

EASEMENT PURCHASE AGREEMENT

This Agreement is made on this _____ day of _____, 2015 by and between Paula N. Keohane and Timothy J. Keohane, whose address is PO Box 1411, Coupeville, WA 98239, (hereinafter referred to as "GRANTOR") and the KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter referred to as "KPB").

WHEREAS, GRANTOR is the owner of that real property located in the Kenai Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

Tract One (1) Kingswood Estates Subdivision, Plat KN 76-22, Kenai Recording District, within Section 30, Township 5 North, Range 11 West, Seward Meridian, Alaska in the Kenai Recording District, Third Judicial District, State of Alaska.

WHEREAS, KPB has offered to buy, subject to assembly authorization and appropriation of funds, and SELLER is willing to sell a Drainage Easement as evidenced by this Purchase Agreement;

WHEREAS, the Drainage Easement is set forth in Exhibit A and is more particularly described as follows:

The North 627 Feet of said Tract One comprising 4.3 acres more or less.

NOW THEREFORE, in consideration of the promises herein contained, GRANTOR hereby agrees to grant to KPB, and KPB hereby agrees to buy from GRANTOR, the Drainage Easement as forth in Exhibit A on the terms and conditions as set forth below:

1. PURCHASE PRICE

The purchase price of the Drainage Easement is X dollars and NO cents (\$X). The purchase price shall be paid by KPB at time of closing. The purchase of the Drainage Easement and appropriation of funds for the purchase are subject to borough assembly approval.

2. EXPIRATION OF OFFER

SELLER shall sign and return this Purchase Agreement to KPB on or before _____ otherwise this offer shall terminate.

3. DRAINAGE EASEMENT INSTRUMENT

The Drainage Easement shall be granted at time of closing in the form substantially similar to Exhibit A. GRANTOR warrants and covenants that at the time of closing there shall be no liens or judgments recorded against GRANTOR in the same recording district in which the Property subject to this purchase agreement is situated. The Drainage Easement is subject to reservations,

easements, rights-of-way, covenants, conditions and restrictions of record but shall otherwise remain free and clear of liens and encumbrances.

4. ESCROW AND CLOSING COSTS

In addition to the purchase price, KPB agrees to pay for all closing costs in connection with this Agreement, including without limitation all survey and recording fees. All costs will be paid in full at the time of closing.

5. CLOSING

Unless otherwise agreed in writing, closing will occur within 90 days after execution of the Purchase Agreement. At closing, KPB will pay the balance of the purchase price. Both parties will execute all documents required to complete the Easement Purchase Agreement.

6. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the Drainage Easement by the Kenai Peninsula Borough is subject to authorization by the Kenai Peninsula Borough Assembly and appropriation of funds. If the Kenai Peninsula Borough Assembly fails to authorize the purchase of the Drainage Easement and appropriate funds, this agreement shall be terminated without penalty.

7. ENTIRE AGREEMENT

This Agreement and the documents referred to herein contain the entire agreement of the parties with respect to the subject matter hereof. Any changes, additions or deletions hereto must be made in writing and signed by both KPB and GRANTOR or their respective successors in interest. Provisions of this Agreement, unless inapplicable on their face, shall be covenants constituting terms and conditions of the sale, and shall continue in full force and effect until the purchase price is paid in full or this agreement is earlier terminated.

8. BREACH REMEDY

Prior to closing of the sale, in the event that KPB or GRANTOR fails to make any payment required, or fails to submit or execute any and all documents and papers necessary for closing and granting of the Drainage Easement within the time period specified in this agreement, the GRANTOR or KPB may terminate this Agreement.

9. MISCELLANEOUS

- A. Time. Time is of the essence in performance of this Agreement.
- B. Cancellation. This Agreement, while in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by GRANTOR and the KPB mayor. This Purchase Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts.

- C. Notice. Any notice or demand, which under the terms of this Agreement or under any statute must be given or made by the parties thereto, shall be in writing, and be given or made by registered or certified mail, addressed to the other party at the address shown on the contract. However, either party may designate in writing such other address to which such notice of demand shall thereafter be so given, made or mailed. A notice given hereunder shall be deemed received when deposited in a U.S. general or branch post office by the addressor.
- D. Interpretation. This Agreement shall be deemed to have been jointly drafted by both parties. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The interpretation and enforcement of this Agreement shall be governed by the laws of the State of Alaska. The titles of sections in this Agreement are not to be construed as limitations of definitions but are for identification purposes only.

This Agreement has been executed by the parties on the day and year first above written.

KENAI PENINSULA BOROUGH:

GRANTORS:

Mike Navarre, Mayor

Paula J. Keohane

Timothy Keohane

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship,
Borough Clerk

Holly B Montague,
Deputy Borough Attorney

(Borough Seal)

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Mike Navarre, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
ISLAND COUNTY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Paula J. Keohane.

Notary Public in and for Washington
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss.
ISLAND COUNTY)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Timothy Keohane

Notary Public in and for Washington
My commission expires: _____

DRAFT

EXHIBIT A TO EASEMENT PURCHASE AGREEMENT

DRAINAGE EASEMENT

PARTIES: Paula N. Keohane and Timothy J. Keohane, whose address is PO Box 1411, Coupeville, WA 98239, hereinafter called GRANTORS, hereby grant to the Kenai Peninsula Borough, a Municipal Corporation, whose address is 144 N. Binkley Street, Soldotna, Alaska 99669, hereinafter called GRANTEE, for ten dollars and other good and valuable consideration, receipt of and sufficiency of which is hereby acknowledged the following described easement subject to the terms and conditions set forth herein.

TERM: This Easement is granted in perpetuity to GRANTEE, its successors, assigns, licensees, and permittees.

PURPOSE: This easement is for the purpose of storm water collection and drainage located within the following described parcel, to wit:

LEGAL DESCRIPTION:

Tract One (1) Kingswood Estates Subdivision, Plat KN 76-22, Kenai Recording District, within Section 30, Township 5 North, Range 11 West, Seward Meridian, Alaska in the Kenai Recording District, Third Judicial District, State of Alaska.

The land constituting the easement is within the above-described land and is more particularly described as follows:

The north 627 feet of said Tract 1 comprising 4.3 acres more or less.

TERMS AND CONDITIONS: The GRANTORS and GRANTEE agree that the use of the easement for storm water collection and drainage shall be construed broadly to include but not limit the GRANTEES right to manage the land to optimize water collection and drainage functions through excavation, re-contouring, installation of drains, pipes, pumps and filters, construction of related facilities, maintenance, operation and repair of the same, in, under, and across the premises as may from time to time be necessary or desirable for the use and enjoyment of this drainage easement, including the right to excavate, remove soils, or place fill on said premises, and the right to cut and clear all trees, shrubbery, and undergrowth, to landscape the area, enjoy, use, and to remove any obstructions within the easement as may be reasonably required for the construction, reconstruction, relocation, installation, operation, and maintenance of such drainage uses.

In order to maintain the character of the land GRANTEE shall minimize disturbance of a 30-foot-wide treed buffer along the perimeter and within the easement, shall not create slopes in excess of 12.5% (8:1), shall preserve an existing island feature, and shall utilize natural or forage quality vegetation for ground cover as a preferred best management practice where practicable in

order to support use for livestock pastures, fencing, crop cultivation, and hay harvest and to preserve aesthetic and wildlife values as long as such uses do not conflict with GRANTEE'S primary use of the easement area for drainage purposes. (Exhibit A, attached hereto and incorporated by reference illustrates GRANTEE'S intent.)

GRANTORS agree that no improvements may be constructed or installed on the above-described easements by or for GRANTORS or their successors, assigns, licensees, and permittees, without the written permission of GRANTEE.

GRANTORS covenant that they will not interfere with the lateral support of the easement and will not excavate or fill in any portion of the above-described easement without written approval of GRANTEE.

RESERVATIONS: GRANTORS reserve other uses within the easement which are compatible with and shall not conflict with managing the land for water collection and drainage purposes, including maintenance of a 30-foot treed buffer for screening and aesthetic purposes along the easement perimeter, livestock pasturing and fencing, harvesting of hay, and cultivating crops.

HOLD HARMLESS: To the extent allowed by law and subject to assembly appropriation, the GRANTEE shall indemnify, hold harmless, and defend the GRANTORS from and against any claims of, or liability for, any wrongful or negligent act, error, or omission of the GRANTEE or any subcontractor with regards to GRANTEE'S use of this easement. The GRANTEE shall not be required to defend or indemnify the GRANTORS for any claims of, or liability for, any wrongful or negligent act, error, or omission due to the negligence of the GRANTORS. If there is a claim of, or liability for, the joint negligence of GRANTEE and GRANTORS, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. Apportionment shall be determined upon final determination of percentage of fault. If any such determination is by settlement, the percentage of fault attributed to each party for purposes of this indemnification provision shall only be binding upon the parties included in the settlement agreement. "GRANTEE" and "GRANTORS" as used in this article include the employees, agents, officers, directors, and other contractors who are directly responsible, respectively, to each.

GRANTORS:

Paula Keohane

Date

Timothy J. Keohane

Date

GRANTEE:

KENAI PENINSULA BOROUGH

Mike Navarre, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Johni Blankenship, Borough Clerk

Deputy Borough Attorney

(Borough Seal)

MAYOR'S (GRANTEE) NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of
_____ 2015 by Mike Navarre, Mayor of the Kenai Peninsula Borough,
an Alaska municipal corporation, for and on behalf of the corporation.

(Notary Seal)

Notary Public, State of Alaska
My commission expires: _____

EXHIBIT A
KINGSWOOD ESTATES TRACT 1-DRAINAGE POND
07-18-2014

