

ORDINANCE SERIAL NO. 10-01

AN ORDINANCE AUTHORIZING THE NEGOTIATION AND PURCHASE OF REAL PROPERTY FOR THE AKUTAN BOAT HARBOR PROJECT

WHEREAS, the Aleutians East Borough has and “. . . may exercise all rights and powers to acquire, own, hold, dispose of [and] manage real property, both inside and outside the borough[,]” pursuant to AEBMC Sec. 50.10.010(a); and

WHEREAS, the Aleutians East Borough may purchase and acquire real property needed to construct and complete a borough project; and

WHEREAS, all “. . . acquisitions of real property for a valuable consideration, including exchange, must be authorized by the assembly by ordinance[,]” unless (1) the assembly has identified the property for acquisition or the property is required for a project approved by the assembly; (2) funds have been appropriated for the acquisition; and (3) the real property is acquired at a fair market value price not exceeding either fair market value or the amount appropriated or budgeted for the real property, SEE AEBMC 50.10.020 (b); and

WHEREAS, the above referenced events have not all taken place regarding the real property needed for the Akutan Boat Harbor Project, therefore the purchase and acquisition of real property must be considered and approved by the assembly; and

WHEREAS, the real property at issue includes both a surface estate and a subsurface estate, and the borough will be acquiring title to both. The surface estate is held by the City of Akutan and will be conveyed, by Quitclaim Deed, to the borough by the City of Akutan for the Akutan Boat Harbor Project at no cost to the borough. The subsurface estate is held by the Aleut Corporation and is offered to the borough for the price of \$2,500.00 per acre and the Aleut Corporation will convey its fee simple interest in the subsurface estate by Quitclaim Deed; and

WHEREAS, the total acreage for the Akutan Boat Harbor Project is approximately 34.459 acres ($34.459 \times \$2,500.00 = \$86,147.50$); and

WHEREAS, an additional condition included in the sale of the subsurface estate is that in the event that the borough and/or the City of Akutan sells the extracted

subsurface materials to a third party, the Aleut Corporation shall be entitled to and receive fifty percent (50%) of the gross revenues derived from such sale; and

WHEREAS, in addition to acquiring the real property for the Akutan Boat Harbor Project, the borough will also need a temporary construction easement of approximately 24.90 acres from the City of Akutan and/or the Akutan Corporation at no cost to the borough to be used as a temporary work and staging area; and

WHEREAS; before “. . . acquiring real property for a valuable consideration, the mayor shall obtain a title report on, and shall determine the fair market value of, the real property; provided, the mayor with approval of the assembly may waive the requirement for a title report upon a determination that the risk involved or the interest to be acquired does not warrant a title report. The determination of fair market value may be by means of a fee appraisal or such reasonable estimate as the mayor with the approval of the assembly finds to be reliable or appropriate under the circumstances[;]”.

NOW, THEREFORE, BE IT ENACTED:

That the borough assembly having reviewed and considered the acquisition and purchase of the real property for the Akutan Boat Harbor Project approves and authorizes the acquisition and purchase of the subsurface estate from the Aleut Corporation of Lot 1, Akutan Bay Harbor Subdivision described as:

FEE ESTATE

Bearings are NAD83, Alaska State Plane, Zone 10, in U.S. Feet.

Lot 1, Akutan Bay Harbor Subdivision, a portion of U.S. Survey No. 766 and Unsubdivided Akutan Village Corporation Lands, located within protracted Section 9, Township 70 South, Range 112 West, Seward Meridian, Alaska, Aleutian Islands Recording District, Third Judicial District, State of Alaska, being more particularly described by metes and bounds as follows:

Commencing at the northwest corner of U.S. Survey No. 766, Section 9, Township 70 South, Range 112 West, Seward Meridian, Alaska, thence on the westerly line thereof S 07°36'05" E 756.70 feet to the True Point of Beginning for this description;

thence N 76°39'35" E 206.98 feet;

thence S 01°27'59" W 247.83 feet;

thence S 00°48'17" E 250.00 feet;

thence S 04°46'38" E 250.00 feet;

thence S 08°45'53" E 250.00 feet;

thence S 12°09'26" E 250.00 feet;

thence S 76°39'35" W 1161.36 feet;

thence N 13°20'25" W 1230.00 feet;

thence N 76° 39'35" E 1134.29 feet to the True Point of Beginning. Said Fee Estate embraces an area of 1,501,044 square feet, more or less as calculated from said courses and distances.

This Fee Estate is subject to an existing access easement per Federal Interim Conveyance No. 255, EIN 1 D9, C5. SEE Exhibit 1, a copy of DOWL HKM Drawing depicting Lot 1; and

That in approving and authorizing the acquisition and purchase of the subsurface estate, the assembly at the Mayor's request expressly waives the requirement for a title report having determined ". . . that the risk involved or the interest to be acquired does not warrant a title report[.]"; and

That the mayor has determined and the assembly approves that the estimate of \$2,500.00 per acre for the subsurface estate represents the fair market value as evidenced by prior subsurface sales by the Aleut Corporation and the assembly finds that the \$2,500.00 per acre estimate is reliable and ". . . appropriate under the circumstances[.]" and

That the borough assembly authorizes the acquisition of the surface estate of the above referenced property from the City of Akutan at no cost to the borough for the Akutan Boat Harbor Project; and

That the borough assembly authorizes the acquisition of a temporary construction easement over and through the area identified as the temporary work and staging area, from the City of Akutan and/or the Akutan Corporation at no cost to the borough, and described as:

Temporary Construction Easement

Bearings are NAD83, Alaska State Plane, Zone 10, in U.S. Feet.

A portion of U.S. Survey No. 766 and Unsubdivided Akutan Village Corporation Lands, located within protracted Section 9, Township 70 South, Range 112 West, Seward Meridian, Alaska, in the Aleutian Islands Recording District, Third Judicial District, State of Alaska, being more particularly described by metes and bounds as follows:

Commencing at northwest corner of U.S. Survey No. 766, thence on the west line of said U.S. Survey S 07°36'05" E 813.58 feet to the True Point of Beginning for this description;

thence N 84°10'29" E 510.95 feet;

thence S 02°48'21" E 660.63 feet;

thence S 85°15'45" W 420.77 feet;

thence S 14°18'53" E 846.99 feet;

thence S 82°33'35" W 523.03 feet;

thence S 29°35'06" W 380.66 feet;

thence S 68°28'19" W 747.18 feet;

thence N 29°01'16" W 426.09 feet;

thence N 36°52'36" E 303.95 feet;

thence N 24°28'10" W 360.88 feet;

thence N 03°03'25" W 531.86 feet;

thence N 40°22'44" W 343.54 feet;

thence N 67°55'27" W 254.31 feet;

thence N 26°57'25" W 337.56 feet;

thence N 68°07'58" E 225.35 feet;

thence S 81°06'04" E 986.09 feet;

thence N 84°10'29" E 704.58 feet to the True Point of Beginning. Said easement embraces an area of 3,075,559 square feet, more or less as calculated from said courses and distances.

This easement is subject to an existing access easement per Federal Interim Conveyance No. 255, EIN 1 D9, C5. SEE Exhibit 2, a copy of DOWL HKM drawing depicting temporary work and staging area.

Section 1. Classification. This ordinance is a non-code ordinance.

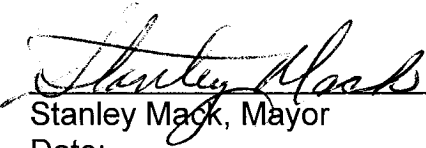
Section 2. Severability. If any provisions of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effectiveness. This ordinance shall become effective upon adoption.

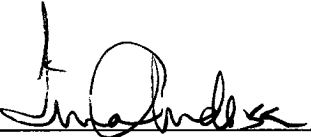
Section 4. Authorization for Purchase of Real Property by Negotiation. The mayor and borough administrator are hereby authorized to negotiate and purchase the real property for the Akutan Boat Harbor Project.

INTRODUCED: August 31, 2009

ADOPTED: September 23, 2009


Stanley Mack, Mayor
Date: _____

ATTEST:

CLERK: 
Date: _____