

POSSIBLE MOTION

I MOVE TO approve an agreement for payment of remediation costs between the City and Borough of Sitka and the Sitka Community Land Trust for 1306 Halibut Point Road and authorize the Municipal Administrator to execute these documents.

If the Assembly desires to go into executive session, the following steps are suggested:

Step 1

EXECUTIVE SESSION

I MOVE to go into Executive Session, pursuant to Sitka General Code 2.04.020.D.4, to communicate with the Municipal Attorney concerning a legal matter affecting the Municipality with respect to the land conveyed by the Municipality to the Sitka Community Land Trust.

Step 2

I MOVE to reconvene as the Assembly in regular session.

Step 3

Take action on original main motion above.

AGREEMENT FOR PAYMENT OF REMEDIATION COSTS

THIS AGREEMENT is entered into by and between the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality (the “CBS”), of 100 Lincoln Street, Sitka Alaska, 99835, and SITKA COMMUNITY LAND TRUST, an Alaska non-profit corporation (“SCLT”), of PO Box 6461, 329 Harbor Drive, Suite 212, Sitka Alaska, 99835.

WHEREAS, on October 3, 2006, a majority of the qualified voters of the municipality authorized the disposal of the “Old City Shops”, located at 1306, 1410 and 1414 Halibut Point Road, for the purposes of an affordable housing project; and,

WHEREAS, on November 24, 2015, by Ordinance No. 2015-56, the Assembly authorized the transfer/sale of 1306 Halibut Point Road to the Sitka Community Development Corporation (“SCDC”) (now known as the SCLT) and said ordinance recited that: “SCDC acknowledges that prior use of this parcel resulted in chemical contamination of the soil, and a 2008 study, adopted by the State of Alaska, Division of Spill Prevention and Response Contaminated Sites Program found, absent any newly discovered evidence in the future, the property was cleared for redevelopment. SCDC is fully informed of this report and assumes the cost of any further testing, if necessary, assumes all risk associated with said contamination history of this parcel.”; and,

WHEREAS, on March 23, 2016, the CBS conveyed 1306 Halibut Point Road to SCDC by quitclaim deed; and,

WHEREAS, in 2017 the SCLT, began the affordable housing project, authorized by referendum and ordinance, at 1306 Halibut Point Road and in June 2017 its contractor, while digging trenches for water and sewer lines, uncovered contaminated soil which required remediation for which costs have amounted to or exceeded \$103,000; and,

WHEREAS, the SCLT has requested financial assistance from the CBS for a portion of its costs incurred in remediating the contaminated soil uncovered on 1306 Halibut Point Road; and,

WHEREAS, on September 26, 2017, by Item No.17 -161, the Assembly directed the Municipal Administrator, through the Municipal Attorney, to prepare an agreement, for consideration by the Assembly at its next regular meeting, for a grant of money in the amount of up to \$47,267 to SCLT for costs associated with remediation of 1306 Halibut Point Road;

NOW, THEREFORE, IN CONSIDERATION of the above premises and the mutual promises contained herein, the parties hereby agree as follows:

1. The CBS shall pay the SCLT up to \$47,267 for costs associated with remediation of 1306 Halibut Point Road.
2. The SCLT shall make written application for payment under this agreement to the Finance Director of the CBS. Prior to any payment under this agreement, the SCLT shall

provide the CBS, through its Finance Director, with receipts, or other documentary evidence, for the costs associated with remediation of 1306 Halibut Point Road. The Finance Director, in his sole discretion, shall determine whether there is satisfactory evidence to support payment under this agreement.

3. Any monies made available to the SCLT under this agreement, which are not applied for and supported by satisfactory documentary evidence within ninety (90) days from the date of this agreement, shall be forfeited to the CBS.

4. It is understood and agreed by both parties that by entering into this agreement neither party admits to liability for remediating the contaminated soil on 1306 Halibut Point Road.

5. It is further understood and agreed by both parties that this agreement in no way further obligates the CBS to pay to the SCLT any additional monies for remediation costs beyond the upper amount provided for in this agreement.

6. The SCLT acknowledge that it has obtained or has had an opportunity to obtain independent legal advice in connection with this agreement and acknowledge that it understands and agrees to be bound by all the terms and conditions contained herein.

7. This agreement cannot be amended or modified except by agreement in writing executed by both parties.

8. This agreement constitutes the entire agreement between the parties with respect to the subject matter of this agreement and supersedes all previous negotiations, communications and other agreements relating to it, unless specifically incorporated by reference herein. There are no representations, warranties, conditions, undertakings or other agreements, expressed or implied or statutory, between the parties other than as expressly set forth in this agreement.

IN WITNESS WHEREOF, the parties have executed this agreement on the date(s) shown below, and by their signatures, confirm they are authorized to sign this agreement.

CITY & BOROUGH OF SITKA, ALASKA

Date

By: _____
Keith Brady
Its: Municipal Administrator

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Keith Brady, the Municipal Administrator of the CITY AND BOROUGH OF SITKA, ALASKA, on its behalf.

Notary Public in and for the State of Alaska
My commission expires: _____

SITKA COMMUNITY LAND TRUST

Date

By: _____
Mim McConnell
Its: Executive Director

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by Mim McConnell, the Executive Director of the Sitka Community Land Trust, on its behalf.

Notary Public in and for the State of Alaska
My commission expires: _____