

Introduced by:	City Manager Lee Foley
Introduction Date:	August 11, 2009
Public Hearing:	August 25, 2009
Action:	Passed
Vote:	7-0

CITY OF BETHEL, ALASKA

ORDINANCE #09-23

AN ORDINANCE AUTHORIZING THE SALE OF THE EDDIE HOFFMAN SENIOR CENTER BUILDINGS LOCATED AT 127 ATSAQ WAY TO THE ORUTSARAMIUT NATIVE COUNCIL

BE IT ORDAINED by the City Council of Bethel, Alaska, that:

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

SECTION 2. Legal Description. The property ("Property") which is the subject of the sale is more particularly described as:

The Eddie Hoffman Senior Center and all those buildings located on the following tract of land:

Tract H, Block 2, Turnkey 111 Housing Development, according to Plat 87-6, filed in the Bethel Recording District, Fourth Judicial District, State of Alaska

SECTION 3. Disposal to Entity Providing a Necessary Public Service. In accordance with the Bethel Municipal Code 4.08.030 the Council finds:

- (1) that the City of Bethel has been awarded two grants from the State of Alaska to support the provision of senior services: (1) a Nutrition, Transportation, and Support Services, and (2) a Home and Community Based Care grant;
- (2) that Orutsaramuit Native Council is administering the two grants on behalf of the City of Bethel pursuant to the Memorandum of Agreement dated August 16, 2005;
- (3) that the Property is being used by the Orutsaramuit Native Council to provide services to low income seniors over 60 years of age, minorities, and those living in a rural area as specified for recipients of the Nutrition, Transportation, and Support Services grant;
- (4) that the Property is being used by the Orutsaramuit Native Council to provide services to eligible seniors, those at risk of institutionalization, individuals with disabilities and others that qualify under the Home and Community Based Care grant;
- (5) Orutsaramuit Native Council's administration of the two grants supports the public health and safety by providing services to seniors and other people in need of

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assistance who might otherwise not receive assistance and is a necessary public service; and

- (6) By administrating the two grants, Orutsaramuit Native Council is furthering the public Interest and is an appropriate entity for transfer of the Property as intended by the Memorandum of Agreement;

Based upon the foregoing findings, the Council hereby authorizes the City Manager to execute an agreement on behalf of the City of Bethel for the purchase and sale of the property described in Section 2 to the Orutsaramuit Native Council for the amount of one dollar (\$1.00).

SECTION 4. General Conditions. The following general conditions shall be included, along with other necessary conditions, in the sale and purchase agreement for the Property:

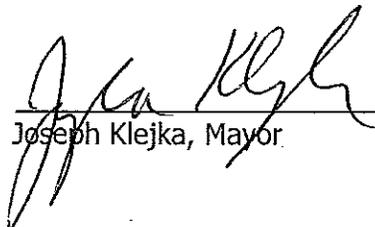
- (1) The Property is to be restricted to use as required by the two grants or otherwise used for the provision of services to seniors;
- (2) The Property shall not be assigned to another entity;
- (3) Orutsaramuit Native Council shall have full responsibility for the maintenance and upkeep of the Property; and
- (4) Orutsaramuit Native Council shall waive its sovereign immunity in regard to the sale and purchase agreement;

SECTION 5. Effective Date. This ordinance shall become effective thirty (30) days after passage by the Bethel City Council.

PASSED AND APPROVED THIS 25 DAY OF AUGUST 2009, BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED.

ATTEST:


Lori Strickler, City Clerk


Joseph Klejka, Mayor

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PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement ("Agreement") is made as of, ____2009, between Orutsaramuit Native Council ("Purchaser"), and the City of Bethel, Alaska, a municipality organized and existing under the laws of the State of Alaska ("Seller").

Purchaser and Seller agree as follows:

I. Purchase and Sale:

A. Subject to the terms and conditions of this Agreement, Seller agrees to sell and Purchaser agrees to purchase only the buildings, and not the surface or subsurface rights to the property described as follows (the "Buildings"):

The Chief Eddie Hoffman Senior Center and all those buildings located on the following tract of land:

Tract H, Block 2, Turnkey III Housing Development, according to Plat #87-6, filed in the Bethel Recording District, Fourth Judicial District, State of Alaska

B. All buildings subject to this agreement are conveyed "as is," without warranty, express or implied, of merchantability or suitability for a particular purpose, or otherwise. Purchaser consents and agrees that it is relying solely on its own inspection of the premises and not on any representation of the Seller or Seller's agent or employees in making their determination to purchase the Buildings.

2. Purchase Price:

Purchaser agrees to pay for the Buildings the sum of ONE DOLLAR \$1.00.

3. Waiver of Sovereign Immunity. The Purchaser hereby irrevocably waives any right it may have to assert-sovereign immunity from suit and from execution for the sole purpose of any claim, legal challenge, or dispute regarding the validity or enforcement of this Agreement. This waiver is for the limited purposes specified herein and is without prejudice to all other sovereign rights of the Purchaser.

4. Hazardous Material:

Purchaser acknowledges that it has personally inspected the Buildings, and after due and diligent inquiry, found no evidence of environmental contamination on or near the Buildings; and that the Seller, to the best of its knowledge, is unaware of any environmental contamination on or near the Buildings; and that the Purchaser will maintain the Buildings in such a manner as to prevent the occurrence of any environmental

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contamination; and Seller makes no warranties express or implied with respect to the condition of the Buildings, the existence or non-existence of environmental contamination or the suitability for any purpose whatsoever.

Purchaser agrees that if the presence of hazardous material in the Buildings is caused or permitted by the Purchaser, its agents, employees, contractors, or invitees, or of environmental contamination of the Buildings by hazardous materials otherwise occurs in the Buildings, Purchaser shall defend, indemnify and hold harmless Seller from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, but not limited to, sums paid in the settlement of claims, attorney's fees, consultant fees and expert fees) which indemnification includes, without limitations, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, restoration work required by any federal, state or local government in or under the Buildings. As used herein, the term "hazardous material" means any hazardous or toxic substance, material, or waste, which is or becomes regulated by any local government authority, the State of Alaska, or the United States government.

5. Buildings Accepted "As-is":

Purchaser acknowledges that it has inspected the Buildings and accepts the same "as-is" and without reliance on any expressed or implied representations or, warranties of Seller or agents or employees of Seller, as to the actual physical condition or characteristics thereof of the Buildings.

Seller expressly makes no warranties as to the physical condition of the Buildings and all inspection obligations rest with the Purchaser.

6. Commissions: Each party represents and warrants to the other that it has not engaged the services of any real estate licensee, broker, finder or other person who would be entitled to any commission or fee in respect to the subject matter of this Agreement and each shall indemnify the other against any loss, cost, liability or expense incurred by the other as a result of any claim asserted by any such real estate licensee, broker, finder or other person on the basis of any brokerage or similar arrangement or agreement made or alleged to have been made.

7. Notices: No notice, consent, approval or other communication provided for herein or given in connection with this Agreement shall be validly given, made, delivered or served unless it is in writing and delivered personally, sent by overnight courier or sent by registered or certified United States mail, postage prepaid, with return receipt requested to:

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Seller: City of Bethel
P.O. Box 1388
Bethel, Alaska 99559

Purchaser: Orutsaramuit Native Council
P.O. Box 927
Bethel, Alaska 99559

or to such other addresses as either party may from time to time designate in writing and deliver in a like manner to the other party. Notices, consent, approvals, and communications given by mail shall be deemed delivered upon the earlier of three days after deposit in the United States mail in the manner provided above or immediately upon delivery to the respective addresses set forth above, if delivered personally or sent by overnight courier.

8. Entire Agreement: This document contains the entire Agreement between the parties. It may not be modified except in writing and signed by all parties.

9. Controlling Law and Venue: This Agreement shall be governed by, construed under and enforced in accordance with the laws of the State of Alaska, and venue for actions between the parties arising out of or related to this Agreement shall be in Bethel, Alaska.

10. Further Assurances: Whenever requested to do so by the other party, Seller or Purchaser promptly and expeditiously shall execute, acknowledge and deliver any and all such conveyances, assignments, confirmations, satisfactions, releases, instruments of further assurance, approvals, :consents and any and all further instruments and documents as may be reasonably necessary, expedient, or proper in order to complete any and all conveyances, transfers, sales, and assignments herein provided, and to do any and all other reasonable acts and to execute, acknowledge and deliver any and all documents as so reasonably requested in order to carry out the intent and purpose of this Agreement.

11. Miscellaneous: Purchaser acknowledges its responsibility to inspect the Buildings and agrees the Seller assumes no liability for matters, which would have been disclosed to the Purchaser by an inspection of the Buildings. Purchaser further acknowledges that the Seller makes no warranties, either expressed or implied, nor assumes any liability whatsoever, regarding the social, economic or environmental aspects of the Buildings, to include without limitation, physical access, or natural or artificial hazards which may or may not exist or merchantability, suitability, or profitability of the Buildings for any use or purpose.

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12. Permit Laws and Taxes:

Purchaser agrees that it will comply with all permits, laws, and taxes of any federal, state or local entity for any and all activities associated with the sale of the Buildings and any approvals necessary for development of the Buildings.

Purchaser shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this Agreement. All actions taken by the Purchaser under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. The Purchaser shall pay all taxes pertaining to its performance under this Agreement.

Executed this _____ day of _____, 2009.

Seller:

The City of Bethel, Alaska

Purchaser:

Orutsaramuit Native Council

Lee M. Foley, City Manager

Its: _____

ATTEST:
