

691

HCRRA

KODIAK

ANNEXATION

091

Boundary Commission such information and/or reports that either may require prior to, during or subsequent to the election. No such election shall be valid unless the notices pertaining to such election, the way in which the proposal is phrased on the ballot, and the timing of the election have been approved by the Commissioner of the Department of Community and Regional Affairs. (Eff. 2/28/65, Reg. 14; am 10/13/72, Reg. 43)

Authority: Art. X, Sec. 12  
State Constitution  
AS 44.19.260(a)(2)

**19 AAC 10.240. BOROUGH SERVICES.** The city must accept immediate responsibility for non-areawide borough services currently provided in the newly annexed territory. (Eff. 10/13/72, Reg. 43)

Authority: Art. X, Sec. 12  
State Constitution  
AS 44.19.260(a)(2)

**19 AAC 10.210. TAXES.** The percentage of city taxes on newly annexed properties is determined as follows:

(1) city services to be provided during each year are scheduled by the petitioners or the Local Boundary Commission in consultation with city officials;

(2) the cost of each service as a percentage of the gross general fund expenditure for the fiscal year immediately preceding the annexation is computed;

(3) newly annexed residents pay a percentage of the full city property tax rate equal to the total percentage cost of all services provided. (Eff. 10/13/72, Reg. 43)

Authority: Art. X, Sec. 12  
State Constitution  
AS 44.19.260(a)(2)

**19 AAC 10.220. VOTING.** Residents in the newly annexed territory have the same voting privileges as other city residents. (Eff. 10/13/72, Reg. 43)

Authority: Art. X, Sec. 12  
State Constitution  
AS 44.19.260(a)(2)

**19 AAC 10.230. ORDINANCES.** City sales tax ordinances and all other city ordinances except those applicable to city services not yet provided are immediately effective in the annexed territory. (Eff. 10/13/72, Reg. 43)

Authority: Art. X, Sec. 12  
State Constitution  
AS 44.19.260(a)(2)

**CHAPTER 15. BOUNDARY CHANGES BY LOCAL ACTION**

**Article**

- 1. Annexation to Municipalities
- 2. Detachment from Municipalities

**ARTICLE 1. ANNEXATION TO MUNICIPALITIES**

**Section**

- 10. Initiation of request for boundary change
- 20. Form and contents of petition
- 30. Exhibits
- 40. Annexation of territory of another municipality
- 50. Filing of petition
- 60. Sufficiency
- 70. Review by Local Boundary Commission
- 80. Election
- 90. Notice of election
- 100. Conduct of election
- 110. Form of ballot
- 120. Canvassing of election
- 130. Effective date of annexation
- 140. Annexation without election
- 150. Annexation of municipally-owned property
- 160. Timeliness

**19 AAC 15.010. INITIATION OF REQUEST FOR BOUNDARY CHANGE.** (a) A request for an annexation under secs. 10-160 of this chapter may be initiated by a petition signed by at least ten percent of the currently registered voters residing within the territory proposed to be annexed, or by a petition of the municipality seeking annexation.

(b) The person or entity initiating the petition shall be designated petitioner. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12  
State Constitution  
AS 29.68.010(b)  
AS 44.19.260(a)(2)

**19 AAC 15.020. FORM AND CONTENTS OF PETITION.** (a) The petition shall be addressed to the Department of Community and Regional Affairs and shall bear a caption which clearly identifies the nature of the boundary change and

the municipality whose boundary is to be changed.

(b) The petition shall contain:

(1) the name, residence address, and mailing address of each petitioner;

(2) the name and mailing address of the attorney or other representative designated by the petitioner(s) to receive service, notice and all other correspondence relating to the proceedings in behalf of the petitioner(s);

(3) a legal description of the territory affected by the proposed boundary change;

(4) the estimated number of residents within the territory proposed to be annexed;

(5) the quantity of land contained within the territory proposed to be annexed;

(6) the assessed or estimated value of all real and personal property within the territory proposed to be annexed;

(7) the rate or rates at which real and personal property are taxed within the municipality to which annexation is proposed;

(8) the rate or rates of any sales or use tax levied by and/or collected within the municipality to which annexation is proposed;

(9) the amount of and a full explanation of any outstanding bonded indebtedness for which the territory proposed to be annexed is wholly or partially responsible;

(10) the population and area of the annexing municipality. (Eff. 4/1/73, Reg. 45)

Authority: Art. X, Sec. 12  
State Constitution  
AS 29.68.010(b)  
AS 44.19.260(a)(2)

**19 AAC 15.030. EXHIBITS.** There shall be appended to the petition the following exhibits:

(1) a map or maps showing the boundaries of the territory proposed for annexation; and

## Lawmakers Set Hearing In Kodiak

JUNEAU (AP) — Lawmakers will take the legislative process to the city of Kodiak next week for a hearing on a disputed annexation proposal in the community.

The state Local Boundary Commission has proposed that an area east of the city, with a population of about 1,500, be annexed. But the two state legislators from Kodiak say they have questions about the proposal, or at least the method in which it was made. And a number of the affected residents — who apparently would face tax hikes under annexation — are protesting.

Although the Local Boundary Commission has recommended annexation of the Spruce Cape, Mill Bay and Island Lake areas, the Legislature can overturn the decision with passage of a resolution, said Sen. Bob Mulcahy, R-Kodiak.

The Community and Regional Affairs committees of the House and Senate are planning to hold a hearing in the city Feb. 10, said the island's other legislator, Democrat House member Fred Zharoff.

Lawmakers say the hearing will let them receive testimony from the residents firsthand.

The Boundary Commission, in its report to the Legislature, cited evidence in favor of annexation. The report said the proposed annex is "generally urban in character," and that it is "in need of municipal services which can be most efficiently provided by the city of Kodiak."

The report cited a likelihood of growth in the area and said annexation "will enable the city to plan for and control that development and arrange the most efficient municipal services."

But two residents of the area involved, Ron Matsuoka and Melissa Newton, in a letter to legislative leaders, said "the wishes of area residents were totally ignored by the local boundary commission."

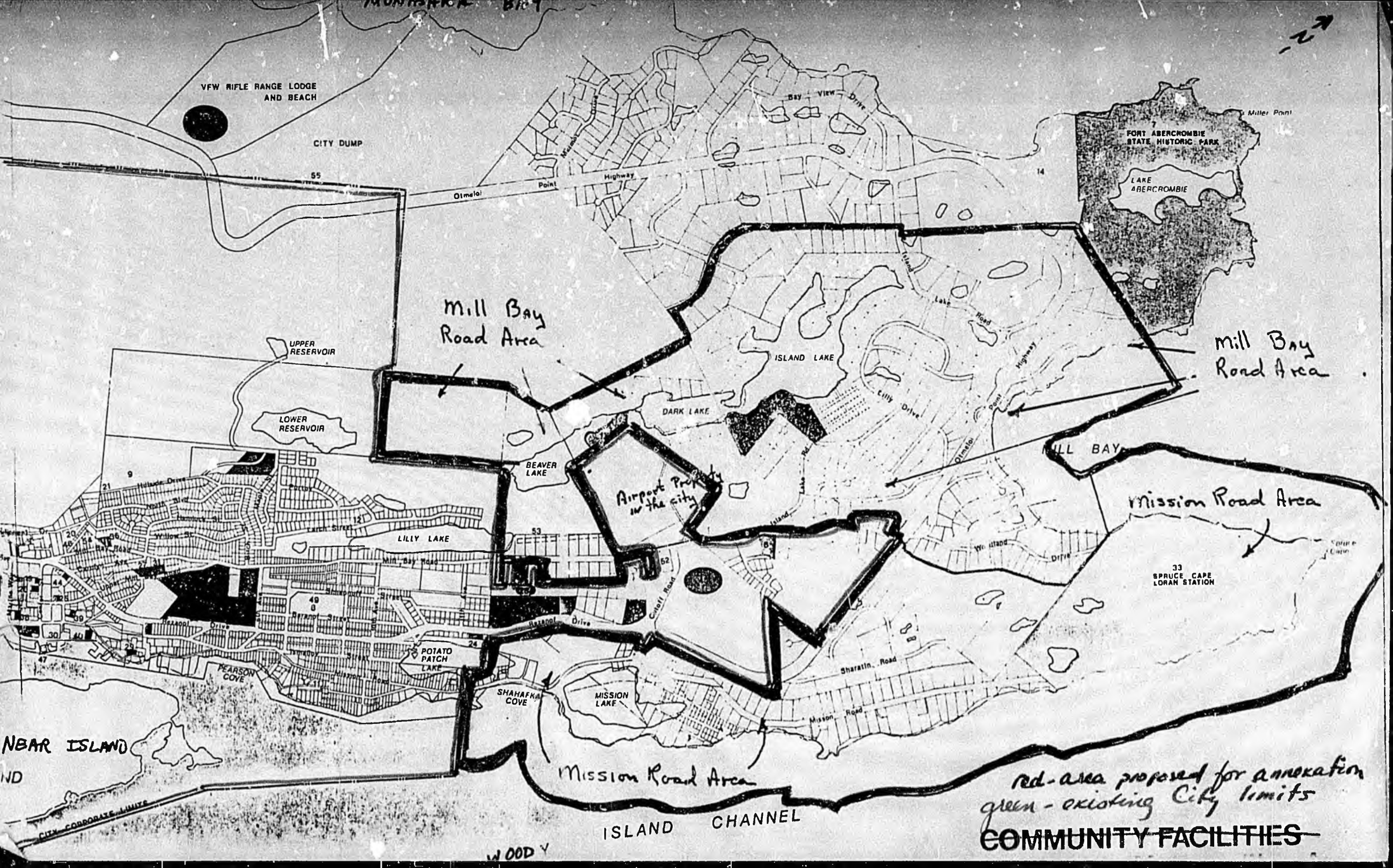
"Every resident of the area who testified at the boundary commission hearing spoke against forced annexation," they said.

The residents said they feel city services are not required in the area.

Mulcahy said he wants to represent the "wishes of the majority of people," and that a number of persons are opposed to the annexation.

He said he was most disturbed by "the method in which the annexation took place," and that the affected residents didn't vote on the issue.

"I haven't been a carrier of the annexation banner," he said.



VFW RIFLE RANGE LODGE AND BEACH

CITY DUMP

55

Olmsted Point

Highway

Bay View Drive

FORT ABERCROMBIE STATE HISTORIC PARK

LAKE ABERCROMBIE

Miller Point

Mill Bay Road Area

Mill Bay Road Area

UPPER RESERVOIR

LOWER RESERVOIR

ISLAND LAKE

DARK LAKE

BEAVER LAKE

MILL BAY

Airport Property in the city

Mission Road Area

LILLY LAKE

33 SPRUCE CREEK LORAN STATION

POTATO PATCH LAKE

MISSION LAKE

NBAR ISLAND

Mission Road Area

ISLAND CHANNEL

red-area proposed for annexation  
green-existing City limits

COMMUNITY FACILITIES

WOOD Y

REPORT TO THE LOCAL BOUNDARY COMMISSION  
ON THE PROPOSAL TO ANNEX CERTAIN LANDS  
IN THE KODIAK URBAN AREA  
TO THE CITY OF KODIAK

Department of Community  
and Regional Affairs  
Juneau, Alaska

May 17, 1978

## I. INTRODUCTION

On December 12, 1977, the Local Boundary Commission conducted a public hearing to take testimony respecting a petition (attachment #1) submitted by the City of Kodiak proposing annexation of certain properties to the City. As a result of that hearing the Commission elected to postpone action on the City's petition and subsequently submitted petitions for 100% annexations until it considered the broader issue of who --the City of Kodiak or the Kodiak Island Borough-- should be the principal provider of municipal services to residents of the Kodiak urban area. The Commission directed the Department of Community and Regional Affairs, in its capacity as staff advisor to the Commission, to prepare a report stating specific recommendations as to which areas, if any, ought to be annexed to the City of Kodiak.

## II. AUTHORITY AND NOTICE

Article X, Section 12 of the Alaska Constitution grants authority to the Local Boundary Commission to "consider any proposed local government boundary change" and to "present proposed changes to the legislature during the first ten days of any regular session". Alaska Statutes grant the Commission authority to "conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into a contiguous area and matters related to extension of services".

In accordance with AS 44.19.290, notice of the Local Boundary Commission's forthcoming public hearing and decisional meeting was ordered published in the Kodiak Daily Mirror editions dated May 4, 8, 15, and 19. A copy of the Notice is appended as attachment #3. Notice was also sent, by certified mail, to the manager of the Kodiak Island Borough, the manager of the City of Kodiak, and the Commanding Officer of the U.S. Coast Guard Station in Kodiak. Additionally, notice of the hearing was transmitted over radio station KVOK and TV station KOTV at least three times during the period May 1 to May 19.

### III. GENERAL INFORMATION

The following is a brief description of each of the four areas identified in the Notice of Public Hearing:

Mission Road Area: Generally this area consists of the territory located between the northeast boundary of the City of Kodiak and the terminus of Mission Road, located at Spruce Cape. Although the area is largely residential in character, it does contain several small service businesses. There are several mobile home courts located in the area, as well as a Baptist Mission. The only notable public facility is the Kodiak sewage treatment plant presently operated by the City. The Borough contends that the Kodiak sewage treatment plant is a regional facility which should be jointly operated by the City and the Borough.

Staff of the Kodiak Island Borough estimated the population of the area to be 790 residents as of 1977. There are at least 316 water taps in the Mission Lake, Outer Mission Road and Spruce Cape Areas. The City

indicated the population estimate of 790 residents is low. The Borough will provide the estimated value of taxable property at the public hearing. The population is projected to be 1,390 by 1985, a 76% increase over current figures.

Mill Bay Road Area: Generally includes that area extending from the northwest boundary of the City of Kodiak to the point where Mill Bay Road splits to Otmeloi Point and Fort Abercrombie, including the area around Island Lake, Beaver Lake and the relatively newly developed area of East Mill Bay.

Like the previously discussed territory, the area is primarily residential in character, although several businesses do operate in the area. The land most heavily populated is that surrounding Island Lake, while the remainder of the population is fairly evenly scattered throughout the Island Lake area. Population density is moderate to low. Borough estimates made in 1977 show a population of 400 for the Island Lake area and a total area population of 550. There are 100 water taps in the Island Lake Area and numerous wells. The City indicated the current population estimate of 400 residents is low. Estimates project a population of 900 for the Island Lake area by 1995. The only public facility of any consequence is the City of Kodiak's municipal airport. A Catholic school, teaching grades 1-8, is also located in the area. The Borough will provide an estimated value of taxable property at the public hearing.

Monashka Bay: Generally includes the area adjacent to Otmeloi Point and Fort Abercrombie roads. Much of this land is dedicated to public purposes such as the Fort Abercrombie State Park, the City of Kodiak Ram

Site -- a local outdoor theatre, a VFW site and the land fill site operated by the City on Borough land, water reservoir and transmission facilities. The remainder of the area is either undeveloped or very lightly developed. In 1978 Borough staff estimated the population of the area at 100. The current assessed value of property for Mission Road, Mill Bay and Monashka Bay areas is approximately \$21 million.

All of the previously described areas receive certain services from the Kodiak Island Borough, including the areawide services of education, planning, platting and zoning, tax assessment and collection and hospitals and health facilities; the non-areawide power of parks and recreation is not provided at this time; and, on a service area basis, fire protection, road maintenance, sewer and water service. The latter three services were only approved by voters in April of this year so actual implementation of the service has yet to begin. Fire protection is, in fact, provided by the City of Kodiak through a contract with the Kodiak Island Borough.

The City is providing 440 water taps and 48 sewer taps to the Mission Road Area, Mill Bay Area, and the Monashka Bay Area.

Coast Guard Base: The reservation, which is excluded from the Kodiak Island Borough boundaries, abuts the City of Kodiak's southern boundary and is totally self-sufficient, containing all facilities and providing all services necessary for the well-being of Coast Guard personnel. The Kodiak Island Borough operates an elementary school on base, while junior high and high school students attend school in downtown Kodiak.

We are not aware of any significant private property on the reservation with the exception of the Wien Air Alaska airport facility. The current estimated population of the U.S.C.G. station is approximately 3,000. An estimate of the potential taxable property at the U.S.C.G. station is between \$200,000 and \$400,000.



133,200	Bond payments
26,841	Contingency
93,136	Other

**General Fund Estimated Revenues**

1. Taxes	\$2,023,000
2. Licenses and Permits	28,970
3. Intergovernmental Revenues	434,016
4. Charges and Services	366,802
5. Miscellaneous Revenue	39,734
6. Non-Revenue Receipts	<u>1,279,491</u>
<b>Total General Fund Estimated Revenues</b>	<b>\$4,171,913</b>

**Capital Project Funds Estimated Expenditures\***

1. Federal Revenue Sharing Trust	\$ 261,000
2. Federal Anti-Recession Fiscal Assistance Fund	79,516
3. Street Improvement	673,300
4. Building Improvement	153,135
5. Water Source Expansion	1,320,655
6. Water/Sewer Line Construction	381,037
7. Sewage Treatment Plant	7,643,105
8. Cargo Pier Construction	873,775
9. HUD Block Grant	1,335,007
10. Major Equipment Purchases	<u>111,780</u>
<b>Total Capital Project Funds Estimated Expenditures</b>	<b>\$12,832,310</b>

\*Revenues for capital project funds are identical.

Enterprise Funds Estimated Expenditures\*

1. Cargo Terminal	\$ 919,917
2. Boat Harbor	368,876
3. Water/Sewer Utilities	<u>1,283,501</u>
Total Enterprise Funds Estimated Expenditures	\$ 2,572,294

\*Enterprise Fund revenues equal expenditures.

TOTAL ESTIMATED REVENUES \$19,576,517

TOTAL ESTIMATED EXPENDITURES \$19,576,517

The City of Kodiak is located within the Kodiak Island Borough, which is a Borough of the second class. In addition to the mandatory powers of education; tax assessment and collection; and planning, platting and zoning, the Borough also has the areawide power of hospitals and non-areawide powers of parks and recreation and building inspection. On a service area basis the Borough provides fire protection through a city contract to the area adjacent to the City and to the village of Karluk and provides road maintenance to the Bells Flats area. The Borough has very recently established the Monashka service area to provide water, sewer, and maintenance for the road systems north of the City of Kodiak. On March 23, 1978 the City filed a complaint for declaratory judgment and injunction against the establishment of the Monashka service district claiming the services of water, sewer and road maintenance can be provided by the City without any necessity for creating the service district.

(Attachment #5)

## V. STANDARDS FOR ANNEXATION

Title 19 of the Alaska Administrative Code, Section 05.010, Alaska Statutes 29.63.909 and Article X Section 5 of the Alaska Constitution<sup>1</sup> set forth specific standards and requirements which provide guidelines for annexation. Realizing that annexation may be proposed if any one of these standards are met, the Department will indicate the applicable standard and summarize any appropriate issues raised as follows:

(1) Mission Road Area. In accordance with 19 AAC 05.010, the Department suggests that the following applicable standards appear to be satisfied because the territory between Mission Lake and Spruce Cape is:

(a) contiguous to the City as evidenced by the Kodiak Island Borough map prepared by Kramer, Chin, & Mayo Inc.

(b) essentially or will be urban in character as noted in the Kodiak Island Borough map prepared by Kramer, Chin & Mayo Inc.

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<sup>1</sup> "Section 5. Service areas to provide special services within an organized borough may be established, altered, or abolished by the assembly, subject to the provisions of law or charter. A new service area shall not be established if, consistent with the purposes of this article, the new service can be provided by an existing service area, by incorporation as a city, or by annexation to a city. The assembly may authorize the levying of taxes, charges, or assessments within a service area to finance the special services."

Resident Population Estimates

(provided by Borough)

	<u>1977</u>	<u>1985</u>	<u>1995</u>
Mission Road	520	720	920
Mission Lake	270	470	870
Mid Cape	0	200	600
Spruce Cape	<u>0</u>	<u>0</u>	<u>600</u>
TOTAL	790	1,390	2,990

At least one-third of the total land area is undeveloped and the largest portion is the former U.S. Coast Guard LORAN Station whose operation of this facility will be terminated on December 31, 1979. Additionally, the former U.S.C.G. LORAN station was declared surplus and has been selected by one of the Kodiak Island Native corporations formed under the Alaska Native Claims Settlement Act. While no immediate development plans appear to exist, it is anticipated that the property will see development, primarily for residential purposes, in the future. The current borough planning estimates project a population of 600 on the former U.S.C.G. LORAN station by 1995 and 600 residents for the Mid Cape Territory. The U.S.C.G. LORAN facility currently has a population of 4 residents.

(c) presently in need of municipal services of water, roads, and fire protection which the City should be able to provide more efficiently than the Borough could by using differential tax zones.

The Department would suggest that the City and the Borough should more appropriately respond to the question of who can provide the specific services more efficiently by whatever means they desire. However, the Department would make the following observations:

Sewer and water facilities are provided to the majority of the area by the City of Kodiak. The previous sewer and water lines were constructed under the auspices of a public utility district prior to statehood and were subsequently taken over by the City of Kodiak. The majority of the water line was put in after the earthquake ruined the wells. Several private sewer lines were also built at that time. According to a 1970 agreement between the Borough and the City, the City has long been designated as the agency responsible for implementation of water and sewer projects within the area of the road system in the Kodiak Island Borough. The City recently installed a sewer interception to the treatment plant.

The territory is presently in need of local road maintenance as evidenced by the recent service area election to provide the service. However, the Department of Transportation is presently responsible for road maintenance on the Spruce Cape road. In determining which governmental agency can most efficiently provide the service for the area it is noted that the City has the only existing Public Works Department capable of providing road maintenance. The Borough has chosen to provide road maintenance through private contracts rather than through a Municipal Public Works Department.

Fire protection is provided by the Borough through a contractual arrangement with the City because the City has the only municipal fire department.

(2) Mill Bay Area. According to 19 AAC 05.010, the Department suggests that the following applicable standards appear to have been satisfied for the territory adjacent to Mill Bay Road extending from Kodiak Subdivision to the turn-off to Fort Abercrombie.

(a) The territory is contiguous to the City as evidenced by the Kodiak Island Borough map prepared by Kramer, Chin and Mayo Inc.

(b) The territory is essentially urban in character as noted in the Kodiak Island Borough map prepared by Kramer, Chin and Mayo Inc.

Resident Population

	<u>1977</u>	<u>1985</u>	<u>1995</u>
Beaver Lake	30	130	730
East Island Lake	310	510	710
West Island Lake	70	120	170
East Mill Bay	50	150	250
West Mill Bay	<u>70</u>	<u>120</u>	<u>170</u>
TOTAL	530	1,030	2,030

The land most heavily populated is surrounding Island Lake, while the remainder of the population is fairly evenly scattered throughout the Island Lake area. -13-

(c) The territory is presently in need of municipal services of water and sewer, roads and fire protection, which the City should be able to provide more efficiently than the Borough could by using differential tax zones.

Here again the Department would suggest that the City and the Borough should more appropriately respond individually to this question of which municipality can provide the service more efficiently. However, the Department would make the following observations:

City water is provided to portions of the area surrounding Island Lake--the water line used is a temporary one, and water pressure is often very low. No sewage collection or treatment facilities operate in the Island Lake area. Consequently, due to the population density, water table, and lack of a collection system, a serious water pollution problem exists at Island Lake (attachment #4).

The territory is presently in need of municipal road maintenance as evidenced by the recent service area election to provide the service. The Department notes that the City has the only existing Public Works Department capable of providing road maintenance.

Fire Protection is provided by the City through a contracted arrangement with the Borough because the City has the only municipal fire department.

(3) The Monashka Bay area. In accordance with 19 AAC 05.010, the Department suggests that the following standards appear to be satisfied for the territory adjacent to Mill Bay Road and extending to the Fort Abercrombie extension to the end of Mill Bay Road, including the Pillar Creek, Virginia Creek and Monashka Creek water shed.

(a) The territory is contiguous to the western boundary of the City as shown by the Kodiak Island Borough map as prepared by Kramer, Chin and Mayo Inc.

(b) Portions of the territory should be annexed to enable the City to achieve adequate control, protection or management of the land fill site and the water shed of city water supply.

The area surrounding Monashka Bay Area #21 is not populated as shown on the Kodiak Island map. The surrounding land is primarily dedicated to public purposes such as the Fort Abercrombie State Park, the Kodiak Ram Site -- local outdoor theatre, VFW, and the land fill site operated by the City on Borough property, water reservoir and transmission facilities. If this area were annexed and included the water shed of Monashka Creek, Virginia Creek and Pillar Creek, the City would have direct jurisdiction over the territory within its boundaries (see Attachment #2).

However, according to the 1978 Kodiak Island Borough's regional plan and development strategy draft summary report, the current water storage capacity at Pillar Creek is inadequate to guarantee a supply of water to industrial users during periods of low stream flow. Potentially,

large fish production losses could occur during peak harvests and this could discourage construction of new processing plants. An Outer Continental Shelf service base would also require large amounts of fresh water to supply drill rigs. Further economic development will require increasing water storage capacity. The most readily apparent alternative is for the City to go ahead with raising the Monashka Creek Dam.

The Department notes that this project is a city function on land purportedly owned by the Borough. The City claims the Borough has said that the land will be turned over to the City. The Department would suggest clarification should be made as to whether this land will be turned over to the City, and who should ultimately provide the service.

(4) The Coast Guard Base: The Department now suggests that the entire U.S.C.G. station be considered for annexation. In accordance with 19 AAC 05.010 the Department would suggest that the following standards appear to be satisfied for the territory proposed.

(a) The territory is urban in character as evidenced by the U.S.C.G.'s own estimate of population to be approximately 3,000 residents.

(b) There is a likelihood that future growth and development will occur within the territory particularly at the State airport which is leased from the U.S.C.G.

(c) Part of the territory (i.e. airport) is presently in need of municipal services of police protection, roads, and fire protection, which the City, using differential tax zones, should be able to provide more efficiently than the Borough using the service area mechanism.

The City of Kodiak Police Department is the security agency at the airport. The City provides the anti-hijacking protection for the airport. The City contends this area is in need of police protection, including the parking lot and restaurant which is being built. As the airport grows and develops, increased commercial activity as well as private aircraft will be at the facility. The Division of Aviation has plans to develop the airport further to handle private craft, and the City has indicated an interest in closing its existing airport.

At the present time the U.S.C.G. Station provides security police services, fire protection (in conjunction with the City), and airport maintenance (in conjunction with the FAA and the Department of Transportation), water sewers and sewer treatment facilities, crash services, and garbage and solid waste collection and disposal on the base.

Another issue is the fact that Koniag Native Corporation is hoping to receive excess property at the airport for further development. However, the U.S.C.G. has no immediate plans to dispose of any excess property.

According to Article X Section 7, City annexation of the Coast Guard Base (including the State Airport) would also extend the Kodiak Island Borough boundaries as well. Should annexation occur, the Borough would acquire a tax base of the territory and could exercise all of its powers in the area. The U.S.C.G. personnel could then exercise their rights as city and borough residents.

The Department would suggest that the City determine whether there is sufficient taxable property at the U.S.C.G. station to justify police protection or any other services. However, additional State and Federal grants should be available to assist with providing these services such as State and Federal Revenue Sharing. Apparently the Kodiak Island Borough has previously negotiated with the U.S.C.G. concerning 100% annexation without success.

### Recommendation

The basic problem appears to be that the City and the Borough are attempting to provide the same municipal services and occupy the same political and physical space. While it is generally desirable that matters of government organization be determined locally, conflicts have occurred over annexation with creation of the Monashka Bay Service area and the request for incorporation of a first class city in the Monashka Bay area. These conflicts would indicate that the Local Boundary Commission should review the activities and assume a mediating role to resolve these conflicts.

The Department believes firmly the language of Article X, Section 5 of the Alaska Constitution<sup>2</sup> encourages the provision of municipal services by cities and discourages the provision of services on a service area basis by a borough when those services can be provided by a city through annexation. Any territory bordering on a city should be encouraged to annex rather than permitting it to remain as a borough service area, providing the annexation standards are met. Ideally the boundaries should encompass an entire natural socio-economic and political area which is urban in character.

We believe that the four areas studied in this report adequately fall within the urban socio-economic and political influence of the City of Kodiak and generally meet annexation standards.

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<sup>2</sup>Ibid.

The final solution for the problem of the Kodiak urban area may be complete unification or consolidation of the city and borough governments. Resolutions have been passed by both the City of Kodiak and the Kodiak Island Borough regarding unification. At the Borough Assembly meeting on April 7, the Borough Assembly did adopt a Resolution 78-34-R to put the question on the ballot next October. The City Manager has stated that without the total picture of annexation being reviewed and the Local Boundary Commission taking appropriate action, the City believes the present situation would prevail for a number of years. The Borough Manager stated that unification could take place as soon as mid-1979. Also, the Borough Manager contends the most economical solution to the problem would be to dissolve the City and provide municipal services on a service area or areawide basis.

The Department recommends that the Local Boundary Commission consider annexation to the City of the territories proposed based upon (1) the standards of annexation which appear to be satisfied for areas proposed; (2) the city and borough testimony in response to the standards raised and the feasibility of services which would be provided; and (3) the testimony of the residents which will be given at the public hearing.

The Bells Flats-Russian Creek Service area, located immediately adjacent to the Coast Guard Base, was not included in the Official Notice of Public Hearing as an area to be considered. The Department would also recommend that the Local Boundary Commission consider this area for future annexation to the City in view of its relative small size, the estimated borough population of 160 as of 1977, the fact that the Borough has created a service area for road maintenance, and the potential taxable property is estimated to be \$3,600,000.

JOAN M. KATZ

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January 26, 1979

Representative Patrick O'Connell  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

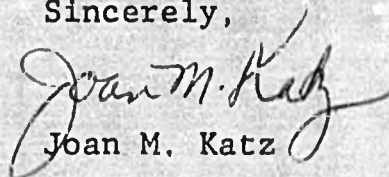
Re: City of Kodiak Proposed Annexation

Dear Representative O'Connell:

I enjoyed the opportunity to talk with you yesterday and hear of your experiences with annexation in Kenai. Enclosed, as per our discussion, are copies of the two briefs I have submitted at various stages in this controversy as well as a map supplied by Local Boundary Commission staff. (I, however, am responsible for the color effects.) Please feel free to call me with any questions you may have or any additional areas regarding which you may need further input. I have also contacted Hayden Green at the University and he assures me that he and P. J. Hill, who prepared the economic analysis submitted to the Local Boundary Commission and included in the information being sent to you, will also be available to answer any questions you might have.

I also intend to draw up a summary statement of the Kodiak Island Borough's position in the very near future to update and condense the material being sent to you today. I shall send that to you next week. In the meantime, I look forward to meeting you in Juneau.

Sincerely,

  
Joan M. Katz

vs

encl.

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



AGREEMENT  
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

*Richard A. Jones*  
City Manager

KODIAK ISLAND BOROUGH

*[Signature]*  
Borough Manager

EXHIBIT B

CONTRACT TO FURNISH FIRE PROTECTION SERVICE

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

W I T N E S S E T H

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

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

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

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

NOW, THEREFORE, City and Borough agree as follows:

SERVICES TO BE RENDERED

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

## TERM OF AGREEMENT

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

## PAYMENT

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

## CITY IS NOT RESPONSIBLE FOR CONDITION OF FACILITIES

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

## RESPONSIBILITY OF FIRE CHIEF !

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

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

#### FIREMEN TO BE MADE PEACE OFFICERS

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

#### INSPECTION BY FIRE DEPARTMENT

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

#### BOROUGH TO ABATE FIRE HAZARDS OR NUISANCES

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

#### INDEMNITY OF FIRE DEPARTMENT

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

ADJUSTMENT OR REVISIONS OF BOUNDARIES

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

CITY IS INDEPENDENT CONTRACTOR

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

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

CITY OF KODIAK

KODIAK ISLAND BOROUGH

BY: *Pete 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 Grape*  
ROBERT GRAPE  
Borough Clerk

# KODIAK ISLAND BOROUGH

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

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

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

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

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

EH/sv

cc

EXHIBIT D

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

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

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

WITNESSETH:

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

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

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

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

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

by the Parks & Recreation Department; and,

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

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

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1. TERMS:

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

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2. USE OF POOL & GYMS:

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

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

3. FACILITIES:

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

4. SCHEDULING OF FACILITIES:

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

5. DENIAL OF FACILITIES:

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

and ethical standards of the *DISTRICT*.

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6. CITY OPERATIONS:

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

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

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

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

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

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

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7. DISTRICT OBLIGATIONS:

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

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- a. Provide heat, light, power, water, chemical supplies, and equipment necessary for both *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:

Suzanne Pasvall  
City Clerk

KODIAK ISLAND BOROUGH

By George J. Willis  
Borough Mayor

ATTEST:

Shirley Miller  
Borough Clerk

KODIAK ISLAND BOROUGH SCHOOL DISTRICT

By Louise Collins  
School Board President

By David P. 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. Best stated that the cemetery is presently being arranged haphazardly, and suggested that it be conveyed to the City since they have the necessary staff to properly carry out proper arrangements. After discussion, Mrs. Springhill moved, seconded by Mr. Arndt, that the cemetery in 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 483--appropriation bill for HB 432.
  - SB 175--providing for State to pay for defaults of local school bonds. This would help to give Alaska a better bond rating and may lower interest rates.
  - SB 298--3% education wage tax.
  
- B. Building Inspector's Vehicle. Mr. Best suggested that since the City furnishes gas for the vehicle, the Borough furnish necessary repairs. The Assembly concurred.

KODIAK ISLAND BOROUGH

M E M O R A N D U M

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

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

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

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

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

*Ed Haney*  
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 extra work 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. Durso BY James E. Proff  
(Secretary) Presiding Officer  
Shirley Miller (Title)  
(Witness)

ALAGNAK, INC.

[Signature] (Secretary)  
[Signature] BY Fred [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

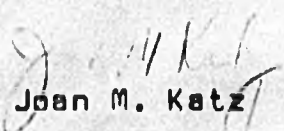
Dear Pat:

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

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

WHO IS THIS  
MYSTERIOUS  
OWNER!?!?

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. *CUTE!*

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

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

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

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

do these figures  
(plus these in  
the next page)  
include  
present  
tax?

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
<b>Total</b>	<b>16.3 Mills \$25.00/mo.</b>	<b>9.47 Mills \$28.75/mo.</b>

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,

*How much would the personal property tax drop due to city paying that tax?*

*16.30  
9.47  
6.83*

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

*Amazing!  
(How much  
is this  
in dollars?)*

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 04.010B.)

Borough residents living outside the City boundaries have thus paid personal property tax twice; first their own, and then a substantial contribution to the payment of taxes for those persons who have personal property located within the City limits. Residents and lot owners in the territory have amply compensated the City for any benefits they might receive.

IV. Procedural Factors Against Annexation

Four intertwined procedural issues are raised by the manner in which this petition has proceeded to date. First, petitioner and the Local Boundary Commission seem determined to propel this matter forward with great speed, presumably because of the approaching start of the Legislative session. Such precipitous action, however, has resulted in failure by the Commission to follow its own guidelines, and has put great strains on the Borough and any other would-be respondent to prepare adequately for the upcoming hearing. Thus, the petition was apparently accepted notwithstanding the fact that no resolution from the City Council was attached (19 AAC 10.040[4]); the sources of information contained in the petition were presented only in a statement, not an affidavit (19 AAC 10.040[2]); and the petition was wrongly addressed to the Department rather than the Commission (19 AAC 10.030). 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



BEFORE THE LOCAL BOUNDARY COMMISSION FOR THE  
STATE OF ALASKA

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

BRIEF OF THE RESPONDENT KODIAK ISLAND BOROUGH

Introduction

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

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

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realities of the Kodiak situation need to be examined.

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

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

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

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

a. Roads. Kodiak's roads are essentially State maintained, with only 13 miles of road under City jurisdiction and 13.5 miles within the Borough's authority. Annexation for the purposes of road maintenance would be nonsensical for two reasons. First, the people within the City are more dissatisfied with the condition of their roads than are the people outside the City,

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

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

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

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

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

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

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

A review of services needed in the affected territory thus reveals that annexation represents a theory without any practical application or rational nexus to the facts 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 inuring only or principally to City residents. For example, \$60,000 received from sales tax revenues (to which non-City residents contribute as much per capita as City residents) has been used to finance construction of water and sewer facilities within the City in the 1977-78 fiscal year. (City of Kodiak Budget 1977-78 Fiscal year.) Even more significant perhaps, a substantial percentage of the property taxes owed by City property owners are being paid by sales tax receipts garnered from non-City residents as well as City residents. While the appraised value of City property should have netted the City 1.3 million dollars in tax receipts, in fact only \$655,000 is being collected. (City of Kodiak Budget 1977-78 Fiscal year.) Where is the equity in such an arrangement? If City residents are not even paying their own property taxes at this time, what possible justification can there be for seeking to tax people currently outside the City boundaries?

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

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

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

Respondent's previous brief on 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.

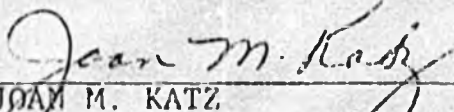
#### Conclusion

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 15<sup>th</sup> day of May, 1978.

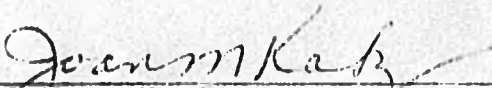
  
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JOAN M. KATZ  
Attorney for the Kodiak  
Island Borough

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

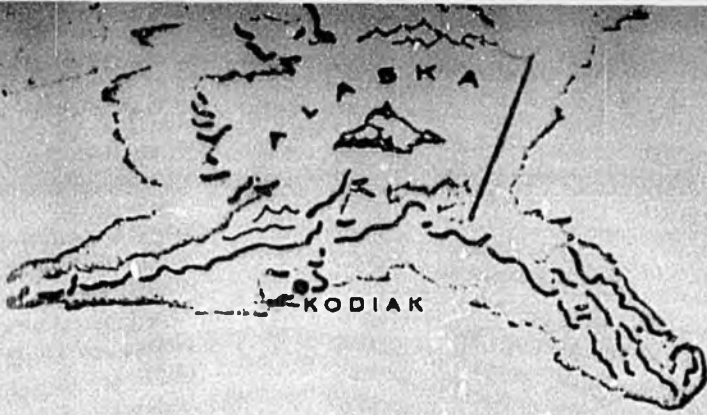
I, Joan M. Katz, counsel for the Kodiak Island Borough,  
certify that a copy of the Brief of the Respondent Kodiak Island  
Borough was delivered to the staff of the Local Boundary Commis-  
sion for service on the City of Kodiak this 19th day of May, 1978.

  
\_\_\_\_\_  
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# City of Kodiak

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KODIAK, ALASKA 99615



December 16, 1977

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

Kodiak Island Borough  
KODIAK, ALASKA  
**RECEIVED**

DEC 19 1977

1,2,3,4,5,6

Dear Mr. Strandberg:

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

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

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

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

EXHIBIT A

Mr. Sigvald J. Strandberg

Page Two

December 16, 1977

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

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

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

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

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

Very truly yours,

CITY OF KODIAK

Ivan L. Widom  
City Manager

ILW/lp

cc: Commissioner MacAerny  
Governor Hammond  
Senator Poland  
Representative Snider

# KODIAK ISLAND BOROUGH

## CONFIDENTIAL MEMORANDUM

TO: Borough Manager  
FROM: Planning Director  
SUBJECT: Individual Breakdown of City and Borough Taxes  
RE: Information Required by Counsel  
DATE: December 6, 1977

During our discussions with Mrs. Joan Katz, she requested I prepare a breakdown of my estimated Kodiak Island Borough Real and Personal Property Tax as well as the amount of Sales Tax collected by the City for goods and services.

The following reflects the assessed valuation of the real property I lease:

<u>Land</u>	<u>Building</u>	<u>Total</u>	<u>KIB Mill Rate</u>		<u>Amount of Tax</u>
\$8,900	\$32,890	\$41,790	\$9.50	=	\$397.00

Personal Property:

<u>Description</u>	<u>Valuation</u>	<u>Mill Rate</u>	<u>Amount of Tax</u>
1965 Dodge $\frac{1}{2}$ Ton P.U. w/Camper	\$ 500		
1974 Buick 2 Dr. H.T.	2,975		
1973 Chevrolet K5 Blazer	2,900		
1969 5-HP Outboard Motor	<u>50</u>		
Total	\$6,425	x \$9.50	<u>\$ 61.04</u>
Total Amount of Tax Revenue Collected by K.I.B.			<u>\$440.04</u>

The following reflects the estimated Sales Taxes I pay:

CONFIDENTIAL MEMORANDUM

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

Page 2

Sales Taxes:

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

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

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

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

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

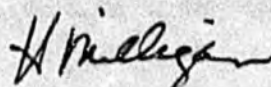
Percentage of Total Tax Paid to Kodiak Island Borough, 39.370%.

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

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

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

Respectfully submitted,



Harry Milligan

CITY OF KODIAK  
RESOLUTION NUMBER 23-77

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

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

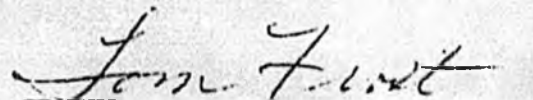
WHEREAS, the tax base is not sufficient to support excessive government  
and

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

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

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

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

  
MAYOR

ATTEST:

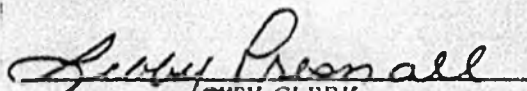
  
CITY CLERK

EXHIBIT C

KODIAK ISLAND BOROUGH  
RESOLUTION NUMBER 78-34-R

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

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

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

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

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

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

Yes (     )                      No (     )

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

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

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

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

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

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

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

KODIAK ISLAND BOROUGH

BY Betty J. Wallin  
Mayor

ATTEST:

Shirley Miller  
Borough Clerk-Treasurer

*G. Hayden Green, Ph.D, MBA*

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

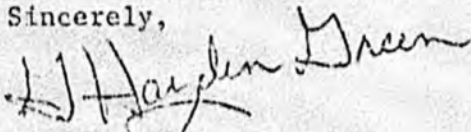
Betty Wallin, Mayor  
Kodiak Island Borough  
Kodiak, Alaska

Honorable Betty Wallin:

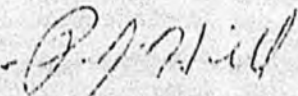
In accordance with your request, Dr. P.J. Hill and I conducted an analysis to determine the economic consequence with regard to the matter of annexation of portions of the Kodiak Borough by the City of Kodiak. To facilitate the study, we have thoroughly dissected the annual operating budgets of both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

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

Sincerely,



G. Hayden Green, Ph.D.



P.J. Hill, Ph.D.

KODIAK ISLAND BOROUGH ANNEXATION ECONOMIC ANALYSIS

1. Borough residents level of satisfaction with existing services:

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

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

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

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

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

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

1. Individuals within the City limits and those persons outside the City have similar attitudes towards the level of service they receive, that is, a comparable level of satisfaction with regard to public goods in relation to their cost.
2. The services of greatest concern to both City and Borough residents are roads and litter conditions. According to state records, the City maintains 13 miles of roads; while the Borough maintains 9 miles of roads. The remaining road system is state or privately maintained. The survey results suggest that residents do not perceive the City as doing a better job maintaining their road systems than the Borough is with its roads.
3. The survey results clearly suggest that the City is not more 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.