



**RESOLUTION NO. 13-09**

**A RESOLUTION OF THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH, ALASKA, ACKNOWLEDGING THAT THE PLANNED IMPROVEMENTS TO BE MADE BY MR. KOSO TO CERTAIN PROPERTY CONVEYED BY THE BOROUGH AND DESCRIBED HEREIN SATISFY THE REQUIREMENTS OF THE PURCHASE AND SALE AGREEMENT EXECUTED BETWEEN THE PARTIES, AND THE PROVISIONS OF AEB ORDINANCE 95-4.**

**WHEREAS**, Aleutians East Borough Code 50.10.010(a) authorizes the Borough to “exercise all rights and powers to acquire, own, hold, dispose of, [or] manage real property, both inside and outside the borough.”; and

**WHEREAS**, Aleutians East Borough Ordinance 95-4 authorizes the disposal of certain lands in Cold Bay due to “a shortage of land available for housing and other private development” and establishes procedures and conditions for their disposal; and

**WHEREAS**, pursuant to that authority, the Aleutians East Borough and Raymond W. Koso, Jr. executed on [REDACTED] a Purchase and Sale Agreement, attached as Exhibit A to this Resolution, conveying a parcel of real property, described as LOT 13, BLOCK 1, ASLS 79-81, PLAT NO. 79-6, from the Borough to Mr. Koso; and

**WHEREAS**, that conveyance, consistent with the requirements of Borough Ordinance 95-4, expressly provided that, if Mr. Koso, his heirs, or his assigns failed to improve the parcel by constructing a single-family residence upon it within five (5) years from the date of conveyance; and

**WHEREAS**, the Purchase and Sale Agreement provided that, if Mr. Koso, his heirs, or his assigns failed “to complete improvement of the property with a single-family residence within **FIVE (5) YEARS** after the execution of this conveyance, the easements, rights, and property conveyed shall revert to the BOROUGH.”; and

**WHEREAS**, the Purchase and Sale Agreement further provided that, if Mr. Koso, his heirs, or his assigns "after the actual initiation of improvement of the property with a single-family residence," allowed "the operations to be discontinued and to remain in a state of cessation and abandonment for a period of **TWELVE (12) MONTHS**, unless the discontinuance or abandonment of the construction of a single-family residence is caused by an act of God or by strikes or other causes beyond the control of the Grantee, his heirs or assigns, the property shall revert to the BOROUGH."; and

**WHEREAS**, these conditions were also expressly set forth in the Quitclaim Deed With Possibility of Reverter, attached as Exhibit B to this Resolution, which was granted to Mr. Koso following the execution of the Purchase and Sale Agreement; and

**WHEREAS**, Mr. Koso has undertaken to plan and make improvements to the subject property since its conveyance by the Borough; and

**WHEREAS**, the actual improvements planned or made by Mr. Koso to the subject property, attached in illustrative form as Exhibit C to this Resolution, will result in the construction of more than one single-family residence rather than just one single-family residence as set forth in and contemplated by both the Purchase and Sale Agreement and the Quitclaim Deed With Possibility of Reverter; and

**WHEREAS**, the actual planned improvements will consist of 3 or more residential buildings that Mr. Koso intends to use for himself and his family members; and

**WHEREAS**, the Aleutians East Borough, after significant consideration, has determined that the actual planned improvements to the subject property by Mr. Koso will allow the property to be used in a manner that is equal to or greater than the measure of the property's value if it were to contain only a single-family residence; and

**WHEREAS**, the Aleutians East Borough Assembly, after significant consideration, is of the belief that it is in the Borough's best interest to consider those actual improvements made by Mr. Koso to the subject property to be in complete satisfaction of the single-family residence requirement outlined in the Agreement and the Quitclaim Deed With Possibility of Reverter; and

**WHEREAS**, the Aleutians East Borough Assembly, after significant consideration, has determined that the actual planned improvements to the subject property satisfy the spirit, purpose and requirements of Borough Ordinance 95-4; and

**WHEREAS**, the Aleutians East Borough Assembly has determined that the development requirements provided by Borough Ordinance 95-4, the Purchase and Sale Agreement, and the Quitclaim Deed With Possibility of Reverter should be deemed satisfied notwithstanding any inconsistent language contained within these instruments.

**NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH, ALASKA, that:**

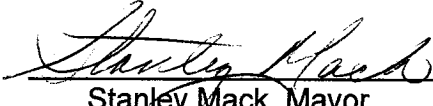
**Section 1. Satisfaction of Development Requirements.** The Aleutians East Borough Assembly hereby declares that the actual improvements made by Mr. Koso to the subject property satisfy the development requirements set forth both in the Agreement and in Borough Ordinance 95-4, and that their successful completion extinguishes the possibility of the subject property's reversion to the Borough, notwithstanding language to the contrary contained within the Quitclaim Deed With Possibility of Reverter previously issued to Mr. Koso.

**Section 2. Severability.** If any one or more of the provisions of this Resolution shall be declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and be deemed separable from the remaining provisions of this Resolution and shall in no way affect the validity of the other provisions of this Resolution, or any other Resolutions or Sales Agreements regarding the property described herein.

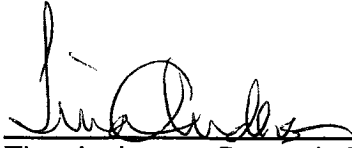
**Section 3. Effective Date.** This Resolution shall take effect immediately.

ADOPTED BY THE ASSEMBLY OF THE ALEUTIANS EAST BOROUGH,  
on this 4<sup>th</sup> day of October, 2012.

ALEUTIANS EAST BOROUGH, ALASKA

  
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Stanley Mack, Mayor

ATTEST:

  
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Tina Anderson, Borough Clerk