

Kenai Peninsula Borough
Assembly

MEMORANDUM

TO: Wayne Ogle, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM: Kelly Cooper, Assembly Member (K.C.)
Willy Dunne, Assembly Member (W.D.)

DATE: April 25, 2019

RE: Ordinance 2018-19-35, Appropriating Funds to the Legal Department for Costs Associated with Hiring Outside Counsel to Represent the Kenai Peninsula Borough in the Tariff Revision Designated as TA310-4 Filed by Enstar Natural Gas Company with the Regulatory Commission of Alaska, Matter Number U-19-04 (Cooper, Dunne)

During its April 16, 2019 meeting, the assembly approved Resolution 2019-028 which authorized the borough to intervene in the Enstar Natural Gas Company Homer Extension Surcharge Tariff Revision before the Regulatory Commission of Alaska ("RCA").

During the committee meeting in which this was discussed, the assembly was informed that if the borough does intervene in this matter it would be expected to split the costs of the attorneys' fees charged by Birch Horton Bittner & Cherot with the City of Homer and Kachemak City with each municipality paying one-third. The estimated ranges given were \$30,000 for the initial drafting and submission of the intervention and limited other work. If that does not resolve the case it is estimated that, at most, the cost would be \$100,000 for the continued representation of the municipalities through the hearing, including putting on witnesses or extensive negotiations.

This ordinance would authorize the transfer of the \$16,486.69 previously appropriated the legal department for a different RCA tariff dispute that has been resolved. Additionally, it would appropriate the sum of \$16,847 from the General Fund, fund balance for a total of \$33,333.69 in the event the full amount is needed for this matter. Any funds unspent would lapse to the General Fund upon closure of the case.

This ordinance is effective retroactively to April 17, 2019, as that is the day after the assembly approved the borough's participation in this case and the

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attorneys, in reliance upon that action, immediately revised their work to include the borough in the motion for intervention.

Your approval of this ordinance would be appreciated.

FINANCE DEPARTMENT ACCOUNT / FUNDS VERIFIED	
Acct. No.	<u>100.27910</u>
Amount:	<u>\$ 16,847.00</u>
Acct. No.	<u>100.11310.17RCA.49999</u>
Amount:	<u>\$ 16,486.69</u>
By: <u>pp</u>	Date: <u>4/24/19</u>