

Introduced by: Mayor
Date: 07/07/15
Hearing: 07/28/15
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2015-19-05**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF CERTAIN REAL
PROPERTY AT THE CORNER OF RESCH ROAD AND STERLING HIGHWAY FOR
A FILL SITE AND OTHER FUTURE ANCHOR POINT FIRE AND EMERGENCY
MEDICAL SERVICE AREA USES, APPROPRIATING FUNDS FOR THE
ACQUISITION AND EXPANDING THE AUTHORIZED USES OF THE FUNDS**

- WHEREAS,** Anchor Point Fire and Emergency Medical Service Area (APFEMSA) is planning for the development of a water tank fill site in the northern part of the service area; and
- WHEREAS,** the planning department has conducted an analysis of existing APFEMSA infrastructure locations and has identified optimal target locations for future infrastructure based on ISO 5-mile response criteria; and
- WHEREAS,** Goal 4.3 of the Kenai Peninsula Borough Comprehensive Plan is “to facilitate the provision of cost-effective fire protection and emergency medical services to residents and visitors throughout the borough”; and
- WHEREAS,** a parcel of land has been identified to support the water tank fill site in the northern part of the service area and the parcel furthers Goal 4.3 Objective 1 Action C for “long range planning to avoid unnecessary duplication of services, equipment, and facilities”; and
- WHEREAS,** a purchase agreement has been negotiated with the property owner; and
- WHEREAS,** initially the APFEMSA will only use a portion of the property needed for a water tank fill site and the remainder is intended to be held for future uses, subject to planning and appropriation and other approvals; and
- WHEREAS,** the property will be purchased jointly by the Land Trust Fund and APFEMSA, with APFEMSA providing funding of \$8,267 and the Land Trust Fund providing funding of \$53,733; and
- WHEREAS,** in FY2011, \$50,000 was appropriated for installation of a water tank on the southern end of the Service Area to provide a water source; and

WHEREAS, expanding the scope to include the northern end of the Service Area and the purchase of land where the tank would be located would allow funds previously appropriated through ordinance 2011-19 to be used for the purchase of this property; and

WHEREAS, the Anchor Point Fire and Emergency Medical Service Area Board at its meeting of October 15, 2014 recommended approval by majority consent; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of July 13, 2015 recommended approval by unanimous consent;

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

SECTION 1. That the purchase of the following described real property is in the best interests of the borough:

The North 2/5 of Government Lot 1, Section 30, T3S, R14W, Seward Meridian, Alaska, lying East of the Sterling Highway, containing 7.49 acres more or less (KPB Assessor Parcel No. 159-200-02)

SECTION 2. That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved. The purchase price shall be \$60,000 and closing costs shall not exceed \$2,000.

SECTION 3. That this acquisition is for the purpose of supporting the development of a water tank fill site and other future fire and emergency service uses within the Anchor Point Fire and Emergency Medical Service Area and to enhance the borough's land holdings to meet future borough needs.

SECTION 4. That the proposed classification of this land is government.

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

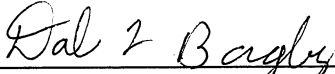
SECTION 6. That the uses of these funds authorized in Ordinance 2011-19 are expanded to include purchasing this property.

SECTION 7. That \$53,733 is appropriated from the Land Trust Fund, fund balance, to account 250.21210.00000.48610 for expenditures associated with this acquisition.

SECTION 8. That a prorated amount up to \$8,267 is charged to the Anchor Point Fire and Emergency Medical Service Area Capital Project Fund, account number 444.51410.11TNK.48520 for expenditures associated with this acquisition.

SECTION 9. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 28TH DAY OF JULY, 2015.

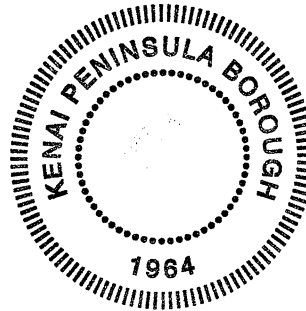


Dale Bagley, Assembly President

ATTEST:



John Blankenship, MMC, Borough Clerk



Yes: Cooper, Haggerty, Gilman, Johnson, McClure, Ogle, Welles, Wolf, Bagley
No: None
Absent: None

PURCHASE AGREEMENT

This Agreement is made by and between WILLIAM J. BASSETT whose address is 1108 Gilmore Court, Anchorage, AK 99503, (hereinafter referred to as "SELLER") 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, SELLER is the owner of that real property located in the Homer Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

The north 2/5 of U.S. Government Lot One (1), Section 30, Township 3 South, Range 14 West, lying easterly of the Sterling Highway, in the Homer Recording District, State of Alaska (KPB Parcel ID No. 159-200-02)

WHEREAS, KPB has offered to buy subject to Assembly authorization and appropriation of funds, and SELLER is willing to sell the Property as evidenced by this Purchase Agreement;

NOW THEREFORE, in consideration of the 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 Sixty Thousand and NO cents (\$60,000). The purchase price shall be paid by KPB at time of closing. The purchase of the Property and appropriation for the purchase are subject to borough assembly approval.

2. TITLE

Title shall be delivered at time of closing by Statutory Warranty Deed, which shall be issued to KPB. SELLER warrants and covenants that at the time of closing there shall be no liens or judgments recorded against SELLER in the same recording district in which the Property subject to this purchase agreement is situated. Title shall be clear of liens and encumbrances except title is subject to reservations, easements, rights-of-way, covenants, conditions and restrictions of record.

4. ESCROW AND CLOSING COSTS

In addition to the purchase price, KPB agrees to pay for closing costs in connection with this Agreement, including without limitation all escrow fees, title insurance charges, and recording fees up to \$2,000. 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 of authorization by the Kenai Peninsula Borough Assembly and appropriation of funds. At closing, KPB will pay the balance of the purchase price. Both parties will execute all documents required to complete the Purchase Agreement and, if applicable, establish an escrow account.

6. POSSESSION

Possession shall be delivered to KPB at time of recording.

7. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the Property 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 subject land and appropriate funds, this agreement shall be terminated without penalty.

8. RISK OF LOSS

The risk of loss by destruction or damage to the property by fire or otherwise prior to closing of the sale is that of the Seller. If all or a substantial portion of the improvements on the property are destroyed or damaged prior to the closing KPB shall have the option to cancel this agreement with a prompt refund of the earnest money, or KPB may elect to continue with the purchase at a renegotiated price. The renegotiation of the purchase price shall occur within 45 days of the damage or destruction unless otherwise agreed in writing by the parties.

9. HAZARDOUS MATERIAL

SELLER covenants to the best of SELLER'S knowledge, that as 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 shall be located on or stored on the Property, or any adjacent property by seller, owner or contractors, nor shall any such substance be owned, stored, used, or disposed of on the Property or any adjacent property by SELLER, its agents, employees, contractors, or invitee's, prior to KPB'S ownership, possession, or control of the Property.

10. 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, 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.

11. BREACH REMEDY

Prior to closing of the sale, in the event that KPB or SELLER fails to make any payment required, or fails 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 SELLER or KPB may terminate this Agreement.

12. 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 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.

- E. Personal Property. The purchase includes all improvements and fixtures to the real property whether or not attached, unless otherwise stated in this agreement. All personal property shall remain the property of the SELLER, and shall be removed from the property by the SELLER prior to closing.

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

KENAI PENINSULA BOROUGH:

SELLER:

Mike Navarre, Mayor

William J. Bassett

William J. Bassett

Dated: _____

Dated: 03/10/15

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship,
Borough Clerk

Holly B Montague,
Deputy Borough Attorney

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

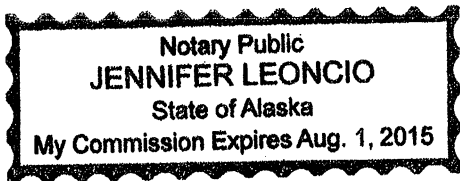
The foregoing instrument was acknowledged before me this _____ day of September, 2015, by Mike Navarre, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF VIRGINIA)
) ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 18 day of March, 2015, by William J. Bassett.



Jennifer Leoncio

Notary Public in and for Virginia
My commission expires: 8-1-15