

Introduced by: Finance Director
Drafted by: Finance Director
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Public Hearing Date: 11/03/2022
Adopted on: 11/03/2022

**KODIAK ISLAND BOROUGH
ORDINANCE NO. FY2023-11**

AN ORDINANCE OF THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH DETERMINING THAT IT IS IN THE BOROUGH’S BEST INTERESTS TO LEASE THE PROPERTY AT 717 E. REZANOF DRIVE PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSALS PROCESS WHICH WAIVES CERTAIN DISPOSAL PROCEDURES.

RECITALS

WHEREAS, the Kodiak Island Borough owns Lot 5A, Block 1, US Survey 2538A, Kodiak Recording District, Third Judicial District, State of Alaska, which is an approximately 2.49 acre parcel and includes the Borough project office at 720 Egan Way and an approximately 92,115 sq. ft. portion of the parcel leased from 1997 until recently by the Sisters of Providence for the Providence Kodiak Island Counseling Center; and,

WHEREAS, the structures previously leased by Sisters of Providence are old and in poor condition. The structures are known to have asbestos containing materials and lead based paint in some locations; and,

WHEREAS, the Sisters of Providence have vacated the property, and the Borough must evaluate whether to destroy the buildings, to renovate the buildings for Borough use, or to dispose of the property by lease or sale to a third party; and,

WHEREAS, the Borough Assembly finds that, apart from the Borough projects office, consisting of an approximately 16,349 sq. ft. portion of the parcel, the Borough does not have a present use for the parcel; and, that due to the costs to either demolish the buildings or to secure and maintain the property and to remediate the asbestos and lead paint if the Borough were to retain it for Borough use, disposal by lease to a party who will address these issues and provide revenue to the Borough more advantageous to the residents of the Borough; and,

WHEREAS, the Borough has been contacted by multiple parties seeking to obtain rights to lease the property at 717 E. Rezanof Drive for use for employee housing or other purposes serving community needs; and,

WHEREAS, the Borough Assembly finds that it is in the Borough’s best interests to dispose of a leasehold interest in the property at 717 E. Rezanof Drive under a competitive proposal process to the party offering the proposal which most benefits the Borough; and,

WHEREAS, KIBC 18.40.030 authorizes leases for up to a fifty-five year term with the term dependent upon the desirability of the proposed use, the amount of investment in improvements proposed and made, the nature of the proposed improvement with respect to durability and time

50 required to amortize the investment. The Borough Assembly finds that it is in the Borough's best
51 interests to lease the property for a term of at least ten years with the duration of the term to
52 depend upon the proposal accepted; and,

53
54 **WHEREAS**, KIBC 18.20.020 permits the Borough to dispose of land in any manner not
55 prohibited by law, unless another provision of Title 18 of the KIB Code or another provision of law
56 establishes a specific mandatory procedure; and,

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

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61 **WHEREAS**, the Assembly finds that Planning Commission review of this proposed disposal of
62 an interest in land would not provide meaningful guidance where the land was previously under
63 a long term lease to a third party and would continue to be leased. Additionally, the Borough is
64 soliciting proposals which may have varied elements making evaluation of the proposed use by
65 the Planning Commission prior to the decision to dispose by lease impractical. Further, the
66 Assembly can refer the successful proposal to the Planning Commission review if the Assembly
67 determines that such review would be warranted. Therefore, it is in the Borough's best interests
68 to dispose of a leasehold interest in the property at 717 E. Rezanof Drive without requiring
69 Planning Commission review under KIBC 18.20.030 prior to disposal; and,

70
71 **WHEREAS**, KIBC 18.20.050 calls for an ordinance and public vote ratifying the disposal if a
72 sale, lease or other permanent disposal of an interest in Borough land valued at over \$1 million
73 to a single entity is to be accomplished by means other than an outcry auction; and,

74
75 **WHEREAS**, the Assembly finds that the deteriorated condition and presence of asbestos and
76 lead paint in the buildings on this parcel makes it difficult to determine an accurate market value;
77 that the value to the Borough is less than the market value when the lack of a current use and the
78 required remediation costs are taken into account; that it is in the Borough's best interests to have
79 a clear determination as to whether the ratification requirement will apply to proposals received
80 for this disposal process; and, that disposal by competitive proposals is a competitive disposal
81 method similar to a disposal by outcry auction. Therefore, the Assembly finds that the ratification
82 requirement in KIBC 18.20.050 should be waived because the policies underlying that
83 requirement are adequately served here; and,

84
85 **WHEREAS**, KIBC 2.125.040 calls for the Architectural Review Board to review all architectural
86 and engineering proposals and design drawings for Borough owned buildings and publicly funded
87 projects; and,

88
89 **WHEREAS**, the Assembly finds that the Architectural Review Board review of design drawings
90 for Borough owned buildings and public projects under KIBC 2.125.040 was not intended to
91 include review of private party plans for redevelopment or remodel of leased Borough buildings
92 under a privately funded project, and that it is appropriate to clearly exempt the proposals for
93 leasehold improvements of the property from review by the Architectural Review Board.

94
95 **NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KODIAK ISLAND**
96 **BOROUGH THAT:**

97
98 **Section 1:** This ordinance is NOT of permanent nature and shall NOT become a part of the
99 Kodiak Island Borough Code of Ordinances.

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101 **Section 2:** that the Borough Manager is directed to solicit proposals for the lease of an
102 approximately 92,115 square foot portion of Lot 5A, Block 1, US Survey 2538A, Kodiak Recording
103 District, Third Judicial District, State of Alaska, consisting of the land and structures formerly
104 leased by Sisters of Providence (the **Property**), which Property is depicted on the diagram
105 attached as **Appendix 1** to this ordinance.
106

107 **Section 3:** that the lease of the Property authorized by this ordinance shall not be subject to
108 Planning Commission review and recommendation prior to disposal under KIBC 18.20.030. To
109 the extent that code section would apply it is superseded by this ordinance and will not apply to
110 the disposal by lease under this ordinance.
111

112 **Section 4:** that the lease of the Property authorized by this ordinance shall not be subject to
113 a requirement for ratification of the ordinance authorizing the disposal under KIBC 18.20.050. To
114 the extent that code section would apply it is superseded by this ordinance and will not apply to
115 the disposal by lease under this ordinance.
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117 **Section 5:** that the redevelopment or remodel of the structures on the leased Property shall
118 not be subject to Architectural Review Board review of engineering proposals and design
119 drawings for Borough owned buildings under KIBC 2.125.040. To the extent that code section
120 would apply it is superseded by this ordinance and will not apply to the disposal by lease under
121 this ordinance.
122

123 **Section 6:** the procedure for disposal of a leasehold interest in the Property shall include
124 substantially the following steps:
125

- 126 A. The Borough shall solicit competitive proposals.
127
128 B. A committee selected by the Borough Manager shall score and rank the proposals
129 taking into consideration:
130
131 1. the capacity and resources of the respondent to accomplish the renovation
132 work and complete the project putting the Property into productive use;
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134 2. the respondent's familiarity with the Kodiak community and ability to
135 address community needs with the project;
136
137 3. the timeline and development plan for putting the Property back into
138 productive use and remedying conditions on the Property in an expedient manner;
139
140 4. the respondent's commitment to provide local management and to be
141 responsive to community concerns; and,
142
143 5. the revenue to the Borough from the rental.
144

145 Such other factors as the Manager deems appropriate to include in the request for proposals:
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147 C. the Manager shall review the evaluation committee's rankings, and may seek
148 additional information before making a recommendation to the Assembly for intent to award the
149 lease; and,

150
151 D. the Assembly shall have final approval of the award to the successful respondent.
152

153 **Section 7:** Among other requirements, the terms for the lease shall include:
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155 A. the Property is leased AS IS;
156

157 B. renovation of the structures on the Property is at no expense to the Borough;
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159 C. remediation of any dangerous conditions on the Property, including asbestos
160 containing materials and lead based paint as required by law;
161

162 D. defense and indemnification of the Borough from any claims or damages relating
163 to the tenant's use of the Property;
164


165 E. maintenance of the Property throughout the lease term at the tenant's expense,
166 leaving it in a condition at the end of the lease which does not pose a liability to or impose
167 significant costs on the Borough; and,
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169 F. use of the Property will be only in compliance with the zoning code and any
170 applicable laws, and Assembly approval is required for a change in use from the proposed use.
171


172 **Section 8:** This ordinance shall become effective as provided in KIBC 1.10.040.
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174 **ADOPTED BY THE ASSEMBLY OF THE KODIAK ISLAND BOROUGH**
175 **THIS THIRD DAY OF NOVEMBER, 2022**

KODIAK ISLAND BOROUGH


Aimee Williams, Borough Mayor

ATTEST:


Nova Javier, MMC, Borough Clerk

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177
178
179 **VOTES:**

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

181 One Vacant Seat on the Assembly
182