



## ALEUTIANS EAST BOROUGH

### ORDINANCE SERIAL NO. 23-04

#### AN ORDINANCE AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A LEASE OF LOT 2, PORT MOLLER CANNERY SUBDIVISION

**WHEREAS**, Connor Murphy of Cannery Cove Fisheries, along with J.W. Smith and Robert Murphy (“Partners”) have expressed their desire to enter into a lease with the Aleutians East Borough (“Borough”) for Lot 2 of the Port Moller Cannery Subdivision, approximately one (1) acre, a part of Alaska State Land Survey 2016-49, in Township 48 South, Range 72 West, Seward Meridian, within the Aleutian Island Recording District, Third Judicial District, Alaska; and

**WHEREAS**, the Borough holds patent to Lot 2 and other land holdings in the Port Moller area by conveyance of Municipal Entitlement selections under ASLS 2016-49; 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 the Partners is in the best interest of the Borough, and will promote economic development within the Borough; and

**WHEREAS**, the Assembly approved Resolution 23-52 authorizing the disposal of the real property via lease; 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 lease with the Partners for Lot 2 on a Plat of Port Moller Cannery Subdivision, approximately one acre of land as generally depicted on Exhibits “A”, within Alaska State Land Survey 2016-49, in Township 48 South, Range 72 West, Seward Meridian, within the Aleutian Island Recording District, Third Judicial District, Alaska.

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

- (a) The leased property shall be used by Partners for fisheries business activities and storage;
- (b) The lease term will be determined during the negotiations with the Partners.
- (c) The lease rents, fees, and charges will be finalized after negotiations with the Partners. The lease rents, fees and charges will not be less than market value.
- (d) Partners shall be responsible for obtaining all necessary permits and approvals for its operations on the leased property;

- (e) Partners shall, to the fullest extent of the law, indemnify, defend, and hold harmless the Borough, their agents, elected officials, volunteers, and employees from and against any and all claims related to or arising out of Partners' use of the leased property; and
- (f) The lease 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. Effectiveness. This Ordinance shall take effect upon adoption by the Aleutians East Borough Assembly.

INTRODUCED: May 03, 2023

ADOPTED: May 18, 2023

  
Alvin D. Osterback, Mayor

Date: May 19, 2023

ATTEST:

  
Beverly Rose, Borough Clerk

Date: May 19, 2023

