



CITY OF KOTZEBUE, ALASKA
ORDINANCE NO. 24-03
[AS AMENDED IN SECTION 5]

ENTITLED: "A NON-CODE ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KOTZEBUE APPROVING THE SALE OF A PORTION OF CITY-OWNED REAL PROPERTY LOCATED WITHIN LOT 10, BLOCK 13, USS 2863 TO THE NATIVE VILLAGE OF KOTZEBUE ("NVK") FOR THE FAIRMARKET VALUE OF ONE HUNDRED AND SEVENTY THOUSAND DOLLARS AND NO CENTS (\$170,000).

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF KOTZEBUE, ALASKA:

- Section 1.** This is a Non-Code Ordinance pursuant to Kotzebue Municipal Code ("KMC") **3.12.010 Acquisition of real property** which provides in pertinent part "*B. ...disposal of real property shall be approved...by ordinance if the property is valued at fifty-five thousand dollars to one million, one hundred thousand dollars...*"
- Section 2.** The Native Village of Kotzebue is the Tribal Government serving the Inupiaq people of Qikiqtagruk and wishes to purchase certain City-owned property from the City of Kotzebue and has obtained funding for the construction of a building to house a Nikaitchuat Iḷisagviat Inupiaq Immersion School and Tribal offices.
- Section 3.** The City of Kotzebue by Trustee's Deed dated August 22, 1958, is the owner of that portion of lot 10, block 13, USS 2863, described as beginning at the corner no. 8, USS 2863A, Kotzebue Townsite, thence S. 45° 59' E., 200 feet, thence S. 44° 01' W., 173.06 feet, thence N. 45° 59' W., 200 feet, thence N. 44° 01' E. 173.06 feet to the beginning, containing 34,612 square feet.

Section 4.

The portion of City-owned real property sought by the Native Village of Kotzebue is located within City Limits and is described as the easterly portion of lot 10, block 13, USS 2863 conveyed by the 1958 Trustee's Deed referenced above and bordered by Lagoon Street and Fourth Avenue excluding the westerly portion of the City-owned Ashley Johnson-Barr Park and which portion sought by the Native Village of Kotzebue is measured at 110.02 linear feet by 173.98 linear feet for a total area of 19,141 square feet of the City-owned portion of lot 10, block 13 and that portion has been appraised at value of \$170,000 by a Certified Residential Real Estate Appraiser of the Appraisal Company of Alaska and the Native Village of Kotzebue has agreed to pay for a formal metes and bounds survey from a qualified Alaska surveyor which sets out a legal description of the property to be purchased starting from a point of beginning, then traces the outline of the property's boundary lines until there is closure in the legal description and provide the City of Kotzebue a copy of this survey as a condition subsequent to the purchase of the City's property set forth herein. The Native Village of Kotzebue and City of Kotzebue will work together on the documentation necessary to complete this purchase with the Native Village of Kotzebue paying for the filing/recording of same.

The Ashley Johnson-Barr Park and its immediately adjoining environs are not available for purchase by the Native Village of Kotzebue, so only that portion of the property adjacent to the east of the park as described above will be conveyed to the Native Village of Kotzebue once that property has been properly subdivided as noted above. Although the Native Village of Kotzebue will not own Ashley Johnson-Barr Park, the Native Village of Kotzebue would under covenant take full and complete responsibility for the maintenance, upgrades, safety, and well-being of the park and fully indemnify and hold harmless the City of Kotzebue from any and all claims and costs resulting from any harm or loss associated with the park as a condition subsequent.

Section 5. If by December 31, **2030**, the Native Village of Kotzebue has not fully constructed the proposed building to house a Nikaitchuat Iļisagviat Inupiaq Immersion School and Tribal offices, the ownership of the property will revert to the City of Kotzebue and the Native Village of Kotzebue will complete and file the necessary documentation to effectuate this reversion and the Native Village will be refunded its payment of \$170,000 in its entirety without any costs and/or interest. Furthermore, if at any time after the purchase of the property described herein by the Native Village of Kotzebue, the Native Village of Kotzebue decides to sell the property it has purchased as described herein, the City of Kotzebue shall be given the right of first refusal to the real property purchased by the Native Village of Kotzebue as described herein at the fairmarket value of the real property at that time.

Section 6. As a condition precedent for the purchase of this property, the Native Village of Kotzebue by a duly passed Resolution of its Tribal Council shall waive its sovereign immunity for the limited, express purpose of enforcing the terms and conditions of this Non-Code Ordinance and any subsequent Agreements for the purchase of the City of Kotzebue's property described herein. Said Resolution shall be provided to the City of Kotzebue on or before the Public hearing set for this Non-Code Ordinance on May 2, 2024.

ENACTED this 2nd day of May, 2024.

CITY OF KOTZEBUE

Saima Chase, Mayor

[SEAL]

ATTEST:

Rosie Hensley, City Clerk

ATTESTATION: I, Rosie Hensley, Clerk for the City of Kotzebue, hereby attest that the above Ordinance, No. 24-03, was duly presented to the Kotzebue City Council for introduction on April 18, 2024, duly published and posted on April 12, 2024, a first public hearing was held on May 2, 2024 and a second public hearing was held on May 24, 2024 at which time this Ordinance was passed.

Introduction: April 18, 2024
Published/Posted: April 12, 2024
First Public Hearing: May 2, 2024
Second Public hearing and Passage: May 24, 2024



PO Box 296
Kotzebue, AK 99752
ph (907) 442-3467
fax (907) 442-2162
www.kotzebueira.org

RESOLUTION 24-044

THE RESOLUTION OF THE NATIVE VILLAGE OF KOTZEBUE TRIBAL COUNCIL APPROVING A LIMITED WAIVER OF SOVEREIGN IMMUNITY FOR THE SOLE PURPOSE OF PURCHASING A PORTION OF THE CITY OF KOTZEBUE MEASURED AT 110.02 LINEAR FEET BY 173.98 LINEAR FEET FOR A TOTAL AREA OF 19,141 SQUARE FEET OF THE CITY-OWNED PORTION OF LOT 10, BLOCK 13, AND THAT PORTION HAS BEEN APPRAISED AT VALUE OF \$170,000, AND THE MAINTENANCE, UPGRADES, SAFETY AND WELL-BEING OF ASHLEY JOHNSON-BARR PARK AS SET FORTH IN THE CITY OF KOTZEBUE ORDINANCE 24-03.

WHEREAS, the Native Village of Kotzebue (the “Tribe”) is a federally-recognized Alaska Native Tribe with inherent sovereignty and governance authority (refer to the Federally Recognized Indian Tribes List Act of 1994, Pub. L. 103-454; 108 Stat. 4791, 4792; *Indian Entities Recognized and Eligible to Receive Services from the United States Bureau of Indian Affairs*, 85 Fed. Reg. 5467 (Jan. 30, 2020); and

WHEREAS, the Native Village of Kotzebue Tribal Council (the “Tribal Council”) is the governing body of the Tribe; and

WHEREAS, the Tribal Council has request to purchase a portion of property from the City of Kotzebue for the sole purpose of building the Nikaitchuat Ilisagvait and an Administrative Office that provides federal programs for the membership of the Native Village of Kotzebue; and

WHEREAS, the Tribal Council in future years plan to build a Cultural Center on the said property; and

WHEREAS, the Tribal Council requests to purchase a portion of “the City of Kotzebue by Trustee’s Deed dated August 22, 1958, is the owner of that portion of Lot 10, Block 13, USS 2863, described as beginning at the corner of No. 8, USS 2863A, Kotzebue Townsite, thence S. 42 (degrees) 01’ W., 173.06 feet, thence N. 45 (degrees) 59’ W., 200 feet, thence N. 44 (degrees) 01’ E. 173.06 feet to the beginning containing 34,612 square feet as described in the City of Kotzebue non-code Ordinance 24-03; and

WHEREAS, the Tribal Councils wishes to purchase a portion at 110.02 linear feet by 173.98 linear feet for a total area of 19,141 square feet of the City-owned portion of Lot 10, Block 13.

NOW, THEREFORE, BE IT RESOLVED, that Tribal Council hereby approved the limited waiver of sovereign immunity for:

- (1) the terms and conditions of purchasing a portion at 110.02 linear feet by 173.98 linear feet for a total area of 19,141 square feet of the City-owned portion of Lot 10, Block 13; and
- (2) the maintenance, safety and wellbeing of the Ashley Johnson-Barr Park and its immediately adjoining environs to wit: although the Native Village of Kotzebue will not own Ashley Johnson-Barr Park, the Native Village of Kotzebue would under covenant take full and complete responsibility for the maintenance, upgrades, safety, and well-being of the park and fully indemnify and hold harmless the City of Kotzebue from any and all claims and costs resulting from any harm or loss associated with the park as a condition subsequent as set for the in City of Kotzebue Ordinance 24-03.


BE IT FURTHER RESOLVED, that the Tribal Council will use the property for the sole purpose of building the Nikaitchuat Ilisagvait, Administrative Office for the Tribe and a Cultural Center.

CERTIFICATION

Resolution 24-044 is approved through poll vote by the Native Village of Kotzebue Tribal Council held on this 5th, day of May, 2024 by a vote of 9 for, 0 against, and 0 not voting. This resolution will be ratified at the next regularly scheduled meeting of the Kotzebue Tribal Council.



Toni Raye Bergan, Chair



Shylena Lie, Secretary