

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 99-730

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF SITKA, ACCEPTING THE ALASKA PULP CORPORATION MILL PROPERTY

- WHEREAS,** Alaska Pulp Corporation (APC) is the landowner of certain property in and around Silver Bay in Sitka, Alaska (Property), concerning which the Alaska Department of Environmental Conservation (DEC) is completing the site clean-up investigation and remediation process (remedial studies) pursuant to a September 1995 Commitment Agreement between APC and the State of Alaska (the State); and
- WHEREAS,** APC desires to convey the property, along with certain buildings, docks, equipment, permits, water, and other real property rights to the City and Borough of Sitka (Sitka); and
- WHEREAS,** in April, 1998, the Assembly of Sitka voted in concept to accept the property subject to staff working out the details of the transaction, assuring the ability to redevelop and use the site, and protecting Sitka from potential liability; and
- WHEREAS,** Sitka recognizes the opportunities and feasibility of using the property as a site for economic development, public facilities, and public benefit; and
- WHEREAS,** it would be in the public interest to convey the site to the Sitka community to put it to productive use for jobs, tax, recreation, and other benefits, as soon as possible; and
- WHEREAS,** the Assembly has directed staff to initiate a process for the planning, management, and redevelopment of the Property; and
- WHEREAS,** Sitka is reasonably aware of the potential operating and maintenance costs associated with the property based upon its own investigation and analysis; and
- WHEREAS,** Sitka is reasonably aware of the status of environmental and other issues concerning the property, having conducted its own due diligence review and all reasonable inquiry into existing contamination, which has been ongoing since April 1998, based on DEC's remedial studies; and
- WHEREAS,** APC represents that it has disclosed to Sitka all the information which in its opinion is material to the obligations and risk which Sitka is undertaking by this Agreement; and
- WHEREAS,** Sitka currently assesses the value of the property for purposes of property taxes at \$18.83 million; and

- WHEREAS,** DEC has assured Sitka in a letter from the Commissioner dated March 5, 1999 that Sitka will not be liable under state law for past or continuing releases from existing contamination and for natural resource damages and that the institutional controls to be imposed will not preclude reasonable use of the property; and
- WHEREAS,** the State and Sitka have developed a draft prospective purchase agreement and related exhibits which incorporate these assurances and define Sitka's future site management responsibilities in a legally binding agreement; and
- WHEREAS,** the prospective purchaser's agreement will assure the municipality that among other assurances:
1. The State recognizes that Sitka has not previously been an owner, operator, generator, or transporter of any existing contamination, and has not been named as a potentially responsible party at the Property; and to the best of its knowledge and belief, Sitka has not, prior to taking title to the property, caused or contributed to a release or threat of release of hazardous substances or contaminants of concern on the property.
 2. The State will not sue or take any other civil or other administrative action against Sitka or other Approved Beneficiaries (including naming them potentially responsible parties) for any claim, including claims for equitable relief or damages under A.S. Title 46 and Title 18 of the Alaska Administrative Code, (including natural resource damages) directly or indirectly arising from releases of, or the existence of, existing contamination.
 3. The State agrees not to require Sitka to undertake remedial actions with respect to Existing Contamination except as expressly agreed therein.
- WHEREAS,** the Assembly has considered public comment and the public review drafts of the conveyance agreement, the prospective purchaser agreement, and draft Sawmill Cove management plan, and finds that they will promote restoration of the mill property for the productive use and benefit of the public and are in the public interest; and
- WHEREAS,** at a special session of the Assembly on April 6, 1999, Sitka has determined that conveyance of the property under the terms of this conveyance agreement and the prospective purchaser agreement, and their related exhibits, would reasonably protect the community from liability and future adverse environmental impacts that pulp mill operations may have caused; and
- WHEREAS,** Redevelopment and public use of the property, and Sitka performance of the long-term monitoring and institutional controls, provide a substantial direct and indirect benefit to the public welfare and is in the public interest.

NOW THEREFORE BE IT RESOLVED by the Assembly of the City and Borough of Sitka, Alaska that:

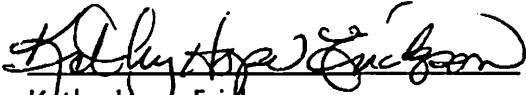
- A. The City & Borough of Sitka accepts the Alaska Pulp Corporation mill property from Alaska Pulp Corporation subject to the provisions of the conveyance agreement and closing documents.
- B. The mayor is authorized to sign the documents necessary to complete the conveyance of the property from Alaska Pulp Corporation to Sitka.
- C. Sitka shall establish a contingency fund as follows:
 1. The City & Borough of Sitka shall establish a Sawmill Cove Memorandum of Understanding (MOU) Contingency Fund and shall, immediately upon receipt, place in the fund the property remaining in the Trust identified in paragraph 4 of the Conveyance Agreement. Not later than such time, Sitka shall also place \$500,000 from the Southeast Alaska Economic Development Fund in the fund.
 2. The fund shall be invested and shall remain segregated from the general fund and other municipal funds and accounts. The fund shall be reserved for unforeseen expenses that may be incurred by the municipality in implementing the Sawmill Cove Management Plan/MOU between the State and Sitka.
 3. Sitka may add such sums to the fund from time to time as it deems advisable. Funds may come from public or private sources, grants funds, lease revenues, or other public or private sources. The fund shall maintain a balance of not less than \$200,000 until the last monitoring event prior to final site closure under the Sawmill Cove Management Plan/MOU (depending on the duration of the long-term monitoring programs, the final site closure may be for either the area of concern or the general industrial waste landfill). Any funds remaining after site closure shall be expended by the municipality for environmental or community improvements.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska on this 6th day of April, 1999.



Stan J. Filler, Mayor

ATTEST:


Kathy Hope Erickson
Municipal Clerk