

## **E. NEW BUSINESS**

- 3. Ordinance 2024-19-18: Authorizing the acquisition of real property located adjacent to the Chapman School Campus in Anchor Point for future school use, and appropriating \$850.00 from the general fund for the purchase.**

# Kenai Peninsula Borough

## Planning Department – Land Management Division

### MEMORANDUM

**TO:** KPB Assembly President  
Members, KPB Assembly

**THRU:** Peter A. Micciche, Mayor *PM*  
Brandi Harbaugh, Finance Director *BH*  
Robert Ruffner, Planning Director *RR*

**FROM:** Aaron Hughes, Land Management Officer *AH*

**DATE:** October 10, 2024

**RE:** Ordinance 2024-19-\_\_\_\_, Authorizing the Acquisition of Real Property Located Adjacent to the Chapman School Campus in Anchor Point for Future School Use, and Appropriating \$850,000 from the General Fund for the Purchase (Mayor)

The Kenai Peninsula Borough School District (KPBSD) provides K-8 educational instruction at the Chapman School facility in Anchor Point. The existing school campus consists of a 4.51- acre parcel of KPB-owned land. Presently, future expansion and management of the site is limited because the campus parcel is bounded by private land holdings, and the Chapman School is experiencing new challenges related to the efficient and safe use of the existing campus. The proposed acquisition of the four parcels comprising a total of 6.6 acres would secure the additional space necessary for the proactive long-term planning for this important school site.

The proposed purchase price of \$800,000 is consistent with market comparables in the area. An additional \$50,000 is being proposed to cover due diligence costs and closing fees related to the acquisition. The Purchase Agreement provides for a closing on or before December 31, 2024.

This Ordinance would authorize the purchase of the subject parcels and appropriate \$850,000 from the Kenai Peninsula Borough General Fund to cover the costs associated with the purchase. The Ordinance also provides for the classification of the subject properties as “Government”.

Your consideration is appreciated.

<b>FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED</b>	
Account:	<u>100.27910</u>
Amount:	<u>\$850,000.00</u>
By: <u><i>CJ</i></u>	Date: <u>10/10/2024</u>

Introduced by: Mayor  
Date: 10/22/2024  
Hearing: 11/12/2024  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2024-19-**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY  
LOCATED ADJACENT TO THE CHAPMAN SCHOOL CAMPUS IN ANCHOR POINT  
FOR FUTURE SCHOOL USE, AND APPROPRIATING \$850,000.00 FROM THE  
GENERAL FUND FOR THE PURCHASE**

**WHEREAS,** the Kenai Peninsula Borough School District (KPBSD) currently provides K-8 educational instruction at the Chapman School in Anchor Point; and

**WHEREAS,** the existing school campus consists of a 4.51- acre parcel, bounded by private land holdings, limiting future management and potential expansion of the school facility; and

**WHEREAS,** a need exists for additional land adjacent to the school for potential expansion of the campus; and

**WHEREAS,** the proposed acquisition consists of four parcels comprising a total of 6.6 acres located immediately adjacent to the Chapman School Campus; and

**WHEREAS,** acquisition of the additional properties is necessary to proactively secure adjacent lands for future management options involving this KPB-owned school facility; and

**WHEREAS,** the KPB Planning Commission, at its regular meeting of October 28, 2024, recommended\_\_\_\_\_;

**NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:**

**SECTION 1.** That pursuant to KPB 17.10.040, the assembly finds that purchasing the subject parcel, which is the following-described real property, is in KPB’s best interests as it secures additional school campus utility, planning and growth:

LOT 3-A-1 AND TRACTS 3B-2, 3B-3 AND 3B-4, ANCHOR RIVER  
S.J. CHAPMAN SUBDIVISION, JEPPESEN 2021 REPLAT,  
ACCORDING TO THE OFFICIAL PLAT THEREIOF, FILED

UNDER PLAT NUMBER 2021-41, RECORDS OF THE HOMER  
RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF  
ALASKA.  
(PARCEL NO'S. 16906108, 16906109, 16906110, AND 16906111)

**SECTION 2.** That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved.

**SECTION 3.** That the purchase price will be \$800,000.00 for the subject parcels, plus closing and due diligence costs, not to exceed \$50,000.00.

**SECTION 4.** That the subject parcels will be classified as "Government" pursuant to KPB 17.10.080.

**SECTION 5.** That the Mayor is authorized to execute any and all documents necessary to purchase the subject parcels described in Section 1 in accordance with the terms and conditions contained in this ordinance and the accompanying Purchase Agreement, consistent with applicable provisions of KPB Chapter 17.10.

**SECTION 6.** That up to \$850,000.00 is appropriated from the General Fund fund balance to be transferred to Account No. 400.71010.CHLND.49999 for the purchase of the subject parcels located in Anchor Point, Alaska, and estimated closing costs.

**SECTION 7.** That this ordinance shall be effective immediately.

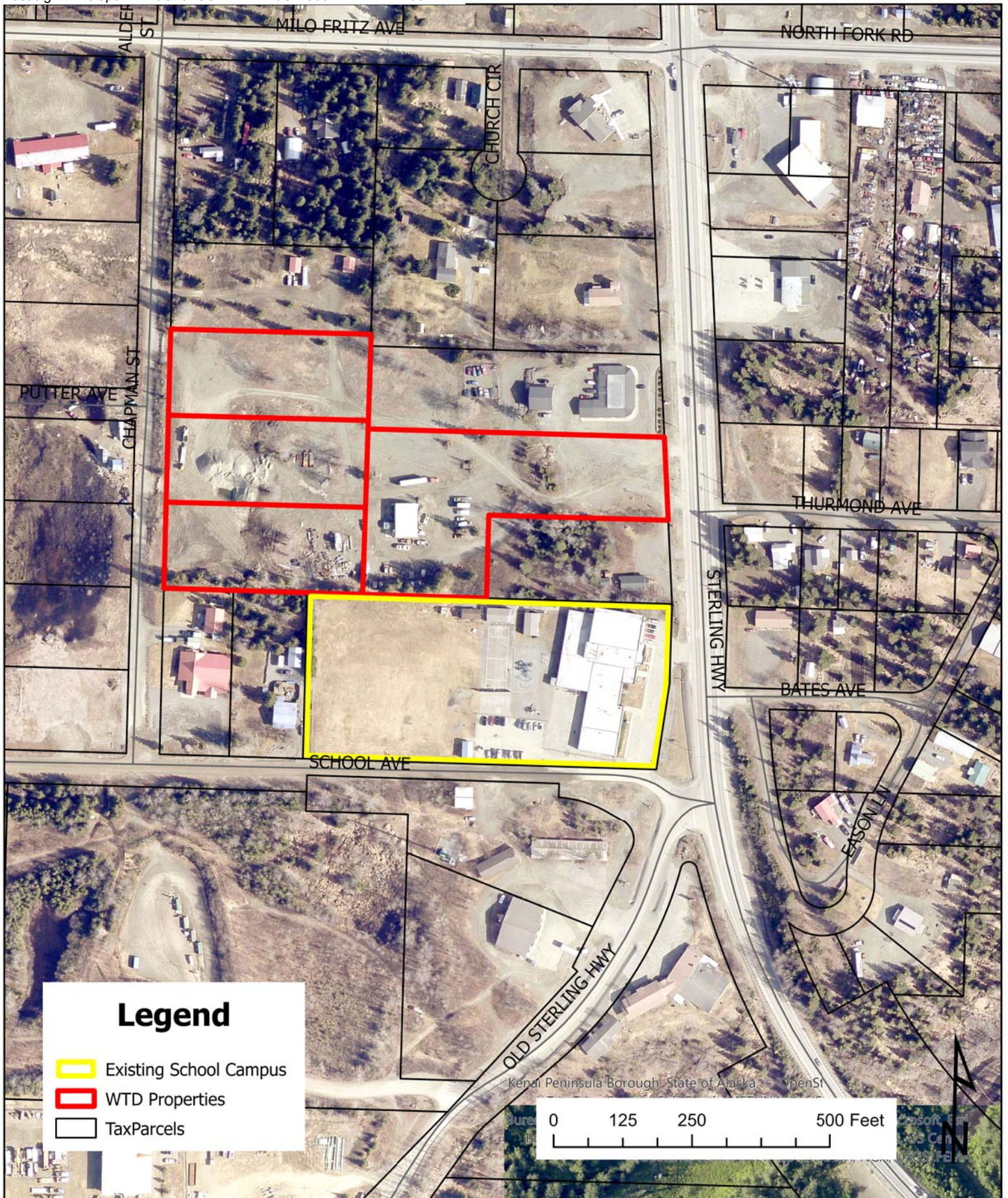
**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS \_\_\_\_  
DAY OF \_\_\_\_\_, 2024.**

\_\_\_\_\_  
\_\_\_\_\_, Assembly President

ATTEST:

\_\_\_\_\_  
Michele Turner, CMC, Borough Clerk





# WTD Properties Acquisition Anchor Point, AK



## PURCHASE AGREEMENT

This Purchase Agreement (Agreement) is made by and between WTD Properties, LLC, as seller, whose address is 3800 Sterling Highway, Homer, AK 99603, (Seller) and the Kenai Peninsula Borough, an Alaska municipal corporation, as buyer, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 (KPB) (together, the Parties).

WHEREAS, Seller 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:

LOT 3-A-1 AND TRACTS 3B-2, 3B-3 AND 3B-4, ANCHOR RIVER S.J. CHAPMAN SUBDIVISION, JEPPESEN 2021 REPLAT, ACCORDING TO THE OFFICIAL PLAT THEREIOF, FILED UNDER PLAT NUMBER 2021-41, RECORDS OF THE HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.  
(PARCEL NO'S. 16906108, 16906109, 16906110, AND 16906111) (the Property); and

WHEREAS, KPB has offered to buy, and Seller is willing to sell the Property as evidenced by this Agreement;

NOW THEREFORE, in consideration of the conditional promises herein contained, Seller hereby agrees to sell to KPB, and KPB hereby agrees to buy from Seller, the Property on the terms and conditions as set forth below:

1. **PURCHASE PRICE**

The purchase price of the Property is EIGHT HUNDRED THOUSAND DOLLARS (\$800,000.00). The purchase price must be paid by KPB at time of closing. The purchase of the Property and appropriation of funding for the purchase are subject to approval by the KPB Assembly.

2. **PERSONAL PROPERTY:**

Existing improvements currently located on the Property identified as a coffee hut, portable office building, and shop building are to be considered personal property, with the ownership retained by Seller. Said personal property must be removed in a professional, workmanlike manner prior to closing. Any damage to the remaining real property caused by the removal of the personal property identified in this Section must be repaired by Seller at Seller's expense and to KPB's satisfaction prior to closing.

3. **ACCESS EASEMENT:**

As a condition of the sale, Seller requests a 20 foot access easement be retained originating

from the Sterling Highway and located along the North Property boundary of Lot 3-A-1 for the specific benefit of the existing office building improvement located on Lot 4-A-1. Seller, and its successors and/or assigns, hereby agree to terminate the access easement upon a formal road right-of-way dedication in the event of a future platting action.

4. EXPIRATION OF OFFER

Sellers must sign and return this Agreement to KPB on or before **September 20, 2024, at 11:00am**; otherwise, this offer will terminate.

5. TITLE

Title must be delivered at time of closing by statutory warranty deed, which must be issued to KPB. Sellers warrant and covenant that at the time of closing there will be no liens or judgments recorded against Sellers in the same recording district in which the Property subject to this Agreement is situated. Title must be clear of liens and encumbrances except title is subject to reservations, easements, rights-of-way, covenants, conditions and restrictions of record as agreed to by KPB.

6. ESCROW AND CLOSING COSTS

KPB agrees to pay for all buyer-related closing costs not otherwise addressed in this Agreement to include buyer closing, and recording fees. Seller agrees to pay for seller-related closing costs, not otherwise addressed in this Agreement to include the ALTA Standard Owners Title Insurance policy, and seller closing and recording fees. Property taxes for the current year, if any, will be prorated to the date of closing. Seller is responsible for realtor's commission, if any; all unpaid taxes for prior years, if any; and all unpaid outstanding assessments, if any. All costs will be paid in full at the time of closing.

7. CLOSING

Unless otherwise agreed to in writing, closing will occur on or before **December 31, 2024**, or as specifically agreed to by the Parties. At closing, KPB will pay the balance of the purchase price. The Parties will execute all documents required to complete the Agreement and, if applicable, establish an escrow account.

8. POSSESSION

Possession will be delivered to KPB at time of recording unless otherwise agreed to in writing by the Parties.

9. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the Property by KPB is subject to authorization by the KPB Assembly and appropriation of funds. If the KPB Assembly fails to authorize the purchase of the Property and appropriate funds, this Agreement will terminate without penalty.

10. EXCHANGE



If Seller intends for this transaction to be part of a Section 1031 like-kind exchange, KPB agrees to cooperate in the completion of the like-kind exchange provided KPB does not incur any additional liability or cost in doing so. If Seller intends for this transaction to be part of a Section 1031 like-kind exchange, Seller may assign its rights under this Agreement to a qualified intermediary or any entity expressly created for the purposes of completing a Section 1031 like-kind exchange.

#### 11. DISCLOSURES

Seller hereby agrees to provide written property disclosures including any and all information regarding known defects, deficiencies, legal matters, environmental issues or hazards that may be personally known by Seller. If said written disclosures present a matter unsatisfactory to KPB, KPB may terminate this Agreement without penalty.

#### 12. CONTINGENT ON INSPECTION / REVIEW

Closing is contingent upon the satisfactory completion of an environment review of the Property. The review will be completed on or before **December 15, 2024**. All inspections and related due diligence required under this Section will be conducted solely at KPB's expense.

#### 13. HAZARDOUS MATERIAL

Seller covenants to the best of Seller's knowledge that, as of the date of this Agreement, except as specifically identified herein, the Property is free of all contamination from petroleum products or any hazardous substance or hazardous waste, as defined by applicable state or federal law, and there are no underground storage tanks or associated piping on the Property. Seller agrees that no hazardous substances or wastes will be located on, nor stored on the Property or any adjacent property owned or leased by Seller or its contractors, nor will any such substance be owned, stored, used, or disposed of on the Property or any adjacent property by Seller, its agents, employees, contractors, or invitees, prior to KPB's ownership, possession or control of the Property.

#### 14. ENVIRONMENTAL CONTINGENCY

If, during the course of KPB's due diligence inspection/review of the Property pursuant to Section 12, KPB discovers the presence of environmental hazards on or released from the Property in any quantity or concentration exceeding the limits allowed by applicable law, or that is deemed undesirable by KPB, KPB will have the right to give notice to Sellers accompanied by a copy or copies of the third-party report(s) disclosing and confirming the presence of such hazardous materials. The notice and accompanying third-party report must be given no later than 60 days from receipt of said report. The notice under this Section must state:

- (i) that KPB is terminating this Agreement due to the presence of such hazardous materials on or adversely affecting the Property; OR
- (ii) provide Seller 30 days from notice to provide a mitigation plan outlining steps taken by Seller to remedy said hazards to KPB's satisfaction at Seller's expense.



Following the notice and report described in this Section, the Parties may negotiate other resolutions as may be agreeable to the Parties in writing to be included as a part of this Agreement. In the event the Parties cannot agree in writing on a resolution to remedy any environmental concerns within 90 days of the notice, this Agreement will automatically terminate.

It is expressly understood that by execution of this Agreement, Seller hereby indemnifies KPB for any and all CERCLA-related claims, liabilities or matters, unless otherwise provided for in this Agreement. Said indemnification will survive closing and termination of this Agreement. Upon successful close of escrow said indemnification will continue for a period of not less than 12 months, from the date of closing unless otherwise provided for in this Agreement.

If this Agreement is terminated pursuant to any report detailing environmental conditions that may or may not exist on the Property, such report(s) will remain confidential and proprietary. The report(s) will be marked as confidential and will not be released to a private individual, entity, or non-profit without express agreement of the Parties. Notwithstanding, the report will be released pursuant to a valid court order and may be released to the State of Alaska upon request.

15. 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 Seller or their respective successors in interest. Provisions of this Agreement, unless inapplicable on their face, will be covenants constituting terms and conditions of the sale, and will continue in full force and effect until the purchase price is paid in full or this Agreement is earlier terminated.

16. BREACH REMEDY

Prior to closing of the sale, in the event that KPB or Sellers fail to make any payment required, or fail to submit or execute any and all documents and papers necessary for closing and transfer of title within the time period specified in this Agreement, the Sellers or KPB may terminate this Agreement.

17. 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 Seller and the KPB Mayor. This Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts. KPB may cancel this Agreement without penalty in the event additional contracts required of this project are not secured.
- 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, must be in writing, and

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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 may thereafter be so given, made or mailed. A notice given hereunder will be deemed received when deposited in a U.S. general or branch post office by the addressor.

- D. Interpretation. This Agreement will be deemed to have been jointly drafted by the Parties. It will be construed according to the fair intent of the language as a whole, not for or against either Party. The interpretation and enforcement of this Agreement will be governed by the laws of the State of Alaska. Any lawsuit brought arising from this Agreement must be filed in the superior court of the Third Judicial District, State of Alaska, located in the City of Kenai, Alaska. The titles of sections in this Agreement are not to be construed as limitations of definitions but are for identification purposes only.
- E. Condition of Property.  
Seller will deliver the Property in its as-is condition.
- F. Confidentiality. This Agreement will be considered proprietary to the Parties until closing occurs. Following closing, this Agreement may be considered a public record.
- G. Counterparts. This Agreement may be executed in counterpart, and may be executed by way of copy, facsimile or verified electronic signature in compliance with AS 09.80, and if so, each of which will be deemed an original but all of which together will constitute one and the same instrument

BUYER:  
KENAI PENINSULA BOROUGH:

SELLER:  
WTD PROPERTIES, LLC

\_\_\_\_\_  
Peter A. Micciche, Mayor (Date)

*Daniel Stanislaw* 15/2024  
\_\_\_\_\_  
Daniel Stanislaw (Date)

*Ka Sandra Stainslaw* 15/2024  
\_\_\_\_\_  
KaSandra Stainslaw (Date)

ATTEST:  
  
\_\_\_\_\_  
Michele Turner, CMC  
Borough Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:  
  
\_\_\_\_\_  
A. Walker Steinhage  
Deputy Borough Attorney (Date)