

Introduced by: Interim Borough Manager
Drafted by: Borough Attorney
Introduced on: 11/03/2022
Public Hearing Date: 11/17/2022
Adopted on: 11/17/2022

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2023-10**

AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH DETERMINING THAT IT IS IN THE BOROUGH'S BEST INTERESTS TO DISPOSE OF THE LARSEN BAY SCHOOL PROPERTY LOCATED AT 502 THIRD STREET IN LARSEN BAY BY CONVEYANCE TO THE VILLAGE OF LARSEN BAY WITH CONDITIONS TO ACCOMMODATE A FUTURE SCHOOL LOCATION

RECITALS

WHEREAS, the Kodiak Island Borough (*Borough*) owns Lot Two (2), Block Eleven (11), Larsen Bay Townsite, U.S. Survey 4872, according to Plat 87-37 filed in the Kodiak Recording District, Third Judicial District, State of Alaska, (the *Property*) which is an approximately 2.26 acre parcel containing the now closed Larsen Bay School; and,

WHEREAS, the Borough originally obtained Block 11, of Tract "A" of U.S. Survey 4872 in July 1979 from the Village of Larsen Bay as part of its obligations under Section 14(c)(3) of the Alaska Native Claims Settlement Act to provide lands for municipal facilities and through an agreement between Koniag, Inc, the City of Larsen Bay, the Borough and the Village corporation; and,

WHEREAS, the conveyance of the land to the Borough was only the surface estate, and was restricted for school purposes. The agreement and the deed further provided for the parcel to revert to the Municipality of Larsen Bay should it cease to be used for school purposes; and,

WHEREAS, in 1987, the Borough and the City of Larsen Bay conducted a land trade and replat of Block 11, Tract "A," incorporating a vacated right of way and some City of Larsen Bay property into the school parcel re-platted as Lot 2, Block 11, USS 4872, according to Plat 87-37, and conveying part of Block 11, Tract "A," which was incorporated into Lot 1, Block 11, USS 4872, according to Plat 87-37, to the City of Larsen Bay; and,

WHEREAS, the Kodiak Island Borough School District officially closed the Larsen Bay School due to low enrollment, and received confirmation from the State of Alaska of the acceptance of the closure in 2018; and,

WHEREAS, the Kodiak Island Borough School District has no anticipated need for the Property in the foreseeable future, leaving the Borough responsible for any maintenance; and,

WHEREAS, the reversionary rights in the Property limit the Borough's ability to use the Property for uses other than school purposes; and,

WHEREAS, the Borough has advised the City of Larsen Bay of the school closure and the City of Larsen Bay has requested that the Property be conveyed to the Village of Larsen Bay; and,

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WHEREAS, the Borough Assembly finds that its maintenance of the Property by the Borough carries a significant cost of over \$70,000 per year, and,

WHEREAS, the Village of Larsen Bay is willing to accept the Property and to provide space within the building for children in Larsen Bay to engage in schoolwork; and,

WHEREAS, the Borough Assembly finds that it is in the Borough’s best interests to dispose of its interest in the surface estate in the Property by conveyance to the Village of Larsen Bay with the conditions that, should the Borough find it necessary to reestablish a school in Larsen Bay, the Village of Larsen Bay shall either make space available in on the Property to provide for a school or shall provide the Borough with an alternate school site parcel with utility hookups of at least one acre in size in a single parcel for use as a school site; and,

WHEREAS, KIBC 18.20.020 permits the Borough to dispose of land in any manner not prohibited by law, unless another provision of Title 18 of the KIBC or another provision of law establishes a specific mandatory procedure; and,

WHEREAS, KIBC 18.20.030 calls for Planning Commission review and recommendation prior to approval of a disposal of an interest in land by the Borough; and,

WHEREAS, the Assembly finds that Planning Commission review of this proposed disposal of an interest in land would not provide meaningful guidance where the land is subject to a reversionary interest and restricted uses. Therefore, it is in the Borough’s best interests to dispose of the Property without requiring Planning Commission review under KIBC 18.20.030 prior to disposal; and,

WHEREAS, the Property with building and land have an estimated value of \$3,152,400. KIBC 18.20.050 calls for an ordinance and public vote ratifying the disposal if a sale, lease or other permanent disposal of an interest in Borough land valued at over \$1 million to a single entity is to be accomplished by means other than an outcry auction; and,

WHEREAS, the Assembly finds that the restrictions on marketability, the reversionary interest in the Property and the ongoing holding costs make the market value of this Property for a sale is less than \$1 million. Further, the Assembly finds that the value to the Borough is less than the building value when the lack of a current use and the required maintenance costs are taken into account, and finds that it is in the Borough’s best interests to have a clear determination as to whether the ratification requirement will apply to proposals received for this disposal process. Therefore, the Assembly finds that the ratification requirement in KIBC 18.20.050 should be waived because the Borough’s ability to market the Property to other parties is severely restricted if not precluded entirely; and,

WHEREAS, KIBC 18.20.100 authorizes disposal of an interest in property for less than fair market value under where the disposal is to another governmental entity or a nonprofit corporation or association. The Assembly finds that the disposal by conveyance to the Village of Larsen Bay as designee by the City of Larsen Bay is within the scope of the intent of that code section.

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH THAT:

100 **Section 1:** This ordinance is NOT of permanent nature and shall NOT become a part of the
101 Kodiak Island Borough Code of Ordinances.

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103 **Section 2:** That the Borough Manager is authorized to convey the Property to the Village of
104 Larsen Bay by quitclaim deed substantially in the form attached hereto as **Appendix 1**, subject
105 to the conditions that, should the Borough find it necessary to reestablish a school in Larsen Bay,
106 the Village of Larsen Bay shall either make space available in on the Property to provide for a
107 school or shall provide the Borough with an alternate school site parcel with utility hookups of at
108 least one acre in size in a single parcel for use as a school site. The transfer shall be on terms
109 substantially the same as the terms set out in the Agreement for the Transfer of Real Property
110 with Reservation of Rights attached as **Appendix 2** and incorporated herein by reference. The
111 Borough shall also retain a first right of refusal to return of the property in the event the Village of
112 Larsen Bay desires to sell the Property.

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114 **Section 3:** That the disposal of the Property authorized by this ordinance shall not be subject
115 to Planning Commission review and recommendation prior to disposal under KIBC 18.20.030. To
116 the extent that code section would apply it is superseded by this ordinance and will not apply to
117 the disposal by lease under this ordinance.

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119 **Section 4:** That the disposal of the Property authorized by this ordinance shall not be subject
120 to a requirement for ratification of the ordinance authorizing the disposal under KIBC 18.20.050.
121 To the extent that code section would apply it is superseded by this ordinance and will not apply
122 to the disposal under this ordinance.

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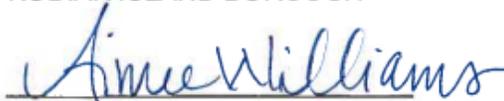
124 **Section 5:** This ordinance shall become effective as provided in KIBC 1.10.040.

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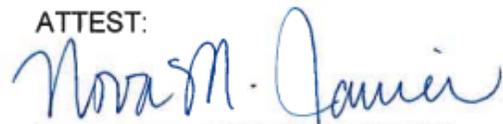
126 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
127 **THIS EIGHTEENTH DAY OF NOVEMBER, 2022**

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KODIAK ISLAND BOROUGH


Aimee Williams, Borough Mayor

ATTEST:


Nova Javier, MMC, Borough Clerk

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130 **VOTES:**

131 Ayes: Delgado, Griffin, LeDoux, Smith, Smiley, Turner

132 Noes: None

133 One vacant seat on the Assembly

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