

681

HCRA NOTEBOOK: KODIAK ANNEXATION

Lot 7, Block 5, of said subdivision; thence,

(19) S 50°13'26"W, across Otmeloi Way to the South boundary of Lot 7, Block 5, of said subdivision, and continuing along the Westerly ROW of Lake View Drive, 4,433.17 feet, more or less, to the Southeast Corner of Lot 7 of Block 8 of the Monashka Bay Subdivision, plat approved 9/19/67; thence,

(20) S 79°11'50"E, 569.59 feet, to Corner 5 of U.S. Survey 3467; thence,

(21) S 23°54'W, 2500.01 feet, to Corner 4 of U.S. Survey 3457, identical with Corner 4 of U.S. Survey 3168; thence,

(22) S 85°27'W, 746.33 feet, to Corner 3 of U.S. Survey 3468, identical with Corner 3 of U.S. Survey 2538-A; thence,

(23) S 55°21'W, 1893.54 feet, to Corner 4 of U.S. Survey 3945; thence,

(24) N 34°39'W, 2811.6 feet to Corner 3 of U.S. Survey 3945, the true point of beginning.

In accordance with Article X, Section 12, of the Alaska Constitution, this recommendation shall become effective forty-five days after presentation to the legislature 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.

STATE OF ALASKA
LOCAL BOUNDARY COMMISSION
JUNEAU, ALASKA

RECOMMENDATION FOR CORRECTING AN ERROR IN THE
PRESENT CORPORATE BOUNDARY DESCRIPTION
OF THE KENAI PENINSULA BOROUGH

SUBMITTED TO THE ELEVENTH LEGISLATURE,
FIRST SESSION ASSEMBLED

SUBMITTED JANUARY 23, 1979

RECOMMENDATION FOR CLARIFICATION OF SOUTHEASTERLY BOUNDARY
of the
KENAI PENINSULA BOROUGH

WHEREAS, the Local Boundary Commission has requested that the boundary description of the Kenai Peninsula Borough, dated April 30, 1974, be corrected and clarified in the southeasterly part of the boundary description, in the general area of Sargent Ice Field and the Chugach National Forest Boundary; and

WHEREAS, subsequent to giving proper notice, the Local Boundary Commission conducted a public hearing in Soldotna on Friday, January 12, 1979, to consider whether the boundary in question should be clarified and corrected; and

WHEREAS, after giving proper notice, the Local Boundary Commission held a public meeting in Yakutat on Thursday, January 18, 1979, reviewed the original boundaries, the proposed clarification, and all testimony prior to and during the January 12, 1979, public hearing; and

WHEREAS, the Kenai Peninsula Borough is in accord with the proposed clarification;

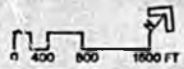
NOW, THEREFORE, the Local Boundary Commission recommends that, pursuant to Article X, Section 12, of the Alaska Constitution, and Alaska Statutes 44.19.260, the recommendation to clarify and correct the southeasterly boundary of the Kenai Peninsula Borough be approved and the following described boundary be adopted:

Beginning at Cape Douglas on the west side of Cook Inlet at the N.E. Corner of Sec. 27, T15S, R24W (projected), Seward Meridian, State of Alaska; thence West to the N.E. Corner of Sec. 29, T15S, R26W (projected); thence South to the S.E. Corner of Sec. 32, T16S, R26W (projected); thence West to the N.E. Corner of T17S, R28W (projected); thence South to the S.E. Corner of T17S, R26W (projected); thence West to the S.W. Corner of T17S, R32W (projected); thence North to the N.W. Corner of T17S, R32W (projected); thence West to the S.W. Corner of T16S, R32W (projected); thence North to the N.W. Corner of T13S, R32W (projected); thence West to the S.W. Corner of T12S, R32W (projected); thence North to the N.W. Corner of T11S, R32W (projected); thence East to the S.W. Corner of T10S, R30W (projected); thence North to the N.W. Corner of T9S, R30W (projected); thence East to the S.E. Corner of T8S, R29W (projected); thence North to the N.E. Corner of T8S, R23W (projected); thence North to the N.W. Corner of T6S, R27W (projected); thence East to the S.W. Corner of T5S, R26W (projected); thence North to the N.W. Corner of T5S, R26W (projected); thence East to the S.W. Corner of T4S, R25W (projected); thence North to the N.W. Corner of T1S, R22W (projected); thence East to the S.W. Corner of T1N, R24W (projected); thence North to the N.W. Corner of T4N, R24W (projected); thence East to the S.W. Corner of T5N, R23W (projected); thence North to the N.W. Corner of T8N, R23W (projected); thence West to the S.E. Corner of T9N, R24W (projected); thence North to the N.E. Corner of T12N, R24W (projected); thence West to the S.E. Corner of T13N, R24W (projected); thence North to the N.E. Corner of T15N, R24W (projected); thence East to the N.E. Corner of T15N, R12W (projected); thence South to the N.W. Corner of T13N, R11W (projected); thence East to the N.E. Corner of T13N, R10W (projected); thence South to the S.E. Corner of T13N, R10W (projected), said Corner being in Cook Inlet at Longitude 150°58'18"W, Latitude 61°10'00"N; thence Southeasterly to the S.E. Corner

of T12N, R9W (projected), said Corner being in Cook Inlet at Longitude $150^{\circ}46'37''$ W, Latitude $51^{\circ}04'49''$ N; thence Northeasterly to the N.E. Corner of T12N, R7W (projected), said Corner being in Cook Inlet at Longitude $150^{\circ}26'01''$ W, Latitude $61^{\circ}10'01''$ N; thence Southeasterly to the N. E. Corner of T11N, R6W (projected), said Corner being in Turnagain Arm at Longitude $150^{\circ}14'40''$ W, Latitude $61^{\circ}04'49''$ N; thence East to the N.E. Corner of T11N, R5W (projected), said Corner being in Turnagain Arm at Longitude $150^{\circ}04'01''$ W, Latitude $61^{\circ}04'49''$ N; thence Southeasterly to the N.E. Corner of Sec. 24, T10N, R2W (projected), said Corner being in Turnagain Arm at Longitude $149^{\circ}32'05''$ W, Latitude $60^{\circ}57'01''$ N; thence Southeasterly to the N.E. Corner of T9N, R1W (projected), said Corner being in Turnagain Arm at Longitude $149^{\circ}21'26''$ W, Latitude $60^{\circ}54'25''$ N; thence East to the N.E. Corner of T9N, R1E (projected), said Corner being in Turnagain Arm at Longitude $149^{\circ}10'48''$ West, Latitude $60^{\circ}54'25''$ North; thence Southeasterly to the N.E. Corner of Sec. 15, T9N, R2E (projected), said Corner being in Turnagain Arm at Longitude $149^{\circ}03'41''$ W, Latitude $61^{\circ}52'41''$ N; thence Southerly to the N. Corner of Sec. 26, T9N, R2E (projected), said Corner being in Turnagain Arm at Longitude $149^{\circ}01'55''$ W, Latitude $60^{\circ}50'57''$ N; thence South to the S.E. Corner of Section 35, T9N, R2E (projected); thence West to the N.E. Corner of Section 2, T8N, R2E (projected); thence South to the N.E. Corner of Sec. 2, T7N, R2E (projected); thence East to the N.E. Corner of T7N, R4E (projected); thence South to the S.E. Corner of T5N, R4E (projected); thence West to the N.E. Corner of T4N, R4E (projected); thence South to the N.E. Corner of Sec. 25, T4N, R4E (projected); thence East to the S.E. Corner of the S.W. 1/4 of Sec. 22, T4N, R5E (projected); thence Southerly to the S.E. Corner of the S.W. 1/4 of Sec. 34, T1N, R5E (projected); thence West to the N.E. Corner of the N.W. 1/4 of Sec. 3, T1S, R5E (projected); thence Southerly to the S.E. Corner of the N.W. 1/4 of Sec. 27, T1S, R5E (projected); thence West to the S.W. Corner of the

N.W. 1/4 of Sec. 27, T1S, R5E (projected); thence South to the N.E. Corner of Sec. 9, T3S, R5E (projected); thence Southwesterly to the S.E. Corner of Sec. 7, T3S, R5E (projected), said Corner being at or approximately at Cape Junken; thence Southwesterly to the S.E. Corner of the N.E. 1/4 of Sec. 4, T4S, R1E (projected), said Corner being at or approximately at Barwell Island; thence Southwesterly to the N.E. Corner of the S.E. 1/4 of Sec. 17, T5S, R1W (projected), said Corner being at or approximately at Pilot Rock; thence Southwesterly to the S.W. Corner of the S.E. 1/4 of Sec. 33, T7S, R2W (projected), said Corner being at or approximately at Seal Rock; thence Southwesterly to the N.W. Corner of Sec. 14, T10S, R7W (projected), said Corner being at or approximately at Pye Reef; thence Southwesterly to the S.E. Corner of the N.E. 1/4 of Sec. 23, T11S, R10W (projected), said Corner being at or approximately at Gore Point; thence Southwesterly to the S.E. Corner of the N.E. 1/4 of Sec. 27, T12S, R13W (projected), said Corner being on or approximately on the Southerly point of East Chugach Island; thence Southwesterly to the S.E. Corner of Sec. 31, T12S, R14W (projected), said Corner being at or approximately at Perl Rock; thence Southwesterly to Longitude 153°00'00"W, Latitude 59°02'00"N, in Cook Inlet; thence Southwesterly to the place of beginning at Cape Douglas, containing 25,600 sq. mi. more or less.

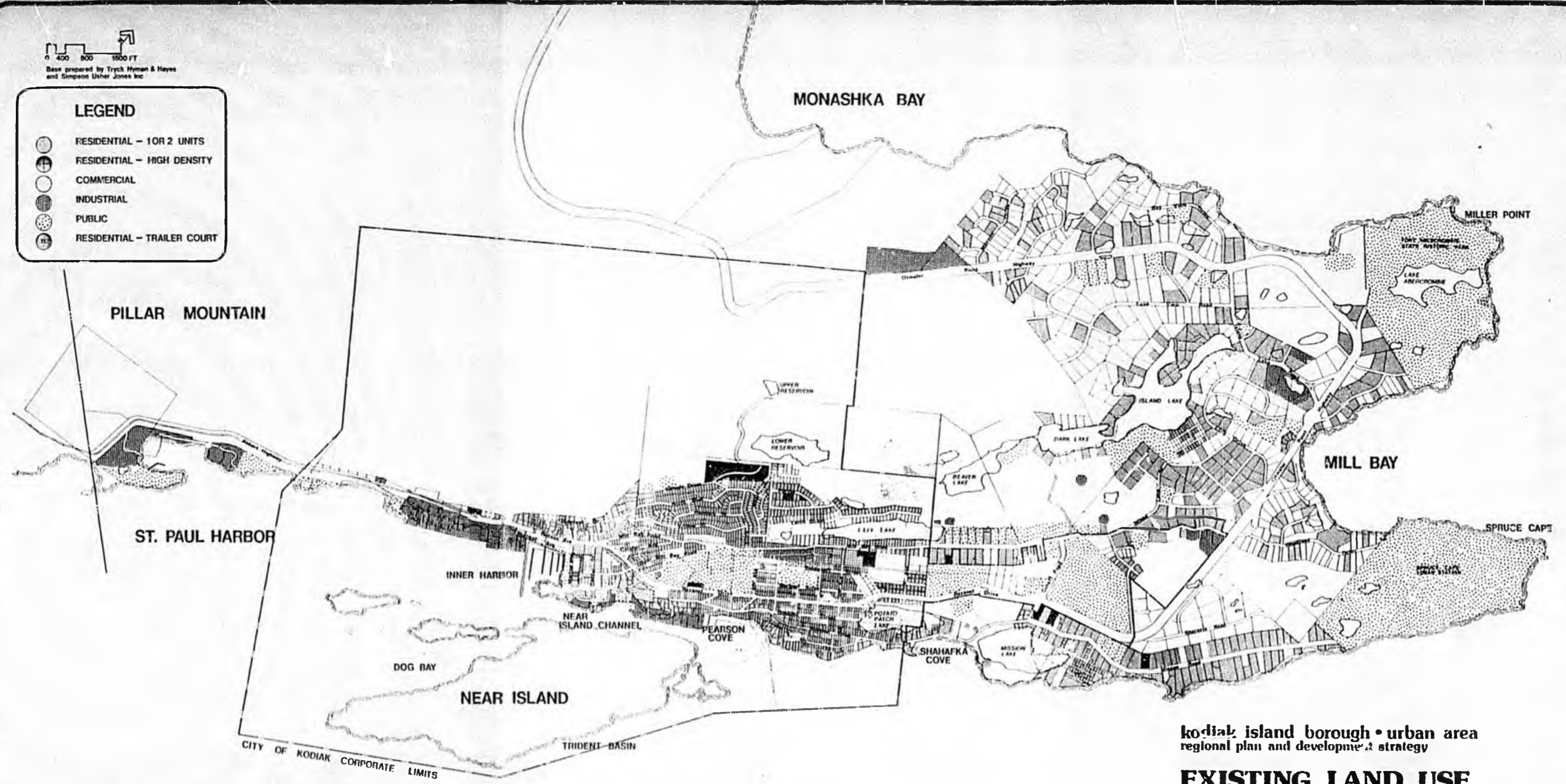
Together with all State waters lying within and appurtenant to the above described boundary; EXCEPT, all waters lying more than three miles Southerly of the boundary line between Perl Rock at or approximately at the S.E. Corner of Sec. 31, T12S, R14W (projected) and Longitude 153°00'00"W, Latitude 59°02'00"N, in Cook Inlet, and the N.E. Corner of Sec. 27, T15S, R25W (projected), at Cape Douglas, Southwesterly offshore jurisdiction terminates at a line beginning at the N.E. Corner of Sec. 27, T15S, R24W (projected), at Cape Douglas; and extending S62°30'00"E three miles.



Base prepared by Tryck Hyman & Hayes
and Simpson Usher Jones Inc

LEGEND

- RESIDENTIAL - 1 OR 2 UNITS
- RESIDENTIAL - HIGH DENSITY
- COMMERCIAL
- INDUSTRIAL
- PUBLIC
- RESIDENTIAL - TRAILER COURT



**kodiak island borough • urban area
regional plan and development strategy**

EXISTING LAND USE

Prepared by Simpson Usher Jones Inc for Kodiak Island Borough
and the Department of Community and Regional Affairs, State of Alaska

BOROUGH



DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS

Commanding Officer
USCG Support Center
Box 14
Kodiak, Alaska 99619

20 May 1978

Local Boundary Commission
State of Alaska

STATEMENT OF THE POSITION OF THE COMMANDING OFFICER, UNITED STATES COAST GUARD SUPPORT CENTER, KODIAK, ALASKA, WITH RESPECT TO THE PROPOSED ANNEXATION OF UNITED STATES COAST GUARD SUPPORT CENTER, KODIAK, ALASKA, TO THE CITY OF KODIAK, ALASKA.

To the Local Boundary Commission:

Having received notice of a public hearing to be held by the Local Boundary Commission on 20 May 1978, at Kodiak, Alaska, for the purpose of obtaining public testimony concerning, among other things, the annexation of USCG Support Center Kodiak to the City of Kodiak, I hereby offer to the Commission my written statement of the position of this Command as well as of the Commander, Seventeenth Coast Guard District, with respect to such annexation.

ANNEXATION OF THE ENTIRE SUPPORT CENTER

It has long been and it remains the position of the Support Center Kodiak Command to oppose the annexation of Support Center Kodiak to the City of Kodiak or to the Kodiak Island Borough for the following reasons:

The purpose and rationale behind annexation of any area to a political subdivision is to better serve the needs of the residents of the area through the provision of municipal services and through municipal supervision of the growth and development of the area. Annexation also provides the concomitant rights of the municipality to tax the residents of the annexed area to finance provided services and the right of the residents to a voice and vote in matters affecting the local municipality. The need for services within the area considered for annexation and the ability of the municipality to provide such services immediately or in the near future are the prime requisites necessary to legitimize annexation. In the case of USCG Support Center Kodiak, neither of these requisites is met. Neither the City of Kodiak nor the Kodiak Island Borough provides a single substantial service to the residents of Support Center Kodiak or to the Coast Guard Command. Electrical power is generated by the Coast Guard power plant and shared with Kodiak Electric Association through a wheeling agreement. Water service to the Support Center and its residents and tenants is provided from Coast Guard sources. Sewage disposal and treatment is accomplished by Coast Guard facilities as is solid waste disposal. Road maintenance of all internal Support Center roads is accomplished by Support Center public works personnel. In the

words of the final report of the Department of Community and Regional Affairs dated May 17, 1978, the Coast Guard Support Center "is totally self-sufficient, containing all facilities and providing all services necessary for the well-being of Coast Guard personnel."

Although the Kodiak Island Borough provides schools for children residing on Support Center Kodiak, the Federal Government provides funding to offset the cost of educating those children.

If Support Center Kodiak in its entirety were annexed to the City of Kodiak and/or to the Kodiak Island Borough, certain residents of the Support Center would be subject to potential taxation based upon ownership of personal property. It should be noted that the bulk of otherwise taxable property held by Support Center residents would likely escape taxation because it is owned by military personnel who are protected from local taxation by the Soldiers and Sailors Civil Relief Act. It is nonetheless patently unreasonable to permit potential taxation of some Support Center residents when no services are received in return. The United States Government and its instrumentalities are exempt from local taxation. With the exception of the State-leased airport facility, there are no commercial activities or sales outlets on the Support Center which would be subject to significant local taxation.

It is obvious that Support Center residents do make limited use of City services while in the City of Kodiak. However, Support Center residents support such services through the payment of sales tax on transactions within the City.

The Department of Community and Regional Affairs' preliminary report dated May 10, 1978, indicated the Department's position that the appropriate standards for annexation were satisfied only for the State airport portion of Support Center Kodiak. In its final report, dated May 17, 1978, the Department "suggests" that the entire Support Center be considered for annexation, citing as its only basis for including the entire Support Center the fact that the "territory is urban in character" as evidenced by USCG's own estimate of population to be approximately 3,000 residents."

Even assuming that Support Center Kodiak is "urban in character" it is obvious that this standard is not properly applicable to a self-sufficient, self regulating, internally planned Federal Military installation. The Department clearly failed to look behind the mere words of the Administrative Code and to consider the purpose behind the standard in light of the Commission's analysis guidelines and common sense.

Annexation of the Support Center could result in participation in local elections by a rather substantial, essentially transient, voting population. While it is not the intention of the Support Center Command to argue for or against the inclusion of these persons in the local political structure, such possible consequences should be noted by the Commission.

In summary, unless and until the City of Kodiak and/or Kodiak Island Borough can provide significant services to the Support Center and its residents, the Support Center Command will continue to oppose annexation of the entire Support Center.

ANNEXATION OF THE STATE AIRPORT

The City Manager of the City of Kodiak has indicated, both directly to the Support Center Command and to the Department of Community and Regional Affairs (as indicated in the Department's preliminary report dated May 10, 1978), that the City is seeking annexation of only that part of Support Center Kodiak encompassing the State-leased airport and perhaps such minimal unpopulated portions of the Support Center necessary to provide contiguity.

The Support Center Command does not oppose annexation of the State-leased airport portion of the Support Center provided that the annexing body is willing to undertake at the earliest possible time the provision of all or most of those services now provided to the airport facility by the Support Center.

The Support Center presently provides the airport with water, sewage, electricity for the airport runway lighting, solid waste pickup and disposal, and primary structural fire response. Support Center Kodiak can not and will not expand its provision of these services (sewage service capability being particularly strained at present) as the airport facility expands.

It should be emphasized that the non-opposition of the Support Center Command to the annexation of the State airport as compared to the opposition of the Command to total annexation is based on the following considerations:

1. Annexation of the airport only would not impact negatively on Support Center residents.
2. The Support Center generally receives no major services from the City and/or Borough justifying annexation and such services are unlikely to be available in the near future. The State airport, on the other hand, presently constitutes a drain on Support Center services which could be alleviated to a substantial degree by annexation of that facility with subsequent provision of services by the annexing municipality.
3. The State airport facility constitutes a potential source of tax revenue for the annexing municipality to offset services provided to the facility. The remainder of the Support Center represents minimal additional revenue.

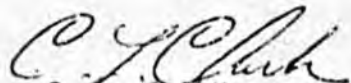
GENERAL COMMENTS

The Support Center Command offers the following comments concerning the procedural aspects of the Department of Community and Regional Affairs' reports and the Local Boundary Commission's Hearing.

Despite the fact that the Department's report bears the date May 17, 1978, it was not available to the Coast Guard in Juneau even as late as May 19, 1978, and was not made available to Support Center Kodiak until the day of the public hearing. Furthermore, the Support Center Command is unaware of any petition submitted by the City of Kodiak or by the Department dealing with annexation of all or any part of Support Center Kodiak. The petition mentioned in the introduction to the Commission's final report dated May 17, 1978, deals with other areas under consideration for annexation.

The Support Center Kodiak Command objects to the hurried approach taken by the Department of Community and Regional Affairs in the preparation of its report and conclusions and in the scheduling of a hearing on Support Center annexation. The Support Center Command further objects to the lack of sufficient time to examine the Department's final report, particularly in light of the major reversal of the Department's position with respect to Support Center annexation. The Support Center Command likewise objects to the Department's failure to require adherence to the Title 19 Alaska Administrative Code requirements respecting petitions for annexation.

Some or all of the material presented herein may be elaborated upon and new material may be presented by the Support Center Kodiak Command representative at the Local Boundary Commission's public hearing.


C. L. CLARK
Captain, USCG
Commanding Officer
USCG Support Center Kodiak

PMSAP

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

- ① 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
- ② contained in the petition were presented only in a statement, not an affidavit (19 AAC 10.040[2]); and the petition was
- ③ wrongly addressed to the Department rather than the Commission (19 AAC 10.030). 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

KIB-26
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

RECEIVED OCT 12 1977

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

LAND AND WATER MANAGEMENT
SOUTHCENTRAL DISTRICT

3327 Fairbanks Street
Anchorage, Alaska 99503

~~XXXXXXXXXXXXXXXXXXXX~~

October 4, 1977

Mr. Stuart Denslow
Borough Manager
Kodiak Island Borough
Box 1246
Kodiak, AK 99615

Dear Mr. Denslow:

This is to acknowledge receipt of Kodiak Island Borough's
Municipal Selections, ADL 200122.

Further processing of the pending selections by the
Southcentral District Office is not anticipated until
completion of legislative action on House Bill 133 which
addresses the municipal land selection problems in Title 29
of the Alaska Statutes. If, in the meantime, there are
critical priority selections requiring immediate attention
or questions regarding your selection status, we will be
glad to respond to your needs.

Sincerely,

L. A. Dutton
District Manager

cc: Dale Tubbs
Moening-Grey and Associates

^{10/5}
Dale - Sorry we didn't get these recorded
promptly. When I gave your package of selection to
Jack Wiley I evidently didn't make it clear to Jack that
the selection applications were to go to Records.

There will be no filing fees this time as the
fee has not been officially established.

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 residents 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

By: *Richard A. Jones*
City Manager

KODIAK ISLAND BOROUGH

By: *[Signature]*
Borough Manager

CONTRACT TO FURNISH FIRE PROTECTION SERVICE

THIS CONTRACT made this 2ND day of ~~May~~^{July}, 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 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 Resoff*
PETE RESOFF, Mayor

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

ATTEST: *Norma Holliday*
NORMA HOLLIDAY, Clerk

ATTEST: *Robert Grafe*
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

SUMMARY STATEMENT
OF THE KODIAK ISLAND BOROUGH'S POSITION ON
THE CITY OF KODIAK'S PROPOSED ANNEXATION

At the behest of large numbers of constituents, and on the basis of its own judgment, the Kodiak Island Borough Assembly has determined to oppose the annexation of the "Mill Bay Road" and "Mission Road" areas by the City of Kodiak. The Local Boundary Commission has submitted its recommendation in favor of annexation. Kodiak lawmakers Mulcahy and Zharoff have introduced joint resolutions for disapproval of the annexation.

The matter now rests with the Legislature, its discretion to be guided, as in other policy matters, by the best interests of the citizens involved. The Legislature has until March 10, 1979 to adopt the Mulcahy/Zharoff resolutions, or the annexation will become effective. (Art. X, Sec. 12, Alaska Constitution.)

The Borough is concerned with four central issues relating to the proposed annexation. In the hope that legislators attempting to analyze this matter may find identification of these issues useful, they are presented in summary form below.

1. Lack of Democratic Process
in Approving Annexation

The people of Kodiak share a sense of outrage at the manner in which this annexation has proceeded to date. While the Alaska Statutes (AS 29.68.010[b][1]) and the Local Boundary Commission regulations (19 AAC 10.200 and 15.030) authorize a vote on annexation by the residents of the affected territory, no such opportunity was ever afforded the people in this case. Although they came in droves to Commission hearings and testified in opposition to the annexation, their views were not heeded. The Local Boundary Commission chose instead to decree what was "best" for the residents of Kodiak, City and Borough alike. The Boundary Commission was within its legal rights in adopting this procedure. The theoretical "legality" however, does not alter the fact that imposing a government upon a group of citizens against their will is contrary to our fundamental concepts of majority rule, due process, and democracy.

2. The Economic Facts and Equities

One of the grounds for annexation propounded by the City is the purported unfairness of Borough residents availing themselves of City services without -- allegedly -- paying their way. In fact, the Borough makes possible many of the services for which the City takes credit through Borough donation of major facilities (e.g. swimming pool and gymnasium). The City properly charges user fees for port and dock operations. And non-City residents contribute approximately 50 percent of the City's three percent sale tax revenues which fill the municipal coffers each year. The Borough Planning Director, who currently lives outside the City limits, has calculated that fully 70 percent of his local tax dollar actually goes to the City.

In addition to supporting general City operations, these sales tax receipts are used in another, highly significant way: to pay the personal property tax for City residents and others who own personal property within City limits. Residents in the territory proposed for annexation thus pay personal property taxes twice: first their own, and then a substantial contribution to the taxes of persons living inside the City.

From the perspective of individuals living in the Mill Bay and Mission Road areas, annexation would result in an increased tax burden in the neighborhood of 6.8 mills. In light of the fact, as indicated below, that most of these residents do not want or need the "services" which would theoretically become available to them upon annexation, such onerous taxes would be completely unwarranted.

3. Forced Change in Lifestyle

Most of the people in the territory proposed for annexation chose to live in this region specifically to avoid crowded, urban conditions, unnecessary government intrusion, and burdensome tax assessments. Many invested substantial sums in individual sewer and water systems. They have no desire for additional police services. They do not want City refuse collection. They live on State-maintained roads or unpaved local roads, which are just fine with them. They have voted that, to the extent necessary, they want the Borough to provide sewer and water and road service through service districts -- at a level of service they can afford.

Should annexation of these people's land occur, many on larger rural lots will be forced to subdivide to pay their property taxes. A greater need for services will then arise. The City's ability to provide such services will be strained. And a very desirable, very Alaskan lifestyle will have been destroyed.

4. Ability and Integrity of the City

The move for annexation did not come from the people within the City. They have no more desire for annexation than do the residents in the affected territory. The annexation petition originated in City hall alone. It is questionable whether this is a government whose jurisdiction should be extended at this time.

The City of Kodiak has attempted to coerce residents into accepting annexation by denying its ability to provide utility services outside its own boundaries. Yet the Alaska Statutes specifically confer such authority on the City, as does the City's own Charter. (See AS 29.48.040; Kodiak Charter Art. VIII, Sec. 8-1) By agreement with the Borough, moreover, pursuant to federal and state grants, the City is obliged to cooperate in the furnishing of water and sewer services to residents outside the City limits who require this assistance. The City has refused to honor this obligation. The people in the area proposed for annexation do not want to be within the power of a governmental entity which, in their view, has not dealt fairly with them.

City residents have complained moreover, that there are unmet needs within the current City limits. It would seem more appropriate for the City to focus its attention there before taking on additional problems outside its present boundaries.

In summary, the people do not want or need annexation, nor do the equities of the situation require it. To the contrary, fundamental fairness and a basic democratic approach to government mandate the defeat of this annexation proposal.

9

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, 1978.¹ 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

¹The 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.² 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,

²For 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 of 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 innuring 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 Mill 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.

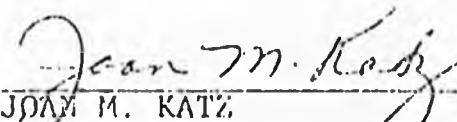
Conclusion

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 17th day of May, 1978.



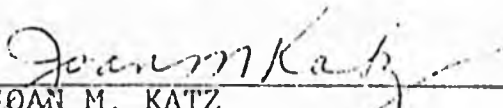
JOAN M. KATZ
Attorney for the Kodiak
Island Borough

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, 1978.



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

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 15th day of November 1977,
by and between the KODIAK ISLAND BOROUGH, hereinafter referred to as the
BOROUGH, the KODIAK ISLAND BOROUGH SCHOOL DISTRICT, hereinafter referred
to as the *DISTRICT*, and the CITY OF KODIAK, hereinafter referred to as the
CITY.

WITNESSETH:

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

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

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

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

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

by the Parks & Recreation Department; and, 20

WHEREAS, maximum use can be made of said swimming pool and gym- 21
nasium facilities by the joint use thereof of the DISTRICT and the CITY, 22
and it is in the best interests of the parties hereto and the public that 23
such use be made thereof. 24

NOW THEREFORE, in consideration of the above premises and the 25
undertaking and covenants of each of the parties as hereinafter set forth, 26
it is agreed by and between the parties as follows: 27

1. TERMS:

This AGREEMENT shall be effective for a term of 7 1/2 months, 28
commencing on November 15, 1977, and ending on August 1, 1978. 29
The AGREEMENT may be terminated by either party giving 30 days written no- 30
tice. 31

2. USE OF POOL & GYMS:

The DISTRICT shall have the right of exclusive use of said 32
swimming pool and gymnasiums upon regular school days, Monday through Fri- 33
day of each week during each school year, from 7:30 AM to 5:00 PM of each 34
of the said days, except that the CITY reserves the right to use the pool 35
or gymnasiums for the public if they are not being used at that time by 36
the DISTRICT. The DISTRICT shall also, in addition to the hours specified, 37
have the right to use the pool and gymnasium facilities for school activi- 38
ties and athletic purposes, but the gymnasiums and pool shall not be used 39
by the DISTRICT for any program designed, or by its nature competitive 40
with the recreation program carried on by the CITY. However, the DISTRICT 41

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

3. FACILITIES:

The *DISTRICT* facilities which are the subject of this agreement include the pool, the gyms, the locker rooms, together with a limited amount of office storage space. 44
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4. SCHEDULING OF FACILITIES:

The *DISTRICT* shall have first priority in scheduling its activities. After the *DISTRICT* establishes its schedule, the *CITY* shall make up its recreation schedule. The *CITY* must provide the *DISTRICT* with at least one week advance notice prior to commencement or change of the *CITY* recreation time schedule. Once the *CITY* established their recreation schedule, the *DISTRICT* must give the City Parks & Recreation director at least one week advance notice before changing their *DISTRICT* schedule, and this schedule change must meet the approval of the City Parks & Recreation director and the School Superintendent. Use of *DISTRICT* facilities by groups outside the realm of the *CITY* or the *DISTRICT*, at times other than during regular school hours, will be scheduled by the *DISTRICT* Community School Coordinator with the approval of the *CITY* Parks & Recreation director. 47
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5. DENIAL OF FACILITIES:

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

and ethical standards of the *DISTRICT*. 63

6. CITY OPERATIONS:

The *CITY*'s responsibility is restricted to public use of the 64
gyms and the pool as well as daily maintenance of the pool. This means 65
that the *CITY* will: 66

a. Hire, terminate, pay, and supervise all *CITY* 67
recreation personnel. 68

b. Schedule all *CITY* recreation use programs and 69
activities. 70

c. Do the pool vacuuming, filtration, chemical 71
up-keep, and locker room clean-up. 72

d. Provide reimbursement to the *DISTRICT* for over- 73
time custodial services incurred when *CITY* recrea- 74
tional activities last later than 10:30 PM, unless 75
prior agreements are made for use of the facility 76
past the allotted time. 77

e. Provide supervisory personnel for all *CITY* re- 78
creation activities and insure that *CITY* recreation 79
participants have vacated *DISTRICT* facilities prior 80
to the supervisor's conclusion of duties. 81

7. DISTRICT OBLIGATIONS:

The *DISTRICT* will at its sole cost and expense: 82

- a. Provide heat, light, power, water, chemical supplies, and equipment necessary for both *DISTRICT* and *CITY* use. 83
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- b. The *DISTRICT* will continue to handle all major mechanical work and the annual pool overhaul. 86
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- c. Provide all necessary building maintenance for the gyms, pools, and supporting facilities. 89
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- d. Provide regular custodial services during the regular school year when facilities are vacated by *CITY* recreation participants and supervisors by 10:30 p. m. 91
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8. FEES:

Since *CITY* expense for operating the pool must be met by gate receipts, all gate receipts collected by the *CITY* are to be the property of the *CITY*. 95
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9. LIABILITY INSURANCE:

The *CITY* shall at all times maintain and keep in effect liability insurance covering its use of said facilities. 98
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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. Wilson
City Manager

ATTEST:

Robert Rossall
City Clerk

KODIAK ISLAND BOROUGH

By Bruce J. Miller
Borough Mayor

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 USS 3511 to City. Mr. Post 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 USS 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. Dewitt Fielus 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 Ouzinkie 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 CHAIRMAN'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 463--appropriation bill for HB 402.

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.

SB 298--38 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 the Project, for the amount specified in the attached bid schedule. All expenses 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 D. Lussac
(Secretary)

BY James E. Proff
Presiding Officer
(Title)

Shirley Miller
(Witness)

ALAGNAK, INC.

(Contractor)

[Signature]
(Secretary)

BY Frank A. [Signature]
President
(Title)

[Signature]
(Witness)

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

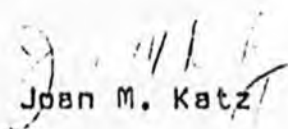
Dear Pat:

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

D 15

G. Hayden Green, Ph.D., MBA

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

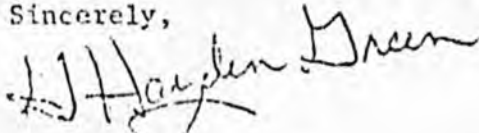
Betty Wallin, Mayor
Kodiak Island Borough
Kodiak, Alaska

Honorable Betty Wallin:

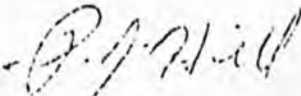
In accordance with your request, Dr. P.J. Hill and I conducted an analysis to determine the economic consequence with regard to the matter of annexation of portions of the Kodiak Borough by the City of Kodiak. To facilitate the study, we have thoroughly dissected the annual operating budgets of both 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 astute 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 FREQ (%) CITY | RELATIVE FREQ (%) 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 |
| Ocher | 9.0 | 5.0 |

TABLE 3

COMMUNITIES' MOST PRESSING NEEDS

| | RELATIVE FREQ. (%) CITY | RELATIVE FREQ. (%) 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 |
| Secondary 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 | 12.6 |
| Sanitation | 29.1 | 23.5 | 45.7 | 47.9 | 15.1 | 18.5 |
| Public Assistance | 26.1 | 25.2 | 52.8 | 50.4 | 6.0 | 9.2 |
| Employment | 46.7 | 42.0 | 28.6 | 28.6 | 11.6 | 17.8 |
| Social Services | 45.2 | 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 that 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.

G. Hayden Green, Ph.D, MBA

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 Executive & Clerk | City | Borough |
|--|--------|---------|
| 1. Travel & Per Diem | 6,870 | 8,780 |
| 2. Compensation Mayor council | 2,750 | 4,800 |
| 3. Legal | 55,000 | 16,500 |
| 4. Capital Expenditures 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 (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 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 | 251,230 |
| 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 | 67,151 |
| 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.

TABLE 6

POSSIBLE DUPLICATION ELIMINATED THROUGH UNIFICATION

| | Cost | No. of Positions |
|-----------------------------------|------------------|------------------|
| Mayor | \$ 600 | 1 |
| Travel | 2,160 | 6 |
| Transportation | 1,685 | |
| Dues & Subscription, City Manager | 4,500 | |
| City Manager | 39,500 | 1 |
| Benefits | 11,850 | |
| Transportation, City Manager | 3,650 | |
| City Clerk | 27,687 | |
| Benefits | 8,306 | |
| Transportation for City Clerk | 1,100 | |
| Annual Audit | 23,500 | 1 |
| Dues for City Clerk Assoc. | 1,600 | |
| | <u>\$126,138</u> | |

(2% saving on combined budget)

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.

G. Hayden Green, Ph.D, MBA

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.

MEMORANDUM

DATE: May 19, 1978

TO: Chairman and Membership
Alaska Local Boundary Commission

FROM: Kodiak Island Borough

SUBJ: Local Boundary Commission Report Proposing
The Annexation of Certain Borough Lands to
The City of Kodiak

On Friday, May 12th, Kodiak Island Borough was presented with a copy of a Preliminary Report to the Local Boundary Commission proposing to annex certain lands in the urban area of the Borough to the City of Kodiak. The Boundary Commission staff and the City of Kodiak had a number of months to prepare the analysis and recommended annexations, whereas the Borough was given a period of only seven (7) days in which to evaluate the technical and financial consequences of the staff assumptions and recommendations in the report. The Borough has exerted its best efforts to prepare for this hearing. If more detail is required by the Commission we will be glad to provide that as soon as reasonably possible.

A cursory examination of the report noted numerous areas of fact, substance and assumption which appears to reflect a bias by the staff in favor of annexation and resulting in inaccurate conclusions. Specific examples of the above were conveyed to Boundary Commission staff by phone on May 18th, 1978. If required, a more detailed comment will be provided in writing upon the conclusion of our evaluation in the weeks ahead.

Matters of Policy

Section VI of the above referenced report draws conclusions and makes recommendations based on the apparent assumption that annexation is the only viable boundary adjustment technique and that the Local Boundary Commission should review activities in the area for purposes of assuming a mediating role to resolve alleged conflicts related to municipal services and the occupancy of contiguous political and physical space.

Unfortunately, the staff fails to recognize that the City of Kodiak is part of Kodiak Island Borough, in point of fact, representing only slightly over four square miles, in the heart of the Borough urban area, located within the five thousand five hundred square mile archipelago. Within the area of the archipelago the Kodiak Island Borough has operating responsibility for the most significant area-wide public services in the form of education, health services and facilities, planning, zoning and community development, assessment and taxation and non-areawide parks and recreation (see Table 1).

On a more selected basis, Borough voters have chosen to create a series of special service districts to provide for the construction and maintenance of roads, sewer and water utilities and fire protection. No requests have been received for police service or solid waste disposal.

Through their actions voters have expressed the desire to create special service districts which enable them to identify the municipal services

TABLE 1

AREA-WIDE SERVICES

| | <u>COSTS</u> <u>FY '78</u> | <u>POPULATION</u> <u>SERVED</u> |
|--|-------------------------------|------------------------------------|
| <u>EDUCATION:</u> | | |
| Kodiak Island Borough School District | \$6,167,727.00 | 10,351 |
| <u>HEALTH:</u> | | |
| Kodiak Island Hospital | 1,428,137.00 | 10,351 |
| Kodiak Aleutian Mental Health Center | 210,798.00 | 10,351 |
| <u>PLANNING & ZONING:</u> | 176,177.00 | 7,901 |
| <u>ASSESSMENT & TAXATION:</u> | 106,921.00 | 7,901 |
| <u>PARKS & RECREATION:</u> (Planning only - First Year) | 10,783.00 | 7,901 |
| TOTAL | \$8,109,553.00 | |

SPECIAL DISTRICTS SERVICES

| SERVICES: | BELLS FLATS/RUSSIAN CREEK SERVICE AREA | SERVICE DISTRICT I MILL BAY-MONASHKA SERVICE AREA | OTHER SERVICE AREAS |
|-----------|---|---|---|
| Roads | \$38,500.00 | \$ 9,750.00* | |
| Sewer | Services Not Requested Private | \$ 3,015,000.00* | |
| Water | Services Not Requested Private | \$ 2,014,000.00* | |
| Fire | Borough Fire District Pending | \$ 54,646.00** | Karluk Fire Service Distri \$1,320.00 |

* Proposed F.Y. '79

** Actual F.Y. '78

they desire to receive, the level of service to be provided and the costs they are willing to bear for the maintenance of those identified levels of service. As a matter of policy the Borough Assembly has agreed to provide only those types and levels of Borough municipal services that are requested by the citizens as they are willing to vote for and, subsequently, pay for them. Through the utilization of service districts non-areawide special services can be identified by citizens to include a determination of level of service and the costs associated with same. This policy approach assures that the voter is consciously committing himself to a service burden based upon need and willingness to pay. In the context of this policy, the City of Kodiak can be looked upon as a service district wherein the voters assumedly have selected a unique combination of services and levels of support appropriate to their needs and wishes. Unfortunately, an assumption appears to have been made by the City of Kodiak and the Boundary Commission staff, that through the act of annexation a package of preselected services from the Kodiak urban service district (City) ought to, in some way, be superimposed on the voters of adjacent service areas. The research of Messers. Green and Hill show conclusively that there are no socioeconomic or political conclusions that warrant annexation actions. /1

Unification On Fall Ballot

Unification of the City within the Borough provides a method of boundary adjustment which can, by a vote of the people, provide a governmental organization that flexibly meets the needs of diverse interests in the

same political and physical space while giving the voting public continuous opportunity for decision making with respect to the identification of services and the determination of levels and costs for the delivery of same. Kodiak Island Borough Assembly Resolution 78-34-R will place the question of unification before the voters of the Borough at the October, 1978 election, which if acted upon affirmatively, in due course, will dissolve the one boundary line of contention.

Determining Levels Of Service

A fundamental of democracy provides that people will be given the opportunity to select both the type and level of services they are willing to vote and ultimately pay for. This condition introduces the opportunity for different levels of service within different portions of the urban area. By way of example, it can be pointed out that the provision of road service in the Bells Flats/Russian Creek Road Service District costs approximately \$4,000.00 per mile per annum. The service includes grading, some ditching and culvert work and snow removal. The service is provided by a private public works contractor employed by the Borough. In contrast, in the City of Kodiak similar street maintenance activities are costing the City approximately \$16,000.00 per mile as provided by the City Department of Public Works. Construction is not included in either example. We can conclude from the numerical comparisons that either City maintenance is four times as good per unit price or some other condition intervenes to justify the differences in cost per equivalent level of service. It should be obvious from the cost savings involved, however, that the Borough will continue to utilize a contractor

for a public works function to meet the level of service expectations. In another example, police service, the Borough has not received a request for service beyond that which is provided by the Alaska State Troopers. In the absence of a request for additional special police service we must conclude that there is a high level of satisfaction with the service currently rendered. Concurrently, in the City of Kodiak \$813,000.00 were spent last fiscal year for police services.

The above examples serve only to point out that in a given urban area significant difference in levels of demand for services exist and the voting public must be provided with an opportunity to select the level of service and through their vote indicate their willingness to pay for the costs of same. The Borough service district mechanism provides the least obtrusive and most flexible method for meeting special public service demands.

/1 Annexation Economic Analysis - Kodiak Island Borough;
Green, Hayden G. Ph.D. and Hill, P.J. Ph.D.; University of
Alaska, Anchorage. May 19th, 1978.

city