



ALEUTIANS EAST BOROUGH

ORDINANCE SERIAL NO. 20-11

AN ORDINANCE AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A SUBLEASE WITHIN THE COLD BAY TERMINAL FOR AIR TRANSPORTATION SERVICES

WHEREAS, Alaska Airlines has expressed its desire to enter into a sublease with the Aleutians East Borough ("Borough") for a portion of the Cold Bay Terminal Building ("Terminal") and adjacent apron, as generally depicted on the attached Exhibit "A", for the purpose of providing Air Transportation which consists of the carriage of persons, property, cargo and mail by aircraft and associated services; and

WHEREAS, the Borough has entered into a Lease Agreement No. ADA-08250 as Lessee with the State of Alaska, Department of Transportation and Public Facilities (DOT&PF) as the Lessor for the following described property, located on the Cold Bay Airport, in Section 36, Township 57 South, Range 89 West, Seward Meridian, within the Aleutian Island Recording District, Third Judicial District, Alaska; Lot 1A, Block 23 consisting of approximately 66,688 square feet of land, at Cold Bay Terminal and adjacent Apron; and

WHEREAS, AEBMC Sec. 50.10.060 provides that "[d]isposal of real property may be by sealed bids, outcry auction, lottery, first-come, first-served, negotiation, or such other method as the assembly may provide in the resolution authorizing the disposal"; and

WHEREAS, AEBMC 50.10.100(7) provides that "'Real Property" includes interests in real property as well as rights to real property, and includes, but is not limited to, leases, easements, security interests, licenses, permits and options."; and

WHEREAS, AEBMC Sec. 50.10.050 provides for the disposal of real property owned by the Borough mandating that the disposal of real property not covered by other sections within chapter 50.10 "must be authorized by ordinance and must contain" the following:

- (1) a description of the property,
- (2) a finding and the facts that supports the finding that the property or interest is no longer required for a public purpose if the property or interest is or was used for a government purpose,
- (3) the type of interest to be disposed of if less than a fee interest,
- (4) conditions and reservations that are to be imposed upon the property,
- (5) the fair market value of the property,
- (6) the minimum disposal price of the real property,
- (7) the method of disposal, including time, place and dates when relevant,
- (8) special conditions for the disposal, including, when relevant, special qualifications of purchasers and purchase terms, and
- (9) a finding and the facts supporting the finding of the public benefits to be derived if the disposal is to be for less than market value; and

WHEREAS, AEBMC Sec. 50.10.070(a) provides that “[u]nless otherwise provided in the resolution authorizing the disposal, the disposal shall be at not less than the fair market value as determined by a fee appraisal, by the borough’s assessor’s valuation, or by such reasonable estimates as the mayor or assembly, as appropriate, finds to be reliable or appropriate under the circumstances; and

WHEREAS, the Assembly finds that the lease of the property to Alaska Airlines is in the best interest of the Borough, and will help provide air service to the region and promote economic development within the Borough; and

WHEREAS, Ravn Air Group has filed for bankruptcy and has stopped providing air service to the communities of Cold Bay, Sand Point and Unalaska; and

WHEREAS, the Assembly recognizes the need and urgency to have an air carrier provide regularly scheduled service to the region; and

WHEREAS, at the October 10, 2019 Assembly Meeting the Assembly approved Resolution 20-23 authorizing the disposal of the real property via negotiations with the airlines; and

WHEREAS, at the May 14, 2020 Assembly Meeting the Assembly approved Emergency Ordinance 20-10 authorizing the Mayor to negotiate and execute a sublease within the Cold Bay Terminal for air transportation services; and

WHEREAS, Emergency Ordinance 20-10 became effective immediately upon adoption and only remains in effect for 60 days; and

WHEREAS, Ordinance 20-11 authorizing the Mayor to negotiate and execute a sublease within the Cold Bay Terminal for air transportation services will supersede Emergency Ordinance 20-10 and remain in effect in perpetuity; and

WHEREAS, AEBMC Sec. 2.16.020 provides that “[t]he Mayor shall... (A) Direct and supervise the business of the borough to assure that all ordinances and resolutions are executed; and

WHEREAS, AEBMC Sec. 50.10.090 provides that “[t]he mayor may establish procedures and forms for the processing of requests, applications and disposals under this chapter.

NOW THEREFORE, BE IT ENACTED:

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

Section 2. Authorization to Lease. Based upon the above findings, the Mayor is authorized to negotiate and execute a sublease with Alaska Airlines for a portion of the Cold Bay Terminal and adjacent apron located on the Cold Bay Airport, in Section 36, Township 57 South, Range 89 West, Seward Meridian, within the Aleutian Island Recording District, Third Judicial District, Alaska; Lot 1A, Block 23 consisting of approximately 66,688 square feet of land, as generally depicted in Exhibits “A.”

Section 3. Minimum Essential Terms and Conditions. The sublease is subject to the following minimum essential terms and conditions:

- (a) The sublease shall be subject to the covenants, provisions, conditions, and base terms of the Lease Agreement ADA-08250, “Base Lease” between the State of Alaska, Department of Transportation and Public Facilities and the Borough;
- (b) The term of this sublease is contingent on the Borough’s Base Lease extension with the State of Alaska;
- (c) The leased property shall be used by Alaska Airlines for the purpose of providing Air Transportation which consists of the carriage of persons, property, cargo and mail by aircraft and associated services;
- (d) The sublease term will be determined during the negotiations with the airlines.
- (e) The sublease rents, fees, and charges will be determined by calculating the terminal area rentals and fees and will be finalized after the negotiations with the airlines. The sublease rents, fees and charges will not be less than market value.
- (f) Alaska Airlines shall be responsible for obtaining all necessary permits and approvals for its operations on the leased property;
- (g) Alaska Airlines shall, to the fullest extent of the law, indemnify, defend, and hold harmless both the Borough and the State of Alaska, their

agents, elected officials, volunteers, and employees from and against any and all claims related to or arising out of Alaska Airlines' use of the leased property; and

- (h) The sublease shall include all provisions of Borough Code of Ordinances not in conflict with this ordinance; and any other provisions that the Borough Mayor determines to be in the public interest.

Section 4. This Ordinance shall take effect upon adoption by the Aleutians East Borough Assembly and will supersede Emergency Ordinance 20-10.

INTRODUCED: May 28, 2020

ADOPTED: July 9, 2020

ALEUTIANS EAST BOROUGH, ALASKA


Alvin D. Osterback, Mayor

Date: 7/9/20

ATTEST:


Tina Anderson, Clerk

Date: 7/9/20