinnon  
BUILDING OFFICIAL.....Bryce Gordon  
ENGINEER.....Robert Marmaduke III  
HOSPITAL ADMINISTRATOR.....Robert Groff

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**KODIAK**

P.O. Box 1397  
Kodiak, Alaska 99615

Home Rule City

Phone: (907) 486-3224

INCORPORATION DATE: September 11, 1940  
POPULATION: 4,960  
REGULAR ELECTION: First Tuesday in October  
SALES TAX: 3%  
CITY COUNCIL MEETS: Second and fourth Thursdays of each month

MAYOR: Gary Stevens 1979

CITY COUNCIL MEMBERS

Toni Eaton 1979  
Gaynell Hatcher 1980  
Carol Lechner 1979  
Ernie Mills 1981  
Wilton White 1981  
Dave Woodruff 1980

MUNICIPALLY OWNED UTILITIES

Water  
Dock  
Sewer  
Ferry Terminal  
Boat Harbor

CLERK.....Libby Presnall  
FINANCE DIRECTOR.....Harry Hyde  
MANAGER.....Clair Harmony  
CHIEF OF POLICE.....Jack Rhines  
FIRE CHIEF.....George Magnusen  
HEALTH OFFICER.....State Sanitarian  
EMERGENCY PREPAREDNESS DIRECTOR.....Clair Harmony  
PORT DIRECTOR.....George Cutrell  
HARBORMASTER.....George McCorkle  
ENGINEER.....John Stafford  
WATER & SEWER SUPERINTENDENT.....Herman Beukers  
PARKS & RECREATION DIRECTOR.....Ian Fulp  
PURCHASING AGENT.....Carolyn Thomas  
LIBRARIAN.....Elizabeth Carroll  
BUILDING INSPECTOR.....Morris Lee  
ATTORNEY.....Cole, Hartig, Rhodes, Norman  
and Mahcney

LOCAL BOUNDARY COMMISSION MEMBERS

Mrs. Sheila Gallagher (Chairman)  
3201 "C" Street, Suite 201  
Anchorage, Alaska 99503 Phone: 276-7612 (business)

Mrs. Josephine Anderson (Member)  
P.O. Box 351  
Wrangell, Alaska 99929 Phone: 874-3590 (home)  
874-3621 (business)

Mr. Charles B. Bettisworth (Member)  
P.O. Box 80283  
Fairbanks, Alaska 99701 Phone: 479-3517 (home)  
456-5780 (business)

Mr. Edward Hopson (Member)  
Box 143  
Barrow, Alaska 99723 Phone: 852-5141 (home)  
852-6930 or 852-6970 (business)

Mr. Sigvald Strandberg (Member)  
7235 Blackberry Street  
Anchorage, Alaska 99502 Phone: 276-4555 (business)  
243-1772 (home)

2/11/79

Ms. Kimberly Steven and  
Mr. Randolph Davela ✓  
P.O. Box 3166  
Kodiak, Alaska 99615

Mr. Dick Juelson, Chairman ✓  
Borough Residents for Autonomy  
P.O. Box 286  
Kodiak, Alaska 99615

Mr. Norman D. Wooten  
P.O. Box 3016  
Kodiak, Alaska 99615

Mrs. June Juelson ✓  
P.O. Box 286  
Kodiak, Alaska 99615

Mr. and Mrs. D. Pistorese ✓  
P.O. Box 37  
Kodiak, Alaska 99615

MR. Bob Brocke 2/5/79  
P.O. Box 232  
Kodiak, Alaska 99615

Mr. and Mrs. Steven Olsen ✓  
P.O. Box 1574  
Kodiak, Alaska 99615

MS. Janet Wente "  
P.O. Box 2791  
Kodiak, Alaska 99615

Ms. Melissa Newton ✓  
P.O. Box 773  
Kodiak, Alaska 99615

MR. B.E. NACHTWECH "  
P.O. Box 1247  
Kodiak, Alaska 99615

Mr. Ron Matsuoka ✓  
P.O. Box 2078  
Kodiak, Alaska 99615

Mr. John Morton ✓  
P.O. Box 44  
Kodiak, Alaska 99615

Ms. Sandy Kavanaugh ✓  
212 Birch  
Kodiak, Alaska 99615

Ms. Lorna-Lee Arndt ✓  
P.O. Box 2069  
Kodiak, Alaska 99615

Mr. Okey Chandler ✓  
P.O. Box 1635  
Kodiak, Alaska 99615

Ms. Margaret D. Duros ✓  
P.O. Box 867  
Kodiak, Alaska 99615

Ms. Jo Hajdu ✓  
P.O. Box 627  
Kodiak, Alaska 99615

Mr. and Mrs. Louie Horn ✓  
Box 15  
Spruce Cape Road  
Kodiak, Alaska 99615

Kodiak

# TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.

PHONE: 457-442

1979 FEB 14 AM 3 21

02004 NL TDA KODIAK AK 50 2-13 1145P AST

PMS SEN STURGULEWSKI

JUN

PROGRESS WILL OCCUR AT ITS OWN PACE. IT DOESNT NEED TO BE  
PUSHED. PLEASE JUSTIFY OUR BELIEF THAT ALASKANS STILL  
HAVE THE RIGHT TO DECIDE THEIR OWN FUTURE BY VOTING TO REVERSE  
THE BOUNDRY COMMISSIONS DECISION.

WE ENJOYED HAVING YOU HERE FOR THE HEARING.

DICK AND JUNE JUELSON

BOX 286

KODIAK AK 996150

JOAN M. KATZ

Attorney at Law  
540 L Street, Suite 101,

(907) 274-7634  
Anchorage, Alaska 99501

January 23, 1979

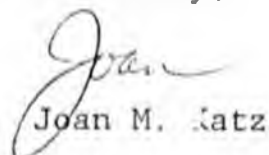
Senator Arliss Sturgulewski, Chairperson  
Community and Regional Affairs  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Arliss:

It was good talking to you today. Enclosed, as per our discussion, are copies of the two briefs I have submitted at various stages in this controversy. Please feel free to call me with any questions you may have or any additional areas regarding which you may need further input. I have also contacted Hayden Green at the University and he assures me that he and P. J. Hill, who prepared the economic analysis submitted to the Local Boundary Commission and included in the information being sent to you, will also be available to answer any questions you might have.

I appreciate your intention to have our staff keep me informed as to developments regarding Kodiak. I look forward to working with you on this matter.

Sincerely,

  
Joan M. Katz

vs

encl.

BEFORE THE LOCAL BOUNDARY COMMISSION FOR THE  
STATE OF ALASKA

IN THE MATTER OF ANNEXATION OF )  
CERTAIN PROPERTY LOCATED ALONG )  
MILL BAY ROAD, KODIAK; )  
CITY OF KODIAK, )  
Petitioner, )  
vs. )  
KODIAK ISLAND BOROUGH, )  
Respondent. )

RESPONDENT'S BRIEF

I. Introduction

On October 19, 1977, the City of Kodiak submitted a petition for annexation of certain property located along Mill Bay Road in the Kodiak Island Borough to the Department of Community and Regional Affairs. While deficient in several respects (the most glaring of which was the absence of a resolution or ordinance authorizing the City to seek annexation), the petition was accepted by the Department. The City's case, as revealed in its brief, appears to rest on two principal grounds: first, that residents and property owners of the territory are deriving benefits from the City, such that they should be made to pay a commensurate share of the City's tax burden; and second, that the City could provide services to the territory more efficiently under annexation than could otherwise be accomplished. Intruding onto the specifics of this annexation proposal is petitioner's avowed intent to annex substantial other areas of Kodiak Island. See, Memorandum from Ivan L. Widom, City Manager, to the Local Boundary Commission, dated October 17, 1977.

Contrary to the City's allegations, it is the Borough's position that the best interests of the residents and property owners of the affected territory, and of the local governments involved, would not be served by this proposed annexation. As the Borough shall demonstrate, residents and owners of the territory would gain virtually nothing besides a hefty increase in their local taxes should this petition be successful -- an increase for services for which they presently pay more than adequately. The change in status would only serve to foster conflict, moreover, between the City of Kodiak and the Borough, and between the City and affected residents.

## II. Lot Ownership and Configuration Within the Territory

At the outset, some factual clarification is required. In addition to the deficiencies in the petition mentioned above, there appear to be errors contained in the notice of hearing and attached lot descriptions provided by the Local Boundary Commission staff. First, Lots 3, 4, 5, 6, 7, 9 and 11 are identified as belonging to the City of Kodiak. Borough research indicates that those lots are currently patented by the State (patent number 50-64-0228 for lots 3-7, and 50-64-0169 for lots 9 and 11). The Borough, moreover, has filed land selections on these lots pursuant to AS 29.18.190, et seq. (Excerpt from Land Selections filed by Dale Tubbs for the K.I.B., Exhibit A.) The Borough, thus, possesses a specific interest in these particular lots, augmenting its underlying concern for the welfare of its residents in general.

In addition to this error, there appears to be an oversight in regard to Lot 27. This lot has not previously been annexed; nor is it included in the petition. It is

certainly possible that the City intentionally deleted this lot, perhaps because of known owner opposition to annexation. Such exclusion, however, would result in a continuation of the alleged misalignment of City boundaries. Since this "misalignment" is one of the grounds advanced by petitioner in support of annexation, the absence of Lot 27 is, at best, confusing. It suggests that this annexation proposal may not have been thoroughly analyzed from a thoughtful, planning perspective.

### III. Standards for Annexation

Alaska Administrative Code Section 19.AAC 05.010 sets forth specific standards which provide guidelines for annexation. It is recognized that two of these standards ([1] and [3]) are met by this petition. The City raises no issues under Standards (2), (5), (6) and (9). These standards could not, in fact, be met in this case. Petitioner's case rests primarily on the purported fulfillment of Standards (4), (7) and (8). The Borough contends that there is not, in fact, compliance with these standards.

- A. There is No Need in the Territory for Municipal Services that Could Not be Provided as Efficiently Without Annexation. (Standard No. 4.)

The City asserts that it can provide various services more effectively under annexation than would otherwise be possible. The City's history, however, and the facts regarding each of those services, suggest differently:

1. Sewer and Water. The City argues that sewer and water services would be extended immediately upon annexation. In fact, under a 1970 agreement between the Borough and the City, the City has long since been designated the agency responsible for implementation of water and sewer projects within the area of the road system in the Kodiak

failure to live up to the terms of this agreement accounts for the fact that services have not previously been extended to the lots within this territory. The City's track record is not one to inspire confidence.

2. Law Enforcement. The City simply describes its police force by numbers of officers and size of budget. The only argument made in this context, however, is that "Due to the nature of the boundaries in this area, certain problems can arise". (Petitioner's Brief, p. 1.) The Borough cannot envision what those problems might be. City police may certainly traverse City boundaries to get from one part of the City to another without violating any laws or ordinances. The only response possible to this broad statement is that the State Troopers provide police service to the territory. Residents and property owners have voiced no complaints about the level of service.

3. Fire Protection. The City's analysis of fire protection is, like its presentation of law enforcement, simply a descriptive one. What should be said is that there would be absolutely no change in fire protection provided the residents and property owners of the territory were the annexation to take place. Borough Fire District No. 1 presently covers this territory and is serviced through contract with the City; the contract provides fair consideration. (Exhibit C.) It might be noted, moreover, that the Borough owns one of the fire trucks utilized by the City, as well as a new ambulance similarly operated by the City and used inside and outside its boundaries.

4. Parks and Recreation. The City outlines its services in the parks and recreation area, and alleges a budget of \$128,946 for this department. Apparently the intention is to suggest that Borough residents outside the

City are getting "something for nothing". In fact, the City is able to operate the pool and the gym only because the Borough has made them available. The pool and gym collectively are worth approximately \$3,220,000, substantially more than the City's budgeted amount for this service. (Memorandum from Borough Assessor, Ed Haney, December 6, 1977; Exhibit D.) The joint agreement between the Borough, its School District and the City, further delineates the benefits accruing to the City through the use of these facilities. (Joint Agreement For the Use and Operation of Gymnasiums and Swimming Pool, Exhibit E.)

In addition, the Borough adopted parks and recreation powers within the last year, and has contracted for a major parks and recreation study to be completed by April of next year. City residents will undoubtedly benefit from the exercise by the Borough of its parks and recreation power.

5. Library. In describing its library with attached budgetary figures, the City again fails to make any case showing that Borough residents are taking unfair advantage. Petitioner acknowledges the Borough contribution of \$15,000 to the library financing. There is no showing that this contribution is grossly disproportionate to the use by non-city residents of the library facilities. And there is also no mention of the fact that the Borough operates four libraries of its own which make interlibrary loans to the City library.

6. Cemetery. The City simply states that the cemetery, with its paid contractual employee, is available to Borough residents. There is no indication of how much this employee is paid; he may in fact be part-time. And there is no mention of the fact that the City acquired

the land for the cemetery in 1968 from the Borough for the price of \$1.00. (Minutes of K.I.B. Assembly Meeting, 2/15/68, Exhibit F.) At the time, that land was worth approximately \$29,600. At present, its estimated value is \$300,000.

(Memorandum from Ed Haney, Borough Assessor, to Stu Denslow, Borough Manager, Exhibit G.) Borough residents have more than paid their way into their ultimate resting places. Again, the level of service for the territory affected by this petition would not be increased through annexation.

7. Public Works Functions. The City's one-sentence remark in regard to public works provides little to which the Borough can helpfully respond. The fact that the Public Works Department provides street maintenance and snow removal is essentially irrelevant, since the primary road involved is Mill Bay Road, which is state maintained. Should the residents of the area decide that further local roads are necessary, they could finance them through road service districts, rather than taxing the general public for such neighborhood improvements. It might be noted, moreover, that private contractors are available to the Borough to provide competent road service, as is illustrated by the road service district in the Bells Flats-Russian Creek area. (Contract between the K.I.B. and Alagnak, Inc., Exhibit H.) House numbering, the other item mentioned in connection with public works, is a planning function and will be undertaken by the Borough as it proceeds with implementation of its comprehensive plan.

8. Cargo dock, boat harbor, ferry terminal and airport. The City alleges that these facilities are "to some extent" self-supporting, and then claims that general fund contributions have been made to maintain the facilities. Again, the City's lack of specificity renders the Borough's

attempt to be responsive difficult. Borough research uncovered only a \$149,703 loan from the City's general fund to the cargo dock. (City of Kodiak, 1977/78 Budget, p. 46.) A loan hardly constitutes a "contribution". The City's presentation in this regard raises two additional questions. First, it is not at all clear that the municipal airport, as discussed further below, is an asset to Kodiak. The extreme hazardousness of this strip might merit its closure, rather than its support by taxpayers money. Second, it is not clear why general fund contributions should ever be used to make up deficits in the operating budgets of these enterprise activities. The people who use them should pay for them; those who do not use them, should not.

9. Garbage Collection. Residents of the territory would gain nothing new in the way of garbage collection should annexation take place. At present, they have the option of paying for garbage collection or transporting their own refuse to the dump. Under annexation, that option would be removed and they would pay for the service whether or not they wanted it. There has been no showing that such imposition is necessary.

A review of the above services indicates that the City has not demonstrated that it could improve the lot of territory residents through annexation. In fact, as described above, the residents and lot owners would gain virtually nothing to their advantage by way of annexation. As shown on the table below, however, these people would stand to lose a great deal. Best estimates reveal that, assuming the addition of sewer and water to all lots, the cost to lot owners should they remain outside the City limits would be 9.47 mills taxation plus \$28.75 per month in water and sewer assessments; if the territory were annexed, the rate would

jump to a substantial 16.3 mills, with assessments in the neighborhood of \$25.00 per month.

|                              | <u>City Resident</u>       | <u>Borough Resident<br/>Outside City Limits</u> |
|------------------------------|----------------------------|---|
| Borough Mill Rate            | 7.2                        | 7.2   |
| City Mill Rate               | 9.1                        | -0-   |
| Fire Protection Mill<br>Rate | -0-                        | 2.27  |
| Water                        | \$10.00/mo.                | \$13.75/mo.                                     |
| Sewer                        | \$15.00                    | \$15.00   |
| <br>Total                    | <br>16.3 Mills \$25.00/mo. | <br>9.47 Mills \$28.75/mo.                      |

The City has simply failed to make a showing that such a rate increase is warranted or equitable for those affected.

B. Annexation Will Not Enable the City to Improve any Health or Safety Conditions in the Territory. (Standard No. 6.)

As noted previously, the City has not invoked this standard. It would be dismissed without comment were it not for the irony it brings to light. There is, in fact, a serious safety hazard located within the territory. That hazard is the municipal airport. Yet the City, which exercises complete control over this airport and even mentions it among the services provided to territory residents, has failed in its duty to alleviate the significant safety hazard that it poses. There is no reason to assume the City would perform more responsibly should other such problems arise.

C. It is Practical to Provide all Necessary Services to City Residents Without Bringing the Territory Within the City Boundaries. (Standard No. 7.)

Petitioner's brief includes broad statements to the effect that there is a "misalignment of boundaries [which] causes problems with enforcement of City ordinances and with providing certain services to those areas already annexed". That is the extent of petitioner's analysis. In light of joint Borough-City agreements covering water,

sewer, and fire, the Borough cannot envision any problems that might arise because of the existence of a few City lots within the territory. If the problems were significant, the City presumably would never have annexed those lots causing the present "misalignment".

D. The City is Receiving (or Should be Able to Devise Means of Receiving) Ample Reimbursement for the Services Provided Territory Residents and Lot Owners. (Standard No. 8.)

The City complains that it "provides substantial benefits to residents and owners of properties outside of [its boundaries] without corresponding tax contributions for municipally provided services". (Petitioner's Brief, p. 2.) Yet, sewer and water should be provided only upon assessment; fire protection is paid for by the Borough which levies a 2.27 mill rate on property owners within the District; parks and recreation services are in large part made available through the Borough-donated pool and gym; contribution is made by the Borough directly to the municipal library; the cemetery exists on a \$300,000 plot of land given for \$1.00 to the City by the Borough; the cargo dock, boat harbor, ferry terminal and airport are or should be self-supporting through user fees; and garbage collection is currently paid for by those who use it.

In addition to the direct payments identified above, all Borough residents outside the City fund the City's services and programs, whether or not they receive any benefits from them, through a three percent sales tax levied by the City on all goods and services sold within the City or by City-based businesses, whether the service is provided within or without the City. (City Ordinance 3.08.010 et seq.) Virtually all sales of goods and services on Kodiak Island take place within the City, so all residents

of the Island are sorely affected by this tax. Sales tax receipts, moreover, have been used to pay Borough personal property tax for City residents; owners of personal property within the City have not been required to make such payments out of their own pockets. (City Ordinance 3.04.010B.) Borough residents living outside the City boundaries have thus paid personal property tax twice; first their own, and then a substantial contribution to the payment of taxes for those persons who have personal property located within the City limits. Residents and lot owners in the territory have amply compensated the City for any benefits they might receive.

#### IV. Procedural Factors Against Annexation

Four intertwined procedural issues are raised by the manner in which this petition has proceeded to date. First, petitioner and the Local Boundary Commission seem determined to propel this matter forward with great speed, presumably because of the approaching start of the Legislative session. Such precipitous action, however, has resulted in failure by the Commission to follow its own guidelines, and has put great strains on the borough and any other would-be respondent to prepare adequately for the upcoming hearing. Thus, the petition was apparently accepted notwithstanding the fact that no resolution from the City Council was attached (19 AAC 10.040[4]); the sources of information contained in the petition were presented only in a statement, not an affidavit (19 AAC 10.040[2]); and the petition was wrongly addressed to the Department rather than the Commission (19 AAC 10.070). In addition, the interest in reaching a quick determination in this case resulted in a refusal by the Staff Assistant to grant a few days postponement of the hearing. The Borough's attorney had requested such an

extension in order that a well-informed brief might be prepared and presented to the Commissioners sufficiently in advance of the hearing to enable them to receive the evidence with some foreknowledge of both sides of the case. (See, letter from Joan M. Katz to Pat Poland, Exhibit I.)

Second, as noted throughout the course of this brief, the City's presentation to the Local Boundary Commission consists primarily of broad allegations, without substantiating facts. Such material did not put the Borough in a sufficiently informed posture to respond adequately.

Third, the issue of annexation of the petitioned-for territory is clouded by the avowed intention of the City to extend its boundaries to still other areas. Mr. Poland has indicated to the Borough's attorney that the broader issues of annexation of large portions of the Kodiak Island Borough will in fact enter into the Commission's deliberations in the course of the hearing on the Mill Bay Road territory. Yet no petition has been filed on those other, very different areas; there is no way the Borough can prepare any response. Other interest groups, such as the Native population of Kodiak, may have strong feelings when confronted with the full scope of the proposed annexation. It would appear that any and all questions of annexation on the Island of Kodiak should await a proper petition adequately setting forth all the territory sought to be annexed with ample factual basis for the City's position. Absent such a rational approach, serious error might be committed as Commission deliberations are hurried forward without sufficient groundwork being laid. There is no emergency warranting such procedure.

Fourth, and finally, in connection with the intent to annex considerably more territory than is revealed in this petition, it would seem appropriate to handle this matter by

the step annexation procedure. Of critical concern to the Borough Assembly, staff and people they represent, is the fact that no opportunity has been afforded the people of this territory to vote on the issue of annexation. An election would give the Commission precise information regarding the people's views on this matter. It would also go far to reduce the anger and bewilderment experienced by Borough residents who view the non-elective process as an uncharacteristically undemocratic one for this State to be imposing upon them.

#### V. Conclusion

The only context in which the City's petition is comprehensible is that of a power play, a grab for land which the petitioner has no demonstrated ability to govern effectively. The evidence shows that the residents of the territory would gain nothing from annexation, but would stand to lose considerably from a financial standpoint. Abstract arguments supporting annexation are overshadowed by the reality of the cost-benefit ratio to those lot owners, by the fact that they do not support this petition, and by the realization that there is no equitable reason for increasing the City's tax base. Honest appraisal tells us that the City's track record for the delivery of services and for fair dealing with citizens on Kodiak Island is seriously deficient. There is no basis for granting the petition. There is sound basis for denying it. The Kodiak Island Borough respectfully requests that the Local Boundary Commission reject the City of Kodiak's petition for annexation.

DATED this 9th day of December, 1977.

JOAN M. KATZ, Attorney for the  
Kodiak Island Borough

BEFORE THE LOCAL BOUNDARY COMMISSION FOR THE  
STATE OF ALASKA

\_\_\_\_\_)  
IN THE MATTER OF ANNEXATION OF )  
CERTAIN PROPERTY LOCATED ALONG )  
MILL BAY ROAD, KODIAK; )  
 )  
CITY OF KODIAK, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
KODIAK ISLAND BOROUGH, )  
 )  
Respondent. )  
\_\_\_\_\_)

CERTIFICATE OF SERVICE BY MAIL

STATE OF ALASKA )  
 ) ss.  
THIRD DISTRICT )

THIS IS TO CERTIFY that on this 9th day of December,  
1977, a true and correct copy of RESPONDENT'S BRIEF was served  
on:

City of Kodiak  
P. O. Box 1397  
Kodiak, Alaska 99615

by placing said copy in the U. S. Post Office, at Anchorage,  
Alaska, in a properly addressed, postpaid envelope.

\_\_\_\_\_  
JOAN M. KATZ, Attorney for the  
Kodiak Island Borough

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of  
December, 1977.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: \_\_\_\_\_

113-29  
ADL 200122

KODIAK & VICINITY

State Patented Lands

T27S,R19W,SM

Unclassified

USS 3465

Tract B

9.74 A

Lands Classified Reserved Use

USS 3466

Lot 11

C1#315

1.08 A

USS 3098

Lot 3

C1#315

1.25 A

4

C1#315

1.25 A

5

C1#315

1.25 A

6

C1#315

1.25 A

7

C1#315

1.25 A

9

C1#315

1.25 A

11

C1#315

1.03 A

USS 3463

Lot 1A

C1#315

1.56 A

Unclassified

USS 3099

Lot 25

1.55 A

Total

22.46 A

Excerpt from Land Selection Filed by Dale Tubbs  
for the Kodiak Island Borough

EXHIBIT A



DESIGNATING THE CITY OF KODIAK AS THE AGENCY  
RESPONSIBLE FOR IMPLEMENTATION OF WATER AND  
SEWER PROJECTS ELIGIBLE FOR FEDERAL FUNDING

THIS AGREEMENT, made and entered into this 2nd day of July, 1970, by and between the CITY OF KODIAK, a municipal corporation, hereinafter referred to as "CITY" and KODIAK ISLAND BOROUGH, a municipal corporation organized under the laws of the State of Alaska, hereinafter referred to as "BOROUGH",

W I T N E S S E T H :

WHEREAS, BOROUGH is a second class borough and as such has limited authority, which does not include the power to provide water or sewer service and

WHEREAS, CITY is a first class city and as such has a Public Works Department and in connection therewith provides sewer and water service to the residents residing within the corporate limits of the CITY OF KODIAK and to some residences residing outside the corporate limits of the CITY OF KODIAK, and

WHEREAS, the parties hereto desire to make application for Federal aid on local sewer and water project and one of the parties hereto must be designated an agency responsible for implementation of such projects.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto mutually agree as follows:

1. CITY is hereby designated the agency responsible for implementation of any water or sewer projects within the area of the road system in the KODIAK ISLAND BOROUGH and is hereby authorized to make application for Federal aid in connection therewith.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by their proper officials on the day and year first above written.

CITY OF KODIAK

*Richard A. Jones*  
City Manager

KODIAK ISLAND BOROUGH

*Richard A. Jones*  
Borough Manager

CONTRACT TO FURNISH FIRE PROTECTION SERVICE

THIS CONTRACT made this 2ND day of <sup>July</sup>~~May~~, 1970,  
by and between the CITY OF KODIAK, hereinafter referred to as  
"City" and the KODIAK ISLAND BOROUGH, hereinafter referred to as  
"Borough", both being municipal corporations organized under the  
laws of the State of Alaska.

W I T N E S S E T H

WHEREAS, City is an Alaskan municipal corporation, being  
a home-roll or charter city, and as such is lawfully authorized and  
empowered to enter into the Agreement hereinafter recited; and

WHEREAS, Borough is an Alaskan municipal corporation of  
the second class and has under its powers formed a Fire Service  
District as provided by law and therefore is lawfully authorized  
and empowered to enter into the Agreement hereinafter recited; and

WHEREAS, Borough is presently without adequate fire  
protection in its Fire Service District and desires to have the  
services of City's Fire Department and to pay for such services; and

WHEREAS, City is willing to furnish fire protection to  
Borough's Fire Protection District provided an adequate payment is  
made.

NOW, THEREFORE, City and Borough agree as follows:

SERVICES TO BE RENDERED

FIRST: Subject to the conditions and qualifications  
hereinafter recited, the City will furnish to Borough's Fire  
Protection District during the period of this Agreement, the  
services of City's Fire Department to the same extent as if the  
area encompassed within the boundaries of the Borough's Fire  
Protection District were a part of the incorporated area of the  
City.

## TERM OF AGREEMENT

SECOND: The term of this Agreement shall be continuous until terminated by mutual agreement of the Parties or by notice of intention to terminate given in writing not less than ninety (90) days before the intended date of termination when such notice is given and which notice may be given by either Party at any time hereafter.

### PAYMENT

THIRD: Borough agrees to pay to City during the term of this Agreement an amount equal to the millage rate levied by City for fire protection service in the City, which amount shall be levied and collected on all properties within Borough's Fire Protection District at the same millage rate. City shall give to Borough, in writing, at the time it sets its millage rate, the millage levied for fire protection within the City and that same millage rate shall thereafter be applied to all properties within the Borough Fire Protection District for the ensuing year and this amount shall be paid to City.

### CITY IS NOT RESPONSIBLE FOR CONDITION OF FACILITIES

FOURTH: City assumes no responsibility for the condition of the water mains, adequacy of fire hydrants, water pressure or of any of the facilities to be furnished by Borough's Fire Protection District except to render the best service possible under the conditions which exist at any given time.

### RESPONSIBILITY OF FIRE CHIEF

FIFTH: In agreeing to give Borough's Fire Protection District the same type and quality of fire protection service as

that enjoyed by the City, it is understood by Borough that the ultimate decision and discretion as to the method and manner of controlling or extinguishing fires is vested in the Fire Chief of the City. Neither City or Borough shall be allowed any priority in dispatching of fire fighting equipment or personnel, but in any given case, the decision shall be in the discretion of the City's Fire Chief.

#### FIREMEN TO BE MADE PEACE OFFICERS

SIXTH: City does not agree to furnish any peace officers in connection with the response to any fires within the Borough Fire Protection District unless such powers are conferred upon firemen by the laws of the State of Alaska and in that event the powers and authorities shall be limited to that authority granted.

#### INSPECTION BY FIRE DEPARTMENT

SEVENTH: The Fire Department of City shall have the same right to make inspections of any and all structures and grounds within the Fire Protection District of Borough and to make appropriate recommendations thereon with the same force and effect as the Fire Department has within the City.

#### BOROUGH TO ABATE FIRE HAZARDS OR NUISANCES

EIGHTH: Borough agrees to take timely action to abate any fire hazard or nuisance when such is called to the attention of the Borough Chairman or Borough Assembly.

#### INDEMNITY OF FIRE DEPARTMENT

NINTH: Borough agrees that the Fire Department of the City shall have the same privileges and immunities with respect to liability as said Department has in the City.

ADJUSTMENT OR REVISIONS OF BOUNDARIES

TENTH: Borough agrees that if the present geographical boundaries of the Fire Protection District of Borough are reduced or enlarged or expanded, then and in such event City may either refuse to service such enlarged area or this Agreement shall be amended to provide an added consideration for the additional fire protection to be rendered by City or a reduction in the compensation by reducing the amount thereof by subtracting the millage from those properties withdrawn.

CITY IS INDEPENDENT CONTRACTOR


ELEVENTH: The management, regulation and control of City's Fire Department shall remain the sole obligation of City, and the relationship of City to Borough shall, upon this Agreement taking effect, be that of independent contractor.

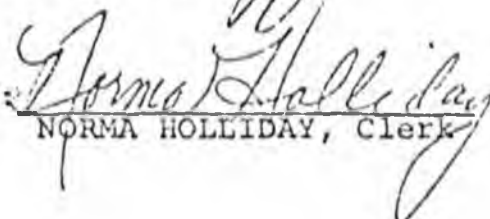
IN WITNESS WHEREOF, the Parties hereto have executed these presents by resolution of their respective governing bodies, duly authorizing the same.


CITY OF KODIAK

KODIAK ISLAND BOROUGH

BY:   
PETE RESCFF, Mayor

BY:   
WILTON T. WHITE, Chairman

ATTEST:   
NORMA HOLLIDAY, Clerk

ATTEST:   
ROBERT GRAFE  
Borough Clerk

ADDENDUM

TO CONTRACT TO FURNISH FIRE SERVICE

Whereas the parties hereto have heretofore entered into an Agreement whereby CITY agreed to furnish to BOROUGH's Fire Protection District, the services of CITY's Fire Department to the same extent as if the area encompassed within the boundaries of the BOROUGH's Fire Protection District were a part of the incorporated area of the CITY and

Whereas BOROUGH agreed to pay to CITY during the term of said Agreement, an amount equal to the millage rate levied by the CITY for fire protection service in the CITY but no provision was made, nor account taken of the Capital Improvements of the Fire Department to date or in the future,

Now therefore, the parties hereto agree that the BOROUGH will transfer, and the CITY will accept the equity of the BOROUGH in its fire truck and equipment as the BOROUGH's contribution to the Capital Improvements of the CITY's Fire Department to date, and to make further contributions to the Capital Improvements of the Fire Department through assessment and taxation at the same time and on the same basis as may be done by CITY in the future.

IN WITNESS WHEREOF, the parties hereto have executed these presents by resolution of their respective governing bodies, duly authorizing the same.

CITY OF KODIAK

KODIAK ISLAND BOROUGH

BY: *Rolland A. Jones*  
R. A. JONES, City Manager

BY: *Wilton T. White*  
WILTON T. WHITE, Chairman

ATTEST: *Norma Holliday*  
NORMA HOLLIDAY, Clerk

ATTEST: *Robert Grafe*  
ROBERT GRAFE  
Borough Clerk

KODIAK ISLAND BOROUGH

DATE: December 6, 1977  
FROM: Borough Assessor/ Ed Haney  
TO: Whom It May Concern

At the time of construction in 1973 the cost of building the Kodiak High School gymnasium was One Million One Hundred Fifteen Thousand Dollars (\$1,115,000). Reproduction today would be approximately One Million Six Hundred Seventy Thousand Dollars (\$1,670,000).

The swimming pool complex in 1973 cost One Million Thirty Five Thousand Dollars (\$1,035,000) to build and to reproduce it today would approximately cost One Million Five Hundred Fifty Thousand Dollars (\$1,550,000).

Totaling the two (2) buildings together shows a cost to build in 1973 of Two Million One Hundred Fifty Thousand Dollars (\$2,150,000).

The reproduction of the two (2) buildings together in 1977 would come to Three Million Two Hundred Twenty Thousand Dollars (\$3,220,000).

EH/sv

cc

EXHIBIT D

KODIAK ISLAND BOROUGH SCHOOL DISTRICT  
POST OFFICE BOX 886  
KODIAK, ALASKA 99615  
(TELEPHONE (907) 486-3131)

JOINT AGREEMENT FOR THE USE & OPERATION  
OF GYMNASIUMS & SWIMMING POOL

This agreement entered into this 15<sup>th</sup> day of November 1977, 1  
by and between the KODIAK ISLAND BOROUGH, hereinafter referred to as the 2  
*BOROUGH*, the KODIAK ISLAND BOROUGH SCHOOL DISTRICT, hereinafter referred 3  
to as the *DISTRICT*, and the CITY OF KODIAK, hereinafter referred to as the 4  
*CITY*. 5

WITNESSETH:

*WHEREAS*, the *DISTRICT* has under its jurisdiction the operation 6  
and management of three gyms and one swimming pool within *CITY* boundaries, 7  
said gyms being the Kodiak High School gym, the Main School gym, and the 8  
East Elementary gym; and, 9

*WHEREAS*, the *BOROUGH* contributes to the *CITY* recreation program 10  
by making school facilities available to the City Parks & Recreation De- 11  
partment for public use; this they do in lieu of providing recreational 12  
funds to the *CITY*; and, 13

*WHEREAS*, the *DISTRICT* obligated itself before the election of 14  
February, 1972 to running the pool for the public; and, 15

*WHEREAS*, it is inconvenient and costly for the *DISTRICT* to run 16  
a public recreation program; and, 17

*WHEREAS*, said swimming pool and gymnasiums are physically con- 18  
venient and capable of being used by the *CITY* and its program conducted 19

by the Parks & Recreation Department; and,

WHEREAS, maximum use can be made of said swimming pool and gymnasium facilities by the joint use thereof of the DISTRICT and the CITY, and it is in the best interests of the parties hereto and the public that such use be made thereof.

NOW THEREFORE, in consideration of the above premises and the undertaking and covenants of each of the parties as hereinafter set forth, it is agreed by and between the parties as follows:

1. TERMS:

This AGREEMENT shall be effective for a term of 7 1/2 months, commencing on November 15, 1977, and ending on August 1, 1978. The AGREEMENT may be terminated by either party giving 30 days written notice.

2. USE OF POOL & GYMS:

The DISTRICT shall have the right of exclusive use of said swimming pool and gymnasiums upon regular school days, Monday through Friday of each week during each school year, from 7:30 AM to 5:00 PM of each of the said days, except that the CITY reserves the right to use the pool or gymnasiums for the public if they are not being used at that time by the DISTRICT. The DISTRICT shall also, in addition to the hours specified, have the right to use the pool and gymnasium facilities for school activities and athletic purposes, but the gymnasiums and pool shall not be used by the DISTRICT for any program designed, or by its nature competitive with the recreation program carried on by the CITY. However, the DISTRICT

may not retain the gyms or pool for the daily practices of their athletic 42  
teams beyond the hour of 7:30 PM. 43

3. FACILITIES:

The *DISTRICT* facilities which are the subject of this agree- 44  
ment include the pool, the gyms, the locker rooms, together with a limited 45  
amount of office storage space. 46

4. SCHEDULING OF FACILITIES

The *DISTRICT* shall have first priority in scheduling its ac- 47  
tivities. After the *DISTRICT* establishes its schedule, the *CITY* shall make 48  
up its recreation schedule. The *CITY* must provide the *DISTRICT* with at 49  
least one week advance notice prior to commencement or change of the 50  
*CITY* recreation time schedule. Once the *CITY* established their recreation 51  
schedule, the *DISTRICT* must give the City Parks & Recreation director at 52  
least one week advance notice before changing their *DISTRICT* schedule, and 53  
this schedule change must meet the approval of the City Parks & Recreation 54  
director and the School Superintendent. Use of *DISTRICT* facilities by 55  
groups outside the realm of the *CITY* or the *DISTRICT*, at times other than 56  
during regular school hours, will be scheduled by the *DISTRICT* Community 57  
School Coordinator with the approval of the *CITY* Parks & Recreation direc- 58  
tor. 59

5. DENIAL OF FACILITIES:

The *DISTRICT* reserves the right to deny the use of their 60  
facilities to groups which by their behavior may either do physical harm to 61  
the facilities or participants, or by their presence downgrade the moral 62

and ethical standards of the *DISTRICT*.

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6. CITY OPERATIONS:

The *CITY*'s responsibility is restricted to public use of the gyms and the pool as well as daily maintenance of the pool. This means that the *CITY* will:

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a. Hire, terminate, pay, and supervise all *CITY* recreation personnel.

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b. Schedule all *CITY* recreation use programs and activities.

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c. Do the pool vacuuming, filtration, chemical up-keep, and locker room clean-up.

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d. Provide reimbursement to the *DISTRICT* for overtime custodial services incurred when *CITY* recreational activities last later than 10:30 PM, unless prior agreements are made for use of the facility past the allotted time.

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e. Provide supervisory personnel for all *CITY* recreation activities and insure that *CITY* recreation participants have vacated *DISTRICT* facilities prior to the supervisor's conclusion of duties.

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7. DISTRICT OBLIGATIONS:

The *DISTRICT* will at its sole cost and expense:

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|   |                      |
|---|----------------------|
| a. Provide heat, light, power, water, chemical supplies, and equipment necessary for both <i>DISTRICT</i> and <i>CITY</i> use.  | 83<br>84<br>85       |
| b. The <i>DISTRICT</i> will continue to handle all major mechanical work and the annual pool overhaul.  | 86<br>87<br>88       |
| c. Provide all necessary building maintenance for the gyms, pools, and supporting facilities.   | 89<br>90             |
| d. Provide regular custodial services during the regular school year when facilities are vacated by <i>CITY</i> recreation participants and supervisors by 10:30 p. m.    | 91<br>92<br>93<br>94 |
| <br>  |                      |
| 8. <u>FEES:</u>   |                      |
| Since <i>CITY</i> expense for operating the pool must be met by gate receipts, all gate receipts collected by the <i>CITY</i> are to be the property of the <i>CITY</i> . | 95<br>96<br>97       |
| <br>  |                      |
| 9. <u>LIABILITY INSURANCE:</u>  |                      |
| The <i>CITY</i> shall at all times maintain and keep in effect liability insurance covering its use of said facilities.   | 98<br>99             |

10. PROPERTY DAMAGE

The *DISTRICT* facilities or property thereon damaged or 101  
destroyed by reason of the negligence or acts of the *CITY* employees or 102  
persons using the *DISTRICT* facilities during the times that said facili- 103  
ties are subject to the exclusive use of the *CITY* shall be the responsi- 104  
bility of the *CITY*, and reimbursement for replacement or repair thereof 105  
shall be made by the *CITY* to the *DISTRICT*; provided, however, that noth- 106  
ing herein contained shall be construed to obligate the *CITY* to make 107  
repairs for damage which is due to ordinary wear and tear. 108

11. TERMS OF THIS AGREEMENT

The terms of the *AGREEMENT* may be renegotiated to meet 109  
the prerequisites of the Community Education Program. 110

CITY OF KODIAK

By Ivan L. Wilton  
City Manager

KODIAK ISLAND BOROUGH

By Bradley A. Miller  
Borough Mayor

ATTEST:

Robert Powell  
City Clerk

ATTEST:

Shirley Miller  
Borough Clerk

KODIAK ISLAND BOROUGH SCHOOL DISTRICT

By Louise Collins  
School Board President

By David C. Crowe  
School Board Clerk

- D. Resolution 63-5-R Setting Amount Owed by City for Payment on Personal Property Taxes. The resolution was read. Mrs. Hajou inquired why the Borough was just now collecting these taxes from the City for 1967. Mr. Valkama explained that the City could make better use of these funds than the Borough, and so the delay was beneficial to them; and also that the City is just now collecting its 1967 sales tax, out of which this payment is made. Further, the Borough supplemental personal property roll has just been completed for 1967. Mrs. Springhill moved, seconded by Mr. Arndt, that the resolution be adopted. Mr. Burt and Mr. Bullock wished to review the tax returns before any action was taken. Mr. Valkama commented that if further reviews were made, it would probably turn out that the City would owe more money because in 1967 there were no teeth in the law requiring that people living inside the City file for their personal property. Motion carried by unanimous roll call vote.
- E. Approval of Tax Adjustments Nos. R-67-38 and R-67-39. Both of these lots were taken by ASHA in 1966 and should have been in ASHA's name for 1967 instead of John Thevik's. Mrs. Springhill moved, seconded by Mr. Bullock, that adjustments No. R-67-38 and R-67-39 be approved. Motion carried by unanimous roll call vote.
- F. Approval of November 15, 1968, as Delinquent Date for Second Half Payment of 1968 Taxes. It was explained that the ordinance sets November 1 as the delinquent date, but that enough tax bill forms are left from 1967 to use for 1968 if November 15 is again used as the delinquent date for second half payments of taxes. Mrs. Springhill moved, seconded by Mr. Arndt, that November 15, 1968, be approved as the delinquent date for second half payment of 1968 taxes. Motion carried by unanimous voice vote.
- G. Conveyance of Cemetery in UGS 3511 to City. Mr. Best stated that the cemetery is presently being arranged haphazardly, and suggested that it be conveyed to the City since they have the necessary staff to properly carry out proper arrangements. After discussion, Mrs. Springhill moved, seconded by Mr. Arndt, that the cemetery in UGS 3511 be conveyed to the City for \$1.00 with the provisions that it be properly laid out for roads and access and in accordance with the Subdivision Ordinance, insofar as practicable for a cemetery. Motion carried by unanimous roll call vote.
- H. Lewitt Fields re Anton Larsen Road. Mr. Fields stated that he had been asked by Okey Chandler on behalf of the people of Anton Larsen Bay and Port Lions to meet with the Assembly concerning the restoration of this road, which is covered now at high tide for one mile. He stated that a petition concerning the road had been submitted to the Governor, and that the reply stated that \$500,000 would be required to reroute the road. However, local contractors felt that the road could be sufficiently raised for only \$25,000 to \$30,000. Mrs. Hajou suggested that the State be requested to use maintenance funds for this purpose, that they be informed that cost estimates for the job were less than \$100,000, and that the road is needed by the families in the area and by the people from Port Lions and Ozinkie who use it, after coming in by boat, as a means of getting to Kodiak. Mrs. Springhill moved, seconded by Mr. Bullock, that a resolution be drawn up by the attorney incorporating the ideas which were suggested in this discussion to take care of the problem of the Anton Larsen Bay Road. It was suggested that copies of the resolution be sent to the Governor and Kodiak's Representative and Senator. Motion carried by unanimous roll call vote.

#### X CLERK'S REPORT

- A. Legislation of Interest. Mr. Best pointed out the following legislation of special interest:
- HB 375
  - HB 376
  - HB 402 for school construction grants.
  - HB 483--appropriation bill for HB 432.
  - SB 175--providing for State to pay for defaults of local school bonds. This would help to give Alaska a better bond rating and may lower interest rates.
  - S. 293--3% education wage tax.
- B. Building Inspector's Vehicle. Mr. Best suggested that since the City furnishes gas for the vehicle, the Borough furnish necessary repairs. The Assembly concurred.

KODIAK ISLAND BOROUGH

M E M O R A N D U M

TO: Stu Denslow/Borough Manager  
FROM: Ed Haney/Borough Assessor/Appraiser  
SUBJ: Lot 1, Hospital Subdivision, USS 1822  
Appraised Valuation  
DATE: November 29, 1977

This lot (5.92 acres) was transferred from the Kodiak Island Borough to the City of Kodiak in 1968 to be used as a cemetery, recorded in Book of Deeds 21 at pages 92 and 93.

Comparable land in this area was selling for \$5,000 per acre in 1968. As this is all high and well-drained land the 5.92 acres would have had a value of \$29,600.00.

The 1978 value of this property were it put to it's best use (not a cemetery) would be \$25,000 per acre or \$148,000. If this land were subdivided into residential lots the market value would total \$300,000. This is possible because of adjacent water, sewer and access.

As a cemetery, it's value is almost an intangible, however to purchase land under today's market conditions would come close to the \$300,000 figure.

EH/sv  
cc

EXHIBIT G

CONTRACT

THIS AGREEMENT, made this 1 day of September, 1977,  
by and between Kodiak Island Borough, herein  
called "Borough", acting herein through its Presiding Officer  
(Title of Authorized Official)  
and Alagnak, Incorporated  
STRIKE OUT (a corporation) (a partnership)  
INAPPLICABLE TERMS (an individual doing business as \_\_\_\_\_)  
of Kodiak, State of Alaska  
hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the BOROUGH, the CONTRACTOR hereby agrees with the BOROUGH to commence and complete the construction described as follows: Road Maintenance and Snow Removal - Bells Flats/Russian Creek Service Area, hereinafter called "Project", for the amount specified in the attached bid schedule. All work to be done in connection therewith, under the terms as stated in the General Conditions of the Contract; and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the plans, which include all maps, plats, blueprints and other drawings and printed or written explanatory matter thereof, the specifications and contract documents, all of which are made a part hereof and collectively evidence and constitute the contract.

The CONTRACTOR hereby agrees to commence work under this contract on or before a date to be specified in a written "Notice to Proceed" of the BOROUGH and on a timely call out basis thereafter for the duration of the contract.

The BOROUGH agrees to pay the CONTRACTOR in current funds for the performance of the contract.

IN WITNESS WHEREOF, the parties to these presents have executed this contract in three (3) counterparts, each of which shall be deemed an original, in the year and day first above mentioned.

KODIAK ISLAND BOROUGH

Margaret A. Lussac  
(Secretary)

Shirley Miller  
(Witness)

BY James E. Poff  
Presiding Officer  
(Title)

ALAGNAK, INC.

\_\_\_\_\_  
(Contractor)

[Signature]  
(Secretary)

[Signature]  
(Witness)

BY Frank [Signature]  
President  
(Title)

Box 1275 - Kodiak, Alaska 99615  
(Address and Zip Code)

NOTE: Secretary of the Borough should attest. If Contractor is a corporation, Secretary should attest.

JOAN M. KATZ  
ATTORNEY AT LAW  
1614 HIDDEN LANE  
ANCHORAGE, ALASKA 99501  
(907) 274-3804

November 21, 1977

Patrick K. Poland  
Staff Assistant to the  
Local Boundary Commission  
Department of Community  
and Regional Affairs  
511 West Fourth Ave.  
Anchorage, Alaska

Dear Pat:

This is simply to confirm our conversation of last Friday, November 18, 1977. At that time I requested that the Kodiak hearing now scheduled for December 12, 1977 be rescheduled for later in that week to enable me to prepare the Borough's brief in sufficient time so that Commissioners would have the opportunity to review it prior to the hearing. You denied that request. The Borough is now proceeding with the case within the time frame you have set forth. Should the short time allowed appear to prejudice the Borough at a later date, the objection will be reiterated at that time.

I look forward to hearing from you later today in regard to the review of Commission precedents we discussed.

Thanks for your consideration.

Sincerely,

Joan M. Katz

BEFORE THE LOCAL BOUNDARY COMMISSION FOR THE  
STATE OF ALASKA

Re: Proposed Annexation of )  
Certain Lands in the Kodiak )  
Urban Area to the City of )  
Kodiak )  
\_\_\_\_\_ )

BRIEF OF THE RESPONDENT KODIAK ISLAND BOROUGH

Introduction

Annexation entails substantial financial, political and practical consequences for property owners and residents of the lands involved. To assess those consequences in connection with the Kodiak situation, three fundamental questions need to be asked: (1) whether annexation would serve any real purpose so far as the territory to be annexed is concerned; (2) whether the alleged equities on the City's part exist in fact, or have been advanced simply to justify a quest for additional revenues; and (3) whether adverse consequences would befall individuals within the territory, or without, should annexation occur. Respondent's analysis of these questions will address the relevant, specific factors set forth in 19 AAC 05.010, as well as the concerns raised in both the letter of May 1, 1978, from Sheila Gallagher to Stewart Denslow, and in the Preliminary Report from the Department of Community and Regional Affairs, dated May 10, 1978.<sup>1</sup> In light of the fact that this proposed annexation is a legislative one, with no opportunity for the people involved to express their opinions at the polls, abstract theories of symmetry in local government should not be afforded excessive weight. The

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<sup>1</sup>The final report was not available at the time this Brief was being prepared.

JOAN M. KATZ  
Attorney at Law  
540 "L" Street, Suite 101  
Anchorage, Alaska 99501  
(907) 274-7634

realities of the Kodiak situation need to be examined.

I. What Needs Exist Within The Territory That Could Best Be Met By Annexation?

Annexation makes sense only if services are needed and desired by the people affected which can best be provided by the annexing government. The evidence in this case, however, is that people outside the City's current boundaries are generally content with not only their government, but also the kinds and levels of services they are presently receiving.

An attitudes survey conducted by the Anchorage Urban Observatory last year indicates that the three greatest concerns for residents outside the City are litter, roads and the high cost of goods.<sup>2</sup> Inside the City, residents are most concerned about the same two priority issues, although roads are placed above litter. The problems of physical isolation and "environment" tie for third place. Outside the City only one person in the sample rated utilities as a top priority; only one identified animal control as such. And not a single person identified police or fire service as the most urgent problem.

These findings are highly significant in reflecting a general, marked absence of desire on the part of people in the affected territory to change the kind, or raise the level, of services they receive - even when no price tag is attached. The only exceptions occur in connection with roads and litter.

a. Roads. Kodiak's roads are essentially State maintained, with only 13 miles of road under City jurisdiction and 15.5 miles within the Borough's authority. Annexation for the purposes of road maintenance would be nonsensical for two reasons. First, the people within the City are more dissatisfied with the condition of their roads than are the people outside the City,

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<sup>2</sup>For more detailed information on this survey see Kodiak Island Borough Economic Analysis, submitted by Drs. Green and Hill as part of the Borough's presentation in this proceeding.

suggesting that the City is hardly the appropriate government unit to undertake further road work. In addition to the findings of the Urban Observatory study in this regard, there is the testimony of City residents like Charles Davidson, who stated at the December 12, 1977 hearing that he was opposed to annexation in light of the City's inability to adequately pave and/or oil the roads within its current jurisdiction.

Second, Borough voters have recently elected to adopt road power within Service District I of the Mill Bay-Monashka Service area. This power will enable the Borough to offer road service to those areas in which the property owners vote to foot the bill. Such an undertaking has previously proven successful in the Bells Flat area, where private contractors provide road maintenance. (See Exhibit H to Respondent's Brief of December 9, 1977, regarding the proposed Mill Bay Road Annexation.)

Comments by the Local Boundry Commission staff concerning the absence of a Borough public works department to provide road maintenance are irrelevant to the Kodiak situation. As indicated previously, the roads at issue here do not cover hundreds of miles, but rather approximately 15.5 miles. Private contractors are not only capable of providing maintenance, grading, snow removal, etc. for this amount of road surface; such contractual arrangements would seem to be a boon to the local economy. Finally, it should be noted that in Fiscal 1978 the people of the Russian Creek and Bells Flat areas voted to spend \$38,000 on road maintenance for nine miles of road while the City spent \$1,110,014 for 13 miles of road maintenance and construction. The people currently living outside the City's boundaries should continue to have the right to choose to spend \$38,000 vs. \$1,110,014 if they are satisfied with the lower level of service. Annexation would deprive them of that right to choose.

b. Litter. Litter, the other major concern of Kodiak residents in and outside of the City, also provides no basis for annexation. The State again has responsibility for maintaining

its roadways and would be charged with litter removal in those areas. The Borough, pursuant to its planning, road and health powers would similarly be able to undertake this responsibility. To support its case for annexation, the City would seem to have the burden of showing that it could better meet this problem.

c. Sewer and Water. The only additional, significant need that the Local Boundary Commission might want to examine would be that for sewer and water. In some areas of the Borough outside the City, sanitation standards necessitate, and the people desire (although not as a top priority) sewer and water improvements. The analysis submitted by the independent consultants from the Alaska Urban Observatory indicates that there is no reason to believe the City could meet these needs at less cost than the Borough. Unlike the services of roads and police, moreover, sewer and water are public utilities, in the same category as telephones. As such, they must pay their own way. They could, theoretically, be provided by a private corporation. The expansion of sewer and water into the territories in question should, therefore, have no bearing on the issue of annexation. (See Green and Hill, Kodiak Island Borough Economic Analysis, at 7.)

A review of services needed in the affected territory thus reveals that annexation represents a theory without any practical application or rational nexus to the facts in this case. There is no cry for expanded police protection. There is no reason to deprive private contractors of the opportunity to provide road maintenance at the level the people can afford. In his letter of December 16, 1977 to Mr. Strandberg, the City Manager himself acknowledged: "I am certain you are aware that as soon as an area gets water and sewer from the core City they have no need to annex. This is especially true in the Kodiak urban area". (Exhibit A, at 2-3) The point made by Drs. Green and Hill, of

course, is that not even sewer and water requirements create any need or justification for annexation. From the territory's standpoint, annexation is simply not needed in any way, to provide any service.

II. Is the City Entitled To Annexation For Reasons of Equity?

It is arguable, though Respondent would oppose this notion, that even without a need for annexation, such action could be required if the City is presently being placed in an inequitable position by virtue of non-City residents' use and enjoyment of City facilities and services. The City took this position in its Mill Bay Road petition brief; the information presented by Respondent in connection with that annexation is equally applicable here. Respondent's previous brief summarized the facts regarding specific services mentioned by the City in its plea for "equity" as follows:

The City complains that it "provides substantial benefits to residents and owners of properties outside of [its boundaries] without corresponding tax contributions for municipally provided services". (Petitioner's Brief, p.2.) Yet, sewer and water should be provided only upon assessment; fire protection is paid for by the Borough which levies a 2.27 mill rate on property owners within the District; parks and recreation services are in large part made available through the Borough-donated pool and gym; contribution is made by the Borough directly to the municipal library; the cemetery exists on a \$300,000 plot of land given for \$1.00 to the City by the Borough; the cargo dock, boat harbor, ferry terminal and airport are or should be self-supporting through user fees; and garbage collection is currently paid for by those who use it.

Also mentioned in Respondent's previous brief was the highly significant fact of the three percent sales tax levied by the City on all goods and services sold within the City or by City-based businesses. Strong concern with the "high cost of goods" as expressed in the Urban Observatory attitudes survey, indicates the substantial impact of this tax. In a memorandum prepared at the time of the previous annexation hearing in Kodiak,

the Borough Planning Director researched his own financial situation and presented figures establishing that as a non-City resident, he was paying more taxes to the City (as a result of the sales tax) than he was contributing to the Borough through personal and real property taxes. (Memorandum from Planning Director to Borough Manager, December 6, 1977, Exhibit B.)

Local Boundary Commission regulations contemplate that measures such as sales taxes can be used as alternatives, not supplements, to annexation. 19 AAC 05.010(a)(8) provides in part:

In determining whether [property owners in the territory receive the benefit of City services without commensurate tax controls] the Commission will consider alternate methods available to the city for offsetting the cost of providing services to individuals or property beyond its property taxation powers . . . .

Through this sales tax (plus the contribution to firefighting equipment, dock user fees, etc.), non-City residents of the Borough more than pay their way. They pay not only for benefits they receive, but for benefits inuring only or principally to City residents. For example, \$60,000 received from sales tax revenues (to which non-City residents contribute as much per capita as City residents) has been used to finance construction of water and sewer facilities within the City in the 1977-78 fiscal year. (City of Kodiak Budget 1977-78 Fiscal year.) Even more significant perhaps, a substantial percentage of the property taxes owed by City property owners are being paid by sales tax receipts garnered from non-City residents as well as City residents. While the appraised value of City property should have netted the City 1.3 million dollars in tax receipts, in fact only \$655,000 is being collected. (City of Kodiak Budget 1977-78 Fiscal year.) Where is the equity in such an arrangement? If City residents are not even paying their own property taxes at this time, what possible justification can there be for seeking to tax people currently outside the City boundaries?

It is apparent, thus, that if any group of people is being treated inequitably, it is the territory residents: they pay City bills through sales taxes while contributing directly through user fees and the like for services that they utilize. The City, in truth, simply wants to spread it's overhead a little thinner - an understandable position, but one decidedly negated by the equities of the situation.

III. Would Annexation Have Any Adverse Effects Upon Territory Residents Or Other Kodiak Citizens?

It is evident that annexation is not warranted because of any need for City services or from any equitable standpoint. It should be recognized, in addition, that annexation could be extremely harmful to territory residents - and ultimately to the Kodiak community at large.

Respondent's previous brief on Hill Bay Road attempted to illustrate the relative costs to territory residents of provisions of water and sewer services with and without annexation. On the assumption that territory property owners would pay existing City taxes to acquire such services, it was determined that the price tag for the annexed resident would be 16.3 mills plus \$25.00 per month in assessments, as opposed to 9.47 mills and \$28.75 per month for non-City residents. (Respondent's Brief 12-09-77 at 3.) Drs. Green and Hill have calculated potential mill rates under annexation on the alternative assumption that annexation would simply shift some of the City's cost to the new territory. In that case the mill rate for City residents would be 15.19 mills - as opposed to 9.47 for non-City residents receiving sewer and water. (See Green and Hill at 12.) The difference under either method of calculation, is clearly substantial.

There is another consideration however, which is as important as the economic detriment to be suffered through annexation.

This is the potential effect on this relatively small community of the hostility that would be engendered by the imposition of annexation on a group of people who are adamantly opposed to it. An effort at unification was initiated by the City on October 27, 1977. (Resolution 23-77, Exhibit C.) The Borough responded in good faith, and scheduled a day long workshop attended by members of the public, City and Borough officials, a representative from Community and Regional Affairs and the former attorney of the Anchorage Charter Commission. As a result of that meeting, the Borough Assembly voted unanimously to put the question of unification on the ballot this Fall. (Resolution No. 78-34-R, April 6, 1978, Exhibit D.)

Unification is an appropriate means by which to avoid duplication of government units and promote more efficient government. Most importantly, it is also a means well suited to healing political wounds and allowing citizens to work together toward common goals. If the Local Boundary Commission were to try to design a tool aimed at destroying any hope for unification in Kodiak, it could propose no better means than the contemplated annexation. As testimony at the December 12, 1977 hearing established, many citizens of the Borough outside the City limits are bitterly antagonistic towards the City as a result of actions or inactions attributable to that government. Many citizens, further, are outraged by their lack of opportunity to vote their views on the annexation question. Should City dominion now be imposed upon them, the chances of a harmonious movement towards unification would be destroyed.

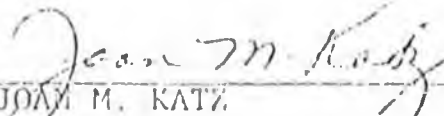
#### Conclusion

Annexation may have a theoretical appeal along the lines of political neatness. Theory is not reality, however, and the fact is that without annexation there will be service districts.

with annexation, there will probably be differential taxation with inconsistent levels of service, and with unification, there would still -- and again -- be service districts. The difference between the present situation and annexation -- the only two options available to the Local Boundary Commission -- is in the degree of choice to be exercised in the annexed territory. And that choice of course translates into substantial impact on the pocketbooks of the property owners involved.

The Local Boundary Commission is undoubtedly cognizant of its significant power and responsibility in considering legislative annexations. Respondent urges the Commissioners to ask themselves the three questions posed in this Brief while deliberating the merits of this case. The answers, the Borough feels confident, will show no need for services that the Borough cannot provide at a cost comparable to or lower than the City; no inequity done to the City by non-City residents; and adverse effects on both territory residents and other Kodiak citizens alike should annexation be approved. In light of these realities, Respondent respectfully submits that legislative annexation in this case would be an abuse of discretion. Respondent requests that annexation be denied.

DATED this 17<sup>th</sup> day of May, 1978.

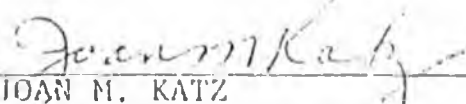
  
JOAN M. KATZ  
Attorney for the Kodiak  
Island Borough

BEFORE THE LOCAL BOUNDARY COMMISSION FOR THE  
STATE OF ALASKA

Re: Proposed Annexation of )  
Certain Lands in the Kodiak )  
Urban Area to the City of )  
Kodiak )  
\_\_\_\_\_ )

CERTIFICATE OF COUNSEL

I, Joan M. Katz, counsel for the Kodiak Island Borough,  
certify that a copy of the Brief of the Respondent Kodiak Island  
Borough was delivered to the staff of the Local Boundary Commis-  
sion for service on the City of Kodiak this 19th day of May, 1973.

  
\_\_\_\_\_  
JOAN M. KATZ  
Attorney for the Kodiak  
Island Borough

JOAN M. KATZ  
Attorney at Law  
540 "L" Street, Suite 101  
Anchorage, Alaska 99501  
(907) 274-7634



# City of Kodiak

PHONE (907) 486 - 3224  
P.O. BOX 1397  
KODIAK, ALASKA 99615

December 16, 1977

Mr. Sigvald J. Strandberg  
Chairman  
Local Boundary Commission  
Department of Community and  
Regional Affairs  
511 West Fourth Avenue  
Anchorage, Alaska 99501

Kodiak Island Borough  
KODIAK, ALASKA

RECEIVED

DEC 19 1977

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16

Dear Mr. Strandberg:

I do not envy the Commission's position when attempting to relate to the problems such as we have here in Kodiak. I respect your willingness to listen to many statements that are irrelevant; however, I do not believe they should bear much weight in your decision.

When I finished my initial remarks, I asked for an opportunity to reply to the Respondent's Brief. For one reason or another, you did not honor my request. I realize your desire not to prolong the hearing; however, there were many points that were made that were not true. It is too bad that you were not willing to give me an opportunity to clear them up for you and those attending the meeting.

I think it should be made known in what capacity your fellow Commission member, Ms. Gallagher, is working for the Borough. It is obvious that if her employment has anything to do with any of the issues mentioned in the annexation proceedings she should disqualify herself from any court proceedings, as well as Commission activities. Her ability to ask questions during the hearing that would bear on possible litigation would seem reason enough for her to disqualify herself. I would like to hear from you or Ms. Gallagher regarding this issue.

There are several points I would like to make that were brought out in the testimony of the citizens.

EXHIBIT A

Mr. Sigvald J. Strandberg  
Page Two  
December 16, 1977

1. The City sewage treatment plant is 100% funded by the Federal and State Governments and City of Kodiak. The City's portion is financed in part by general obligation bonds. There are no Borough funds involved in this sewage treatment plant.
2. It is obvious that the City is not going to reap any huge benefits from the annexation proposal. Half of the lots are in public ownership, there are no industries, pipelines, etc. that would constitute a windfall to the City if the annexation did occur.
3. Postponing the decision on this annexation until after the legislature begins is not fair. The merits are quite obvious. I should not have to go into any detail on this.
4. As far as I could ascertain, there was not one registered voter from the area in question who spoke against the annexation. If an election were held rather than the public hearing, none of those people would have been able to voice their opinions. I think it was incumbent upon the Commission to make this clear. One of the items I wished to make known was that no resident of the area spoke on the annexation. The only people involved were property owners and those renting or leasing for business purposes.
5. At the Borough meeting on December 1, I tried to explain that the annexation of the Mill Bay Road area was the only item to be considered at the hearing. The Borough overreacted and sent out notices to all post office box holders as well as the notices in the paper. I feel that it is this kind of activity that turns people off toward government and makes all our jobs more difficult.
6. As I understand it, there are five members of the Boundary Commission and since two can hold a public hearing but three need to make a decision, the other two members that were absent also need to concur in the decision to hold another public hearing on this annexation.

It is quite obvious that the residents of the Borough and City residents who own property in the Borough are against annexation because of the additional financial burden. As far as I am concerned, that is no reason for these people not to be annexed. From your comments, you seem to have similar feelings. I am going to ask the Council of the City of Kodiak to wait six months before meeting with the Boundary Commission again since no annexations can occur until 1979. The Borough will go ahead with their service areas and unnecessary duplication of taxing structures will automatically result. I am certain you are aware that as soon as an area gets water and sewer from the core City they have no need

Mr. Sigvald J. Strandberg  
Page Three  
December 16, 1977

to annex. This is especially true in the Kodiak urban area.

I would like to take this opportunity to thank you for visiting with us. I really feel that you have quite a burden on your shoulders. I appreciate that fact only too well; however, I still feel that you have accepted your positions of trust and you have a responsibility to the municipalities that are depending on you for proper decisions.

Very truly yours,

CITY OF KODIAK

Ivan L. Widom  
City Manager

ILW/lp

cc: Commissioner MacAnerny  
Governor Hammond  
Senator Poland  
Representative Snider

CONFIDENTIAL MEMORANDUM

To: Borough Manager  
From: Planning Director  
Subject: City and Borough Taxes, Individual Breakdown  
Date: December 6, 1977

Page 2

Sales Taxes:

| <u>Item</u>                                  | <u>Amount of Tax<br/>(Month)</u> |
|--|----------------------------------|
| Food   | \$ 21.00                         |
| Telephone                                    | 2.25                             |
| Electricity                                  | 2.55                             |
| Fuel Oil (Furnace)                           | 7.50                             |
| Clothing                                     | 3.00                             |
| Automobile Gas and Oil                       | 1.80                             |
| Tire Repair                                  | .54                              |
| Cosmetics                                    | 1.00                             |
| Water  | .42                              |
| Dry Cleaning                                 | .60                              |
| Cable Television                             | .51                              |
| Entertainment (Movies)                       | .75                              |
| Appliances (Large & small, Replace & repair) | 1.05                             |
| Cards, Gifts, Candy                          | 1.50                             |
| Books, Magazines, Newspaper                  | 1.00                             |
| Meals Out                                    | 6.00                             |
| Beverages                                    | 5.00                             |

Average Amount of Sales Tax Paid to City of Kodiak, \$ 56.47 per Month;

Total Yearly Amount Sales Tax Paid to City ( x 12), \$ 677.64

Average of Combined City and Borough Taxes for non-City Resident, \$1,117.68

Percentage of Total Tax Paid to the City of Kodiak, 60.629%

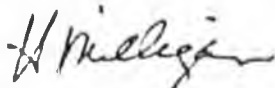
Percentage of Total Tax Paid to Kodiak Island Borough, 39.370%.

Of the \$440.04 paid to the Borough, 2.27 Mills or \$109.44 were paid over to the City of Kodiak for fire protection, thus leaving the Borough with a net tax collected in the amount of \$330.60, and the City of Kodiak with a total \$787.08.

Percentage of Adjusted Total Tax Paid to the City, 70.421%,

Percentage of Adjusted Total Tax Paid to the Borough, 29.579%.

Respectfully submitted,



Harry Milligan

CITY OF KODIAK  
RESOLUTION NUMBER 23-77

A RESOLUTION OF THE COUNCIL OF THE CITY OF KODIAK REGARDING  
THE ESTABLISHMENT OF A JOINT COMMITTEE TO STUDY UNIFICATION

WHEREAS, major changes are occurring in the entire Kodiak Island  
Borough, and

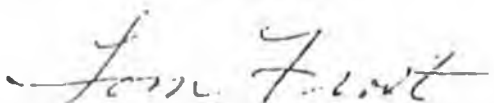
WHEREAS, the tax base is not sufficient to support excessive government  
and

WHEREAS, the relationships between the City of Kodiak and the Kodiak  
Island Borough demand close cooperation and coordination, and

WHEREAS, unification of the two governments might be in the best interest  
of the residents of the Kodiak Island Borough;

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Kodiak  
wishes to participate in a study task force along with the Borough Assembly  
members and private citizens to study the advantages and disadvantages of  
unification and to recommend whether or not unification would be in the best  
interest of the residents of the Kodiak Island Borough. The Council respectfully  
requests the Borough Assembly to participate in this task force and to meet  
with the Council in worksession to determine how best to implement this study  
group.

PASSED AND APPROVED this 27<sup>th</sup> day of October, 1977.

  
MAYOR

ATTEST:

  
CITY CLERK

EXHIBIT C

A RESOLUTION PLACING BEFORE THE VOTERS OF THE KODIAK ISLAND BOROUGH THE QUESTION OF ELECTION OF A CHARTER COMMISSION TO PREPARE A UNIFICATION CHARTER.

WHEREAS, Alaska Statute 29.68 provides a method whereby a borough and the cities within it may be united into one government under a home rule charter, and

WHEREAS, the Assembly has determined that the voters of the Kodiak Island Borough should be given an opportunity to determine whether they wish to create a charter commission to prepare a home rule charter to be approved or disapproved by separate vote of the voters within and outside first class cities at a subsequent election.

NOW THEREFORE BE IT RESOLVED by the Kodiak Island Borough Assembly:

Section 1. The following proposition shall be submitted to the voters at the next regular Borough election to be held on October 3, 1978, which is at least 90 days after adoption of this resolution:

Shall a charter commission be formed (and charter commission members be elected as elsewhere provided on this ballot) to prepare, adopt and submit to the voters for their approval or rejection a proposed charter uniting Kodiak Island Borough and all cities within it as a single unit of home rule government having the powers, duties, and functions of a unified government as authorized by law?

Yes (     )                      No (     )

Section 2. Effective upon the adoption of this resolution, a call is issued for nominations of charter commission candidates, specifying the filing deadline, and outlining the procedures for making nominations as follows:

- (a) Eleven qualified voters shall be elected to a charter commission. Three (3) at large and eight (8) from (1) cities, or (2) the area outside cities. The number of members elected from cities and from the area outside cities shall be proportionate to the respective populations, as determined by the Department of Community and Regional Affairs.
- (b) Charter commission candidates shall be nominated by petition signed by at least 50 qualified voters of the area from which the candidate seeks election, or by a number of qualified voters from that area equal to at least 10 per cent of the number of votes cast from that area in the last regular Borough election, whichever is less.
- (c) Nomination petitions shall be filed with the Borough Clerk not later than September 1, 1978, which date is at least 30 days after notice of the call for nominations has been given through the Borough. Nominating petition forms shall be provided by the Borough Clerk.

(d) Procedures for acceptance of petitions, withdrawal of petitions and other election matters shall comply with all requirements of State law, and with the requirements of Title 2 of the Code of Ordinances of the Kodiak Island Borough to the extent consistent with State law.

Section 3. The vote on the proposition stated in Section 1 shall be tabulated in two separate classification.

One classification shall consist of all votes cast in the (first class and home rule cities) of the Borough. The other classification shall consist of all votes cast in the remaining areas of the Borough. In order for unification to be approved, it is necessary that a majority of the votes in each classification favor unification.

If unification is approved, those charter commission candidates who received the highest number of votes from their respective areas shall serve as members of the commission.

PASSED AND APPROVED by the Assembly of the Kodiak Island Borough this 16<sup>th</sup> day of April, 1978.

KODIAK ISLAND BOROUGH

BY Betty J. Wallin  
Mayor

ATTEST:

Shirley Miller  
Borough Clerk-Treasurer

G. Hayden Green, Ph.D., MBA

University of Alaska, Anchorage  
3221 Providence Dr.  
Anchorage, Alaska 99504

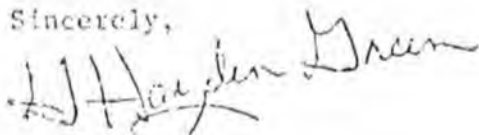
Betty Wallin, Mayor  
Kodiak Island Borough  
Kodiak, Alaska

Honorable Betty Wallin:

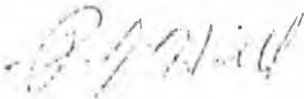
In accordance with your request, Dr. P.J. Hill and I conducted an analysis to determine the economic consequence with regard to the matter of annexation of portions of the Kodiak Borough by the City of Kodiak. To facilitate the study, we have thoroughly dissected the annual operating budgets of both governmental entities, that is, the Borough and City, and analyzed a substantial amount of information contained in reports produced by other consultants and government entities.

We have generally concluded that the residents in the area being considered for annexation will not derive appreciable economic benefit from the City's proposed boundary expansion. From an economic perspective, the only justifications for expanding the governmental and taxing authority of the City are: (1) if the residents outside the City are dissatisfied with the level of service they are receiving, (2) if the City can provide services more efficiently and economically than the Borough and (3) if residents inside the City are carrying a disproportional burden for service shared by area-wide residents. Relevant information suggests that none of these conditions exist; therefore, annexation is not warranted. The basis for these conclusions are summarized in numerical order throughout the remainder of this report.

Sincerely,



G. Hayden Green, Ph.D.



P.J. Hill, Ph.D.

KODIAK ISLAND BOROUGH ANNEXATION ECONOMIC ANALYSIS

1. Borough residents level of satisfaction with existing services:

Members of the Anchorage Urban Observatory research staff were commissioned to conduct a survey of attitudes of residents in the Kodiak Borough as part of an OCS impact study in 1977. As part of that study, respondents were asked questions regarding their level of satisfaction with services received. A total of 472 individuals completed the survey. To determine if the level of satisfaction with services received varies between residents within the City and those residents in the proposed annex area, some additional computer and statistical analyses were conducted of the original questionnaire responses.

Individuals living in the village who responded to the questionnaire were omitted. The balance of the respondents were separated into two groups, that is, those people within the City limits and those in the proposed annex area. One question asked was, "What do you dislike about your area?" Of the 199 respondents living within the City, 15.1% listed roads; and 13.1% listed litter as their main area of dissatisfaction. Of the 119 individuals responding to the questionnaire who live in the proposed annex area, 12.6% listed roads; while 13.4% listed litter. This was the area with which residents registered their greatest level of dissatisfaction (roads and litter). In the Table attached, it can be seen that very little difference exists between the level of dissatisfaction with services between individuals living within the City limits and those living outside. In fact it should be noted that, while 2.5% of the respondents living within the City listed police and fire protection as their number one concern, not one person living outside the City listed it as an area of dislike. (See Table 1)

In another question residents were asked to rank several factors which they considered major problems facing the Kodiak Borough. In Table 2 the percentage of individuals listing various factors as their number one concerns are shown. It should be noted that only 5 percent of the respondents living outside the City listed inadequate public facilities and services as a primary concern.

A third question queried residents about those areas they felt were the communities' most pressing needs. Again, we separated respondents within the City and those in the proposed annex area. The factors listed as being the most pressing need were housing and roads by both sectors of the areas' population. Nine percent of the City's residents listed public services, water and sewer as a pressing need; while only 4.2 percent outside the City listed it as their first concern. (See Table 3)

In a subsequent question, residents were asked to rate community facilities and service as either presently being adequate, needing upgrading at the present time or needing upgrading in the future. A perusal of Table 4 suggests that residents outside the City have equal concerns with the level of services they receive. (See Table 4)

Several important implications pertinent to the issue of annexation are gleaned from the survey data:

1. Individuals within the City limits and those persons outside the City have similar attitudes towards the level of service they receive, that is, a comparable level of satisfaction with regard to public goods in relation to their cost.
2. The services of greatest concern to both City and Borough residents are roads and litter conditions. According to state records, the City maintains 13 miles of roads; while the Borough maintains 9 miles of roads. The remaining road system is state or privately maintained. The survey results suggest that residents do not perceive the City as doing a better job maintaining their road systems than the Borough is with its roads.
3. The survey results clearly suggest that the City is not more apt at providing services to local residences than the Borough government. There is some dissatisfaction among City residents with some services provided by the City of Kodiak, i.e. law enforcement, animal control, airport, parks, and roads. Within those services provided area-wide by the Borough, there exists a relatively high level of resident satisfaction, i.e. medical service and education.
4. The survey results indicate that individuals in the outlying areas are satisfied with the level of service they are receiving. This would suggest that the initiative to expand the boundaries of the City limits originated within the City or from a minority group.

TABLE 1

KODIAK ISLAND BOROUGH COMMUNITY ATTITUDE SURVEY

WHAT RESIDENTS DISLIKE MOST ABOUT AREA

| CATEGORY LABEL     | RELATIVE<br>FREQ (%)<br>CITY | RELATIVE<br>FREQ (%)<br>BOROUGH |
|--------------------|------------------------------|---------------------------------|
| NR                 | 3.5                          | 1.7                             |
| Environment        | 6.5                          | 6.7                             |
| Roads              | 15.1                         | 12.6                            |
| Litter             | 13.1                         | 13.4                            |
| Utilities          | 1.5                          | 0.8                             |
| Poor Govt.         | 2.5                          | 2.5                             |
| Animal Control     | 1.5                          | 0.8                             |
| Pub. Transport.    | 0.5                          | 0.8                             |
| Police-Fire        | 2.5                          | 0                               |
| Lack Recreation    | 2.0                          | 1.7                             |
| Trans. Facilities  | 1.5                          | 0                               |
| Planning-zoning    | 1.5                          | 4.2                             |
| Devpt.-Growth      | 3.0                          | 3.4                             |
| Oil Devpt.         | 0.5                          | 0                               |
| High Costs Goods   | 5.5                          | 10.9                            |
| High Cost Land     | 2.0                          | 0.8                             |
| High Taxes         | 0.5                          | 0                               |
| Inflation          | 3.0                          | 2.5                             |
| Lack Housing       | 5.0                          | 5.0                             |
| Physical Isolation | 6.5                          | 6.7                             |
| Pop. Growth        | 4.5                          | 7.6                             |
| Alcohol Abuse      | 3.5                          | 1.7                             |

TABLE 2

MAJOR PROBLEM FACING THE KODIAK BOROUGH

|   | City Residents | Outside City Residents |
|---|----------------|------------------------|
| Inadequate Public Facilities and Services | 10.6           | 5.0                    |
| OCS Impact                                | 13.1           | 21.8                   |
| Shortage of Housing                       | 48.2           | 41.2                   |
| Conflicting Land Use                      | 13.1           | 15.1                   |
| Preservation of Cultural Diversity        | 4.5            | 4.2                    |
| Preservation of Natural Environment       | 8.5            | 10.9                   |
| Other                                     | 9.0            | 5.0                    |

TABLE 3

COMMUNITIES' MOST PRESSING NEEDS

|                    | RELATIVE<br>FREQ. (%)<br>CITY | RELATIVE<br>FREQ. (%)<br>BOROUGH |
|--------------------|-------------------------------|----------------------------------|
| NR                 | 8.5                           | 8.4                              |
| Housing            | 36.7                          | 42.9                             |
| Jobs               | 1.0                           | 0.8                              |
| Roads              | 6.0                           | 3.4                              |
| Road Maintenance   | 1.0                           | 1.7                              |
| Road Constr.       | 0.5                           | 0                                |
| Better Govt.       | 1.5                           | 1.7                              |
| Open up Land       | 1.5                           | 4.2                              |
| Land for Building  | 2.0                           | 1.7                              |
| Boat Harbor        | 1.5                           | 0.8                              |
| Env. Protection    | 0.5                           | 0                                |
| Alt. Energy        | 0.5                           | 0.8                              |
| Protect Fishing    | 0.5                           | 0.8                              |
| Plan Slow Growth   | 4.5                           | 5.0                              |
| Control Oil Devpt. | 1.0                           | 1.7                              |
| Interethnic Coop.  | 1.0                           | 0.8                              |
| Enforce Zoning     | 1.0                           | 0                                |
| Public Services    | 3.0                           | 1.7                              |
| Water-Sewer        | 6.0                           | 2.5                              |
| Pest Control       | 1.0                           | 0                                |
| Alc-Drug. Rehab.   | 3.0                           | 0                                |

TABLE 4

ATTITUDE TOWARD COMMUNITY FACILITIES AND SERVICES

| ATTITUDE TOWARD       | PERCENT WHO RESPONDED PRESENTLY ADEQUATE |         | PERCENT WHO RESPONDED NEEDS UPGRADING NOW |         | PERCENT WHO RESPONDED WILL NEED UPGRADING |         |
|-----------------------|--|---------|---|---------|---|---------|
|                       | City                                     | Outside | City                                      | Outside | City                                      | Outside |
|                       | Water Utility                            | 30.2    | 16.8                                      | 37.2    | 39.5                                      | 25.6    |
| Sewer Utility         | 29.1                                     | 14.3    | 40.7                                      | 47.9    | 20.6                                      | 16.0    |
| Electric Utility      | 23.1                                     | 19.3    | 42.2                                      | 40.3    | 29.1                                      | 31.1    |
| Refuse Collection     | 42.7                                     | 35.3    | 27.6                                      | 23.5    | 23.6                                      | 26.1    |
| Telephone Utility     | 15.6                                     | 21.8    | 63.3                                      | 54.6    | 15.1                                      | 17.6    |
| T.V. and Radio        | 25.6                                     | 22.7    | 53.8                                      | 58.8    | 12.1                                      | 13.4    |
| Highway and Roads     | 11.1                                     | 10.1    | 72.9                                      | 79.0    | 9.5                                       | 5.0     |
| State Airport         | 30.2                                     | 42.0    | 41.7                                      | 36.     | 20.6                                      | 19.0    |
| City Airport          | 18.1                                     | 26.1    | 44.7                                      | 47.9    | 13.6                                      | 9.2     |
| Kodiak Dock           | 37.2                                     | 45.2    | 31.7                                      | 26.1    | 21.1                                      | 21.8    |
| State Ferry           | 52.8                                     | 55.5    | 28.6                                      | 22.7    | 11.1                                      | 17.6    |
| Law Enforcement       | 25.1                                     | 31.1    | 51.8                                      | 45.5    | 16.1                                      | 17.6    |
| Fire Protection       | 55.8                                     | 43.7    | 17.8                                      | 25.2    | 18.1                                      | 23.5    |
| Animal Control        | 29.6                                     | 21.8    | 48.2                                      | 51.3    | 10.1                                      | 10.9    |
| Emergency Medical     | 45.2                                     | 52.9    | 24.1                                      | 26.9    | 20.6                                      | 15.1    |
| Court System          | 30.2                                     | 35.3    | 44.7                                      | 45.4    | 16.1                                      | 10.9    |
| Elementary School     | 40.7                                     | 36.1    | 33.2                                      | 31.9    | 18.6                                      | 21.8    |
| Secondard Education   | 36.2                                     | 32.8    | 37.7                                      | 37.0    | 18.1                                      | 20.8    |
| Community College     | 44.7                                     | 47.9    | 23.6                                      | 25.2    | 21.1                                      | 20.2    |
| Medical Service       | 43.2                                     | 50.4    | 35.2                                      | 28.6    | 16.1                                      | 16.6    |
| Sanitation            | 29.1                                     | 23.5    | 45.7                                      | 47.9    | 15.1                                      | 15.5    |
| Public Assistance     | 26.1                                     | 25.2    | 52.8                                      | 50.4    | 6.0                                       | 12.2    |
| Employment            | 46.7                                     | 42.0    | 28.6                                      | 28.6    | 11.6                                      | 17.6    |
| Social Services       | 43.2                                     | 44.5    | 31.2                                      | 26.9    | 12.6                                      | 16.0    |
| Parks                 | 28.6                                     | 28.6    | 41.2                                      | 47.1    | 22.6                                      | 13.4    |
| Recreation Facilities | 23.6                                     | 21.8    | 46.2                                      | 49.6    | 20.1                                      | 12.6    |
| Open Space            | 44.7                                     | 37.0    | 27.6                                      | 31.9    | 11.1                                      | 10.9    |
| Museum                | 67.3                                     | 62.2    | 12.1                                      | 19.3    | 16.1                                      | 12.6    |
| Library               | 69.3                                     | 68.9    | 8.0                                       | 14.3    | 18.1                                      | 13.4    |
| Postal                | 14.6                                     | 17.6    | 62.8                                      | 70.6    | 14.6                                      | 10.1    |

2. Can the City provide services more efficiently and economically than the Borough?

One other area upon which the annexation decision should be predicated is the cost of providing public services. The City asserted in the original petition that it could provide services to the area in question more efficiently through annexation than otherwise.

In discussing this, several things need to be well defined. First, it is desirable to separate public goods from public utilities especially with respect to governmental finance. There are some goods that local governments provide that are, in reality, public utilities. Sewer and water systems fall under this category. Those who receive the benefits from these goods are easily identified; and these systems should, if possible, be supported by user fees. These facilities should not be financed by general taxes.

Secondly, with respect to the financing of public goods, it is possible to go the service district route efficiently. All that is required is an institutional arrangement whereby those who receive the benefits can be assessed in proportion to the costs. (The costs would include some prorata share of the fixed plant, not just thin marginal cost.) There is no loss in efficiency in doing this through service districts, and there is no economic reason for necessitating annexation. Expansion of services may produce some economies of scale (the larger the operation, the lower is the cost per unit of output); yet these can be realized without annexation. The service district would seem a more desirable route because of the ability of the residents to choose which public utilities they want.

Public goods are those types of goods which must, by necessity, be provided through taxation (police, planning, general administration, parks, etc.); yet there is no reason to believe that they require the annexation process. They could be provided on the basis of service districts and differential taxation. It should be remembered that the benefits of the service (public good) do have geographical limitations.

Further, it is doubtful that any particular government has a unique advantage in terms of production costs. Both the Borough and the City have to buy their resources in the same market, and they face the same types of technology. There is probably no economic rationale for having a service provided by one government over another.

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To provide a basis for comparing the cost and operating efficiency of the two governments, we used the 1977/78 operating budgets of the two entities. (See Table 5)

It should be noted that several duplicated positions exist within the Borough and City governments. These will not be eliminated if the City boundaries are expanded.

A preferable alternative to annexation would be unification. If the two governments were unified, the positions listed in Table 6 could be eliminated. It should be noted, however, that the historical experience of unification efforts have not resulted in substantial cost savings. Where costs are saved in one area, they are often absorbed in others. The primary advantage of unification is the elimination of the conflict that often arises where two governments serve the same citizenry.

TABLE 5

BOROUGH AND CITY BUDGETS

| GENERAL COST<br>Executive & Clerk                | City   | Borough |
|--|--------|---------|
| 1. Travel & Per Diem                             | 6,870  | 8,780   |
| 2. Compensation<br>Mayor council                 | 2,760  | 4,800   |
| 3. Legal   | 55,000 | 16,500  |
| 4. Capital Expenditures<br>Office Machines, etc. | 10,100 | 10,000  |
| 5. Manager's salary                              | 39,500 | 42,462  |
| 6. Manager's Secretary                           |        | 13,687  |
| 7. Clerk/Treasurer                               | 27,687 | 18,331  |
| 8. Secretary                                     | 13,810 | 13,687  |
| 9. Bookkeeper                                    |        | 15,741  |
| 10. Benefits                                     | 24,319 | 6,103   |
| 11. Dues   | 6,190  | 4,200   |
| 12. Expenses<br>(Mayor & Council)                | 4,800  | 2,000   |
| 13. Overtime                                     | 100    | 1,200   |
| 14. Supplies                                     | 5,350  | 8,000   |
| 15. Professional Services                        | 7,000  | 5,000   |
| 16. Professional Development                     |        | 5,000   |
| 17. Insurance & Bonding                          |        | 2,500   |
| 18. Group Insurance                              |        | 1,089   |
| 19. Communication, Adv.                          | 4,490  | 6,790   |
| 20. Printing                                     | 8,000  |         |

TABLE 5 (continued)

BOROUGH AND CITY BUDGETS

| GENERAL COST<br>Executive & Clerk | City             | Borough             |
|-----------------------------------|------------------|---------------------|
| 21. Repairs and Maintenance       | 500              | 2,000               |
| 22. Rentals                       | 4,805            | 1,500               |
| 23. Equipment                     |                  |                     |
| 24. Vehicle Allowance             |                  | 3,000               |
| 25. Post Audit                    |                  | 25,500              |
| 26. Election                      |                  | 7,000               |
| 27. Boards and Commissions        |                  | 500                 |
| 28. Termination Reserves          |                  | 3,000               |
|                                   | Expenses 221,281 | 241,870             |
|                                   |                  | 86,648.48           |
|                                   |                  | 328,518.48          |
|                                   |                  | 102,575.00          |
|                                   |                  | Expenses 431,193.48 |
| Revenues                          |                  |                     |
| earned                            | 60,514           | 305,050             |
| shared                            | 36,546           | 750,000             |
| taxes                             | 124,221          | 51,143              |

TABLE 5 (continued)

## CITY

|                          |          |         |
|--------------------------|----------|---------|
| Tax Collecting - Finance | Revenues |         |
| Expenses                 | Earned   | 31,492  |
| 223,270                  | Shared   | 36,873  |
|                          | Tax      | 154,904 |
| Police Department        | Revenues |         |
| Expenditures             | Earned   | 251,330 |
| 813,379                  | Shared   | 172,635 |
|                          | Tax      | 389,414 |
| Fire Department          | Revenues |         |
| Expenditures             | Earned   | 59,150  |
| 333,241                  | Shared   | 55,042  |
|                          | Tax      | 219,048 |
| Public Works             | Revenues |         |
| Expenditures             | Earned   | 296,142 |
| 631,401                  | Shared   | 144,279 |
|                          | Tax      | 190,979 |
| Parks & Recreation       | Revenues |         |
| Expenditures             | Earned   | 20,500  |
| 128,946                  | Shared   | 21,295  |
|                          | Tax      | 87,151  |
| Library                  | Revenues |         |
| Expenditures             | Earned   | 15,000  |
| 137,351                  | Shared   | 22,935  |
|                          | Tax      | 99,416  |
| Museum                   | Revenues |         |
| Expenditures             | Earned   | 0       |
| 18,000                   | Shared   | 2,973   |
|                          | Tax      | 15,027  |
| Engineering              | Revenues |         |
| Expenditures             | Earned   | 32,100  |
| 112,159                  | Shared   | 18,524  |
|                          | Tax      | 61,535  |

TABLE 5 (continued.)

|                          |  |                           |
|--------------------------|--|---------------------------|
| Non Departmental         |  |                           |
| Expenditures             |  | Revenues                  |
| 1,450,239                |  | Earned 471,034            |
|                          |  | Shared 239,518            |
|                          |  | Tax 739,687               |
|                          |  | Taxes (including tax      |
|                          |  | on city utilities)        |
|                          |  | 2,081,385                 |
|                          |  | Earned and Shared         |
|                          |  | 1,987,882                 |
| BOROUGH                  |  |                           |
| Assessing Department     |  |                           |
| Expenditures             |  | Revenues                  |
| 102,386                  |  | Taxes &                   |
|                          |  | Reserves 102,386          |
| Planning and Zoning      |  |                           |
| Expenditures             |  | Revenues                  |
| 173,949                  |  | Earned                    |
|                          |  | Shared 15,800             |
|                          |  | Tax 158,149               |
| School Support           |  |                           |
| Expenditures             |  | Revenues                  |
| 851,498                  |  | Shared 248,033            |
|                          |  | Tax 603,465               |
| Health                   |  |                           |
| Expenditures             |  | Revenues                  |
| 226,850                  |  | Shared 162,000            |
|                          |  | Tax 64,850                |
| Building and Maintenance |  |                           |
| Expenditures             |  | Revenues                  |
| 191,344                  |  | Earned                    |
|                          |  | Tax 191,344               |
|                          |  | Taxes & Surplus 1,171,337 |
|                          |  | Earned & Shared 805,883   |

3. Are residents inside the City carrying a disproportional burden for services?

Kodiak is particularly concerned that they (City residents) are paying for many "public goods" that are used by people who live outside the City boundaries. The charge is that these non-city residents are "free riders." It would be useful to examine sources of revenue for the City and identify revenues that are paid by City residents and by non-residents.

The population of the respective areas (City and surrounding area) is computed as follows: The total population of the City (official population figures used by the State of Alaska for revenue sharing) and the Borough in 1977 is 4,960 and 7,901 respectively. The population of the five second-class cities in the Borough (these are Akhiok, Larsen Bay, Port Lions, Ouzinke and Old Harbor) totaled 940. It will be assumed that there are approximately 200 persons living in other areas (areas outside cities). Therefore, the total population living in the greater Kodiak (City) area is 7,901 less 1,140 or about 6,761. Of that total, 4,960 live in Kodiak city; and about 1,800 live in the surrounding area. Therefore, of the total resident population in the greater area, City residents account for approximately 73 percent which implies that the surrounding area holds about 27 percent of the population.

Additionally, the migratory labor force accounts for a significant portion of those people who are hit by sales taxes. Accounting for a trend, it would appear that, on average, the labor force is 13 percent higher than the permanent residents would support. This is due to the cyclic nature of employment.

Thus, there would appear to be a significant portion of the population that would be hit by the sales tax who are not permanent residents of Kodiak city. Assuming that there are not wide differences in the distribution of income between residents (of the City) and non-residents, it would not be unreasonable to assume that people would pay the same amount in sales taxes to the City, no matter where they lived either within the City, the surrounding area or were transient labor force. Conceivably, what I can account for would seem to indicate that residents of the surrounding area and transient labor force (in covered employment) would probably account for about 40 percent of the total sales taxes collected. Additionally, there are others who pay sales taxes who are not accounted for by this figure (any sales that are made to Borough residents outside the greater Kodiak city area which would include all the outlying villages and any purchases made by the U.S. coastguard personnel). Also, there are significant sales taxes paid by people who work in Kodiak in the summertime who are not in covered employment; this would include all the sales made to fishing boats from the outside. Thus, the portion of sales taxes paid by non-city residents is probably greater than 50 percent.

One of the traditional arguments for a sales tax, at least in this instance, would seem to hold true. Sales taxes can be levied to tax people who might otherwise escape taxation, notably, tourists, transients, and non-residents of a political jurisdiction.

Other taxes of the city that are ultimately paid by non-city residents would include their portion of the property taxes that are shifted forward by commercial businesses within the City. Traditionally, across the U.S., businesses account for about 50 percent of property taxes (see Advisory Commission on Intergovernmental Relations, Federal-State-Local Finances: Significant Features of Fiscal Federalism, 1973-74 ed., Washington, D.C., p. 173). It is commonly believed that businesses shift large portions of the property tax on to the consumer in the form of higher prices. For example, the Port of Kodiak included \$83,000 as a payment to City government in lieu of property taxes. This payment was included as part of the rate base in calculating charges for use of the terminal. This shifting is especially true in non-competitive market structures which is characteristic of the Kodiak economy. Thus if 50 percent of total retail sales which are made in Kodiak are made to non-city residents and are passed along in the form of higher prices, then it would be possible to conclude that approximately 25 percent of the property taxes paid to the city are, in fact, paid by non-city residents.

In terms of the total tax revenue Kodiak city collects, the City residents collect a significant portion of their taxes from people who do not reside in the City. Of total property taxes paid, we can attribute \$163,750 to non-residents; and, of the total sales tax revenue (\$1,250,000), approximately half (\$625,000) can be attributed to non-residents. Thus it would seem as though non-residents pay as much as \$788,000 into the purse of Kodiak city which accounts for almost 41 percent of total tax revenue. It can hardly be said that there is a significant "free rider" problem.

It is interesting to examine what would happen to property taxes in the area to be annexed if annexation were to take place and the City spread its property taxes out over a larger tax base. Currently, there are four service areas where differential taxation is imposed. These include: the City (TCA1), the fire district (TCA8), the road district (TCA9) and the villages (TCA9). The fire district and the road district property would be added to that of the City upon annexation; both of these areas hold about 12.85 percent of the total property in the Borough. The City, on the otherhand, contains 81.17 percent of total property in the Borough.

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By using the mill rate and the tax base of the areas to be annexed along with the City, it is possible to examine what would happen if the property tax of the City were spread over the whole area. Currently the City is taxed at a 16.33 mill rate; the surrounding area mill rate is 7.23 with an additional assessment of 0.75 mills in the road district and 2.27 mills in the fire district. If the focus of annexation were to simply shift some of the cost to the outlying areas, the same total amount would be collected with the mill rate of the various areas being equalized. The overall mill rate would be 15.19 mills -- a decrease of 1.14 mills in the City (a decrease of \$85.5 on a \$75,000 home), an increase of 5.69 mills in the fire district (a \$426.00 increase in property taxes on a \$75,000 home), and an increase of 7.21 mills in the road district (an increase of \$540.75 on a \$75,000 home) for residents outside the City.

Further, it might be noted that the area to be annexed includes the U.S. Coast Guard base. Thus the retail sales on the base would be subject to the City sales tax which would add to the City revenues significantly. It is difficult to know how much this will add to the City revenues. The Office of non-appropriated fund for the Coast Guard reported that this total operation was approximately \$3.5 million. While most of that was the BX and similar activity, the precise amount that would be hit by a retail sales tax would be difficult to determine. If, for example, \$2.0 million were covered by the retail sales tax, the City would collect \$60,000. This is about five percent of the total tax revenues for the City.



Official Business

# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99811

Some questions raised by the annexation question:

1. What needs exist within the area to be annexed that would best be met by annexation?
2. Is the City entitled to annexation for reasons of equity?
3. Would annexation have any adverse effects upon those residing in the area to be annexed or upon other Kodiak residents?
4. Does the annexation proposed meet the standards for annexation as contained in 19 Alaska Administrative Code 05.010 ? (See copies given Committee members)



# Alaska State Legislature

## House of Representatives

Committee on

Community & Regional Affairs

Pouch V  
State Capitol  
Juneau, Alaska 99801

Official Business

Points for consideration raised by Jack Chenoweth on Kodiak annexation issue -- January 29, 1979

Re the character of local government in Alaska:

1. The adaptation of local government to continually changing conditions is a characteristic of Alaska's local government system.
2. The decision regarding changing boundaries must be taken not by those immediately affected but by a state agency (the Local Boundary Commission) on the basis of independent evaluation.

Points related to the purpose of legislative oversight on annexation questions:

1. As political subdivisions, the cities and boroughs which have been incorporated are established to perform portions of the state's responsibilities for government that they are capable of performing. The state cannot escape responsibility for the essential quality and competence of the units of local government which exist and operate in accordance with applicable state statutes.
2. Local government involves the discharge of legal responsibilities. The capacities and abilities of municipalities to accept and discharge responsibilities greatly varies. The review process offers an opportunity for the legislature to gauge the capacities of the local government to provide services throughout an annexed or expanded area.
3. The effect of the boundary change on the people involved is a legitimate concern. As taxation is always the central factor in annexation decisions, one should question if the levels of taxation can be related to levels of service to be offered and whether annexation, with its attendant tax burden changes, will contribute to a better sharing of the burdens and opportunities for local government throughout a metropolitan region.
4. The resultant relationship of the annexation on city/borough relations is also to be considered. The legislature may do well to consider whether fulfillment of the annexation will have an effect on the range of political, service and other relationships between the city and borough and whether, in the short-range and in the long run, those relationships will grow stronger.
5. The legislature has the opportunity to review the boundary change for compliance with proper administrative procedures. Was the hearing properly noticed? Were those in attendance given opportunity to comment? Did the Commission adhere to its own requirements? Etc.

100 6

HOUSE COMMUNITY AND REGIONAL  
AFFAIRS COMMITTEE

Matter of the annexation of territory to the City of Kodiak

January 29, 1979

YOU HAVE ASKED ME HERE BRIEFLY TO PROVIDE AN OVERVIEW OF THE ROLE ENVISIONED FOR THE LEGISLATURE IN ITS REVIEW OF AN ANNEXATION WHICH HAS BEEN RECOMMENDED BY THE STATE'S LOCAL BOUNDARY COMMISSION. THAT IS NOT AN EASY TASK. AND, WHILE MY REMARKS SHOULD BE UNDERSTOOD BY YOU TO BE LESS IN THE NATURE OF "RULES" THAT MUST BE FOLLOWED THAN THEY ARE "OBSERVATIONS" OR "SUGGESTIONS" THAT MAY BE CONSIDERED, I HOPE THAT THEY WILL HELP YOU TO FOCUS ON THE MERITS OF THE ARGUMENTS THAT ARE TO BE PRESENTED ON BOTH SIDES OF THE MATTER FREE OF THE EMOTIONALISM THAT IS CHARACTERISTIC OF VIRTUALLY EVERY SIGNIFICANT BOUNDARY CHANGE.

THERE IS A PURPOSE TO THIS PROCESS. IT IS A MANDATE OF THE ALASKA CONSTITUTION THAT THE ALASKA LEGISLATURE REVIEW AND CONSIDER BOUNDARY CHANGES FAVORABLY RECOMMENDED BY THE STATE'S LOCAL BOUNDARY COMMISSION. THE SOURCE OF THAT MANDATE IS ARTICLE X, SECTION 12, PART OF THE LOCAL GOVERNMENT ARTICLE OF THE STATE CONSTITUTION:

A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective 45 days after presentation or at the end of the session, whichever

is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house.

THAT RESOLUTION, HOUSE JOINT RESOLUTION 10, OFFERED BY REPRESENTATIVE ZHAROFF, IS, OF COURSE, THE MECHANISM BY WHICH THE LEGISLATURE MAY EXPRESS ITS DISAPPROVAL.

OVER THE WEEKEND, I SPENT SEVERAL HOURS RESEARCHING ANY INFORMATION THAT WOULD SHED LIGHT ON WHAT WAS INTENDED BY THIS CONSTITUTIONAL PROCEDURE. I FOUND SIGNIFICANT COMMENTARY CONCERNING THE ROLE AND RESPONSIBILITY OF A PROPOSED (FROM THE PERSPECTIVE OF 1955-56) COMMISSION OR BOARD TO CONCERN ITSELF WITH DEVELOPMENT OF A LOCAL GOVERNMENT FRAMEWORK ADAPTABLE TO MEET THE NEEDS OF DIFFERENT AREAS OF THE STATE AND THE PRINCIPAL ROLE ASSIGNED TO IT OF REVIEWING AND TAKING ACTION ON CHANGES IN BOUNDARIES OF MUNICIPALITIES. TYPICAL WERE THESE COMMENTS, COMPOSED AFTER THE CONSTITUTION HAD BEEN DRAFTED BUT BEFORE THE PROCLAMATION OF STATEHOOD WHICH WOULD GIVE LIFE TO THE PROPOSED CONSTITUTION:

The constitutional provision regarding local boundaries contained in article X, sec. 12, was written for the purpose of unfreezing municipal boundaries and making them readily adjustable to changing needs resulting from the growth and movement of population and from changes in the demands for local services. The section of the Constitution was designed to overcome roadblocks which vested local interests and prejudices in small segments of natural communities often put in the way of a proper readjustment of local boundary lines. . . .

FURTHER ALONG IN THE SAME DOCUMENT, THERE APPEARS THIS ADDITIONAL OBSERVATION:

The basic assumption in this discussion of annexation is one which is implicit in the local government article of the State Constitution. The assumption is that worthwhile local home rule depends upon the thoughtful and courageous exercise of the state's responsibility for establishing and maintaining ... responsible self-government. The State cannot discharge its responsibility for local institutions by automatically ratifying the petitions or votes of any groups of local citizens that may happen to express themselves favorably or unfavorably with respect to ... annexation. To pursue such a course would result in such a conglomeration of local jurisdictions as would make a mockery of the whole concept of local self-government.

TWO POINTS, THEN, WITH REFERENCE TO THE MATERIAL QUOTED: FIRST, THE ADAPTATION OF LOCAL GOVERNMENT TO CONTINUALLY CHANGING CONDITIONS IS A CHARACTERISTIC OF ALASKA'S LOCAL GOVERNMENT SYSTEM; SECOND, THAT DECISION MUST BE TAKEN NOT BY THOSE IMMEDIATELY AFFECTED BUT BY A STATE AGENCY (THE LOCAL BOUNDARY COMMISSION) ON THE BASIS OF INDEPENDENT EVALUATION.

NOW, WHILE THERE IS A SIGNIFICANT AMOUNT OF MATERIAL ANALYZING OR COMMENTING UPON THE NECESSITY FOR AND PROPER ROLE OF A STATE BOARD TO REVIEW AND CONSIDER LOCAL BOUNDARY CHANGES, THERE IS VIRTUALLY NOTHING TO DESCRIBE THE PURPOSE OF LEGISLATIVE OVERSIGHT. THE COMMENTARY OFFERED BY THE DRAFTSMEN OF THE STATE CONSTITUTION IS UNENLIGHTENING. OTHER SOURCES, NOTABLY EFFORTS BY THE LEGIS-

LATURE AND THE COURTS TO FILL THE GAP, ARE USEFUL AS COMMENTARY, BUT OFFER NO FIRM RULES. LET ME OFFER, THEN, SOME OF MY OWN THOUGHTS.

YOU MUST UNDERSTAND, FIRST, THAT THE CITIES AND BOROUGHES OF THE STATE OF ALASKA ARE POLITICAL SUBDIVISIONS OF THE STATE -- CREATURES OF THE STATE, SOMEONE HAS CALLED THEM, AND, AS THE ELEVENTH BIENNIAL LEGISLATURE WENDS ITS WAY INTO HISTORY, AND YOU ARE CALLED UPON TO CONSIDER TESTIMONY ON ONE OR ANOTHER BILLS BEARING ON LOCAL GOVERNMENT STRUCTURE, FUNCTION, AND FINANCES, YOU WILL BETTER UNDERSTAND THE CHOICE OF THAT WORD "CREATURES." AS POLITICAL SUBDIVISIONS, THE CITIES AND BOROUGHES WHICH HAVE BEEN INCORPORATED ARE ESTABLISHED TO PERFORM PORTIONS OF THE STATE'S RESPONSIBILITIES FOR GOVERNMENT THAT THEY ARE CAPABLE OF PERFORMING. GENERALLY, THE MORE THAT CAN BE PERFORMED AT THE INSTANCE OF LOCAL OFFICIALS, WITHOUT DETAILED ATTENTION FROM STATE OFFICIALS, HOPEFULLY, THE BETTER FOR ALL CONCERNED. BUT THE STATE CANNOT ESCAPE RESPONSIBILITY FOR THE ESSENTIAL QUALITY AND COMPETENCE OF THE UNITS OF LOCAL GOVERNMENT WHICH EXIST AND OPERATE IN ACCORDANCE WITH APPLICABLE STATE STATUTES. THUS, THE LEGISLATURE'S ROLE -- FROM THE OUTSET, EVEN WITH RESPECT TO ANNEXATIONS -- IS ONE OF OVERSIGHT.

LOCAL GOVERNMENT INVOLVES THE DISCHARGE OF LEGAL RESPONSIBILITIES, BOTH THOSE THAT MAY BE ACCEPTED BY THE VOTERS OF THE COMMUNITY AND THOSE WHICH MAY BE IMPOSED BY THE STATE. THE LEGISLATURE SHOULD UNDERSTAND, AND I THINK IT DOES GENERALLY UNDERSTAND, THAT THE CAPACITIES AND ABILITIES OF MUNICIPALITIES TO ACCEPT AND DISCHARGE THESE RESPONSIBILITIES GREATLY VARIES. THUS, THE REVIEW PROCESS OFFERS AN OPPORTUNITY TO GAUGE THE CAPACITIES OF THE LOCAL GOVERN-

THE CASE BOOKS AND MEETINGS OF MUNICIPAL GOVERNMENTS ARE REplete WITH THE RESULTS OF LITIGATION, THREATS OF LITIGATION, AND REACTIONS TO LITIGATION AS CITIES AND BOROUGHS STRIVE FOR POLITICAL ACCOMODATION, IF NOT FOR POLITICAL BALANCE. IN THREE MAJOR URBAN AREAS, ANCHORAGE, JUNEAU, AND SITKA, THE PROBLEM HAS BEEN RESOLVED BY UNIFICATION. IN OTHERS, NOTABLY FAIRBANKS AND KETCHIKAN, MINOR BOUNDARY ADJUSTMENTS HAVE SERVED TO ACHIEVE THAT BALANCE. THAT SAME PROCESS MAY NOW BE UNFOLDING IN THE KODIAK ANNEXATION. THE LEGISLATURE MAY DO WELL TO CONSIDER WHETHER FULFILLMENT OF THE ANNEXATION WILL HAVE AN EFFECT ON THE RANGE OF POLITICAL, SERVICE AND OTHER RELATIONSHIPS BETWEEN THE CITY AND THE BOROUGH AND WHETHER, IN THE SHORT-RANGE AND IN THE LONG-RUN, THOSE RELATIONSHIPS WILL GROW STRONGER.

FIFTH, LASTLY, IS THE OPPORTUNITY FOR THE LEGISLATURE TO REVIEW THE DECISION OF THE LOCAL BOUNDARY COMMISSION FOR COMPLIANCE WITH PROPER ADMINISTRATIVE PROCEDURES. WAS THE HEARING PROPERLY NOTICED? WERE THOSE IN ATTENDANCE GIVEN OPPORTUNITY TO COMMENT? DID THE COMMISSION ENTER A DECISION ON THE RECORD? DID THE COMMISSION ADHERE TO ITS OWN REQUIREMENTS? PROCEDURAL COMPLIANCE IS IMPORTANT. AT LEAST ONE ANNEXATION OF THE COMMISSION HAS BEEN SET ASIDE BY THE COURTS FOR FAILURE OF THE COMMISSION TO ATTEND TO STATUTORY REQUIREMENTS. THE LEGISLATURE COULD SAVE TIME AND LITIGATION BY REFUSING AN ANNEXATION, NO MATTER HOW MERITORIOUS, IF THERE HAS BEEN A SUBSTANTIAL FAILURE TO MEET ADMINISTRATIVE REQUIREMENTS.

*2/1  
June 9-2  
Kody  
Juni*

THE PART OF THE LOCAL BOUNDARY CHANGE PROCESS WHICH REQUIRES OR ALLOWS LEGISLATIVE REVIEW OF A BOUNDARY COMMISSION DECISION IS VERY MUCH A POLITICAL PROCESS. THE INQUIRIES YOU DIRECT TO

MENT UNIT INVOLVED IN AN ANNEXATION, TO SEE WHETHER THE CITY (AS IN THIS INSTANCE) OR BOROUGH (IF THAT WERE THE CASE) WERE CAPABLE OF PROVIDING SERVICES THROUGHOUT AN EXPANDED AREA.

NEXT, I BELIEVE THE LEGISLATURE MAY PROPERLY INQUIRE INTO THE ANTICIPATED EFFECT OF THE BOUNDARY CHANGE OF THE PEOPLE INVOLVED, PRINCIPALLY THE RESIDENTS OF THE AREA IN QUESTION, BUT ALSO THOSE WHO ALREADY RESIDE WITHIN THE UNIT OF GOVERNMENT AND WHO MAY SEE CURRENT SERVICE LEVELS DILUTED IN AN EXTENSIVE AREAWIDE EXPANSION OR, IN THE ALTERNATIVE, AN INCREASE IN THE TAX BURDEN. TAXATION IS ALWAYS THE CENTRAL FACTOR IN ANNEXATION DECISIONS, BUT IT IS ALMOST NEVER PROPERLY FOCUSED. THE QUESTION IS NOT ONE OF TAX INCREASE THAT NORMALLY ATTENDS THE INCLUSION OF NEW TERRITORY INTO AN EXISTING TAX-LEVYING JURISDICTION, BUT RATHER, WHETHER, FIRST, LEVELS OF TAXATION CAN BE RELATED TO LEVELS OF SERVICE TO BE OFFERED AND, SECOND, WHETHER ANNEXATION, WITH ITS ATTENDANT TAX BURDEN CHANGES, WILL CONTRIBUTE TO A BETTER SHARING OF THE BURDENS AND OPPORTUNITIES FOR LOCAL GOVERNMENT THROUGHOUT A METROPOLITAN REGION, EVEN IF, AS IN THIS INSTANCE, THE METROPOLIS IS ONLY THE SIZE OF "GREATER KODIAK."

FOURTH, I WOULD SUGGEST AS A FACTOR OR ELEMENT WARRANTING LEGISLATIVE EXAMINATION IS THE RESULTANT RELATIONSHIP OF THE ANNEXATION ON CITY/BOROUGH RELATIONS. IN TWO DECADES, IT HAS BECOME RATHER CLEAR THAT THE THEORETICAL DIFFERENCES PERCEIVED BY THE FRAMERS OF THE CONSTITUTION WHICH WARRANTED A CONCLUSION ON THEIR PART THAT THERE BE TWO TYPES OF LOCAL GOVERNMENT -- THE CITY AND THE BOROUGH -- GIVE RISE TO OTHER DIFFERENCES IN PRACTICE. CITY-BOROUGH RELATIONSHIPS THROUGH THE LAST 20 YEARS CAN ONLY BE DESCRIBED AS "STORMY."

THE PERSONS WHO APPEAR BEFORE YOU MAY BE AS BROAD, AS IMAGINATIVE, EVEN AS UNRELATED TO THE PARTICULARS OF THE SUBJECT MATTER BEFORE YOU AS IT IS POSSIBLE FOR THEM TO BE. THERE ARE NO LIMITATIONS ON WHAT YOU MAY REQUIRE: THERE IS BUT ONE THING THAT YOU MAY DO -- THE RESOLUTION OFFERED BY MR ZHAROFF IS THE VEHICLE FOR ANNULING THE RECOMMENDED ANNEXATION IN ITS ENTIRETY; YOU CANNOT REDRAW THE LINES. (THAT IS NOT TO SAY THAT, IN THE EVENT YOU CHOOSE TO RECOMMEND ANNULMENT, YOU CANNOT ADOPT THE RESOLUTION OF MR ZHAROFF BUT, AT THE SAME TIME, REQUIRE THE COMMISSION TO RECONSIDER SPECIFIC BOUNDARY CHANGES OF THE CITY, SPECIFYING THE AREAS OF YOUR CONCERN. ALTERNATIVELY, IF THERE ARE AREAS WHICH THE BOUNDARY COMMISSION EXCLUDED FROM ANNEXATION BUT WHICH YOU BELIEVE SHOULD BE RECONSIDERED FOR INCLUSION, YOU MAY DIRECT THAT, BY RESOLUTION, TO THE ATTENTION OF THE COMMISSION.)

NOW, I DON'T KNOW WHETHER THESE MUSINGS FULFILLED THE INTENT OF THE CHAIRMAN IN EXTENDING AN INVITATION FOR ME TO SIT IN THIS CHAIR. BUT I HOPE IT CONTRIBUTES SOMETHING TO YOUR DELIBERATIONS, AND THAT IT MAKES THIS EFFORT AT LEGISLATIVE REVIEW MORE MEANINGFUL TO YOU. I DON'T ENVY YOU THE TASK.

IF THERE ARE ANY QUESTIONS WITH RESPECT TO ANY OF THESE POINTS, I WILL TRY TO RESPOND.

THANK YOU.

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Extended Home Rule Powers

SECTION 10. The legislature may extend home rule to other boroughs and cities.

Boundaries

SECTION 11. A home rule borough or city may exercise all legislative powers not prohibited by law or by charter.

SECTION 12. A local boundary commission or board shall be established by law in the executive branch of the state government. The commission or board may consider any proposed local government boundary change. It may present proposed changes to the legislature during the first ten days of any regular session. The change shall become effective forty-five days after presentation or at the end of the session, whichever is earlier, unless disapproved by a resolution concurred in by a majority of the members of each house. The commission or board, subject to law, may establish procedures whereby boundaries may be adjusted by local action.

Agreements: Transfer of Powers

SECTION 13. Agreements, including those for cooperative or joint administration of any functions or powers, may be made by any local government with any other local government, with the State, or with the United States, unless otherwise provided by law or charter. A city may transfer to the borough in which it is located any of its powers or functions unless prohibited by law or charter, and may in like manner revoke the transfer.

Local Government Agency

SECTION 14. An agency shall be established by law in the executive branch of the state government to advise and assist local governments. It shall review their activities; collect and publish local government information, and perform other duties prescribed by law.

Special Service Districts

SECTION 15. Special service districts existing at the time a borough is organized shall be integrated with the government of the borough as provided by law.

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