

## **E. NEW BUSINESS**

2. Ordinance 2022-XX: Authorizing the acquisition of real property located in Anchor Point, Alaska on behalf of Western Emergency Services for future expansion of emergency service facilities with funding through an interfund loan from the Land Trust Investment Fund.

# Kenai Peninsula Borough

## Planning Department – Land Management Division

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### MEMORANDUM

**TO:** Brent Johnson, Assembly President  
Members, Kenai Peninsula Borough Assembly

**THRU:** Charlie Pierce, Mayor *CP*  
Robert Ruffner, Planning Director *RR*  
Marcus A. Mueller, Land Management Officer *RRFMM*

**FROM:** Aaron Hughes, Land Management Agent *AH*  
Jon Marsh, Western Emergency Services Fire Chief *JM*  
Brandi Harbaugh, Finance Director *BH*

**DATE:** July 28, 2022

**RE:** Ordinance 2022-19-\_\_\_\_, Authorizing the Acquisition of Real Property Located in Anchor Point, Alaska on Behalf of Western Emergency Services through an Interfund Loan from the Land Trust Investment Fund, Appropriating Loan Proceeds for the Property Acquisition, and Appropriating Western Emergency Service Area Operating Funds for the Annual Loan Payment to the Land Trust Investment Fund (Mayor)

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Western Emergency Service Area (WESA) provides fire and emergency response services to residents and visitors of the borough. WESA's Anchor Point Station 3 is located adjacent to the parcels proposed for acquisition.

WESA is currently under a 5-year lease in the amount of \$2,000.00 per month for building space within Lot 20 that is currently being utilized for the storage and maintenance of a ladder truck and related equipment.

Although there are no current plans for expansion of the WESA Anchor Point Station 3 facility, the subject parcels have been determined to support future WESA operational needs and growth. The proactive acquisition of the subject properties will provide the real estate necessary for future expansion while converting an existing leased facility into a KPB-owned facility.

The proposed land acquisition involves 4 individual parcels of land from two different property owners. Two of the parcels contain improvements to be immediately utilized by WESA. The agreement reached with the respective

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July 28, 2022

RE: Ordinance 2022-19-\_\_\_\_\_

property owners is based on fair market valuations determined by third-party appraisals.

The funding for the acquisition as proposed is to originate from the Land Trust Investment Fund ("LTIF") as outlined in KPB Ordinance 2018-29, which established the LTIF. KPB 5.10.200 and KPB 5.20.200 provides for the use of the LTIF as an interfund loan funding source for approved borough land acquisitions and capital improvements and provides for the terms and conditions of such loans.

From its inception, the LTIF has been utilized to preserve borough land sale proceeds within an investment strategy that provides returning benefits to the borough and financial tools to achieve long-term land program objectives. This transaction marks the first interfund loan funding from the LTIF which will be leveraged for the purpose to assist a service area meeting its land needs, showcasing the success of the LTIF framework and the importance of the continued stewardship of the fund as a powerful financial tool for the benefit of the borough for generations to come. Utilizing the fund in this manner will diversify the LTIF investment portfolio while providing a direct financial and operational benefit to borough taxpayers.

Acquisition of the proposed properties is an important proactive step in securing a long-term campus for WESA Station 3. As a part of the fiscal year 2023 budget process, Western Emergency Services appropriated \$44,400.00 to be applied as installment payments for the proposed land acquisition. The ordinance authorizes the acquisitions at a total price of \$735,000.00 plus surveying, title and closing costs, and due diligence fees not to exceed \$20,000. This ordinance also appropriates an additional \$52,560 from WESA's operating fund balance to provide for the first of ten annual loan payments of \$92,960 and appropriates the LTIF loan proceeds in the WESA Capital Project Fund for the proposed land acquisition of up to \$755,000.

Your consideration of the ordinance is appreciated.


**FINANCE DEPARTMENT  
ACCOUNT / FUNDS VERIFIED**

Acct. No. 252.10210

Amount: Not to exceed \$755,000

Acct. No. 209.27910

Amount: \$ 52,560

By:  Date: 7/27/2022

Introduced by: Mayor  
Date: 8/09/22  
Hearing: 8/23/22  
Action:  
Vote:

**KENAI PENINSULA BOROUGH  
ORDINANCE 2022-19-**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY  
LOCATED IN ANCHOR POINT, ALASKA ON BEHALF OF WESTERN EMERGENCY  
SERVICES THROUGH AN INTERFUND LOAN FROM THE LAND TRUST  
INVESTMENT FUND, APPROPRIATING LOAN PROCEEDS FOR THE PROPERTY  
ACQUISITION, AND APPROPRIATING WESTERN EMERGENCY SERVICE AREA  
OPERATING FUNDS FOR THE ANNUAL LOAN PAYMENT TO THE LAND TRUST  
INVESTMENT FUND**

**WHEREAS,** the Kenai Peninsula Borough’s Western Emergency Service Area (“WESA”) provides for the operation of fire and emergency service operations serving borough residents and visitors within the service area and mutual aid areas; and

**WHEREAS,** the WESA Anchor Point Station 3 is an important facility serving a growing area on the Kenai Peninsula as a point of operational command, equipment storage, servicing, and deployment; and

**WHEREAS,** WESA is currently under a five-year lease, at \$2,000.00 per month, for a portion of the subject property, for the storage and maintenance of a ladder truck and emergency related equipment; and

**WHEREAS,** the proposed purchase involves four parcels under the ownership of two separate owners immediately adjacent to the existing WESA Anchor Point Station 3; and

**WHEREAS,** acquisition of the subject properties will provide WESA the land holdings necessary for immediate use and future expansion; and

**WHEREAS,** the funding for the acquisition will be provided through an interfund loan to WESA from the Land Trust Investment Fund (“LTIF”) as outlined by Ordinance 2018-29 and KPB 5.10.200, in addition to funds appropriated from the FY2023 WESA budget; and

**WHEREAS,** WESA will make efforts to recover land acquisition costs through grants or other funding assistance when eligible; and

**WHEREAS,** the Western Emergency Service Area Board at its July 13, 2022, meeting unanimously recommended to proceed with the proposed acquisition; and

**WHEREAS,** the Kenai Peninsula Borough Planning Commission, at its regular meeting of August 22, 2022, recommended \_\_\_\_\_;

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

**SECTION 1.** That the assembly finds that purchasing the following described real property pursuant to KPB 17.10.040 is in the best interest of the borough:

Clark Properties:

LOT 20, 21, and 24, SPRUCE ACRES SUBDIVISION, ACCORDING TO PLAT NUMBER 60-45, RECORDS OF THE HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. (Parcel Numbers: 165-170-24, 165-170-27, 165-170-22)

Andrews Property:

LOT 22, SPRUCE ACRES SUBDIVISION, ACCORDING TO PLAT NUMBER 60-45, RECORDS OF THE HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. (Parcel Number: 165-170-26)

**SECTION 2.** That the terms and conditions substantially in the form of the purchase agreements accompanying this ordinance are hereby approved. The purchase price shall be \$660,000.00 for the Clark properties and \$75,000.00 for the Andrews property, plus surveying, title, closing costs, and due diligence fees not to exceed \$20,000.00, for a total not to exceed \$755,000.00.

**SECTION 3.** That this acquisition is for immediate use and future expansion of fire and emergency medical services by WESA.

**SECTION 4.** That the above-described land is classified under KPB 17.10.080 as “Government” for the property to be held and used for fire and EMS.

**SECTION 5.** An interfund loan through the LTIF to WESA is authorized as provided in KPB 5.10.200(B)(10) for the acquisition of real property described in Section 1.

**SECTION 6.** That the LTIF interfund loan shall be for an amount up to \$755,000 at the prime rate on the enactment date of this ordinance, to be repaid by WESA on a ten-year term in equal annual installments.

**SECTION 7.** 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 agreements, consistent with applicable provisions of KPB Chapter 17.10 along with any documents necessary to implement the authorized LTIF interfund loan to WESA and repayment thereof.

**SECTION 8.** That \$52,560 is appropriated from the Western Emergency Service Area Operating Fund Balance to account 209.51410.50252 for the first of ten annual loan payments to the LTIF.

**SECTION 9.** That up to \$755,000 in loan proceeds from the LTIF are appropriated to the Western Emergency Service Area Capital Project Fund account 444.51410.23WLD.49999 for the acquisition and related costs of the property listed in Section 1 above.

**SECTION 10.** That appropriations made in Section 9 of this ordinance are project length in nature and as such do not lapse at the end of any particular fiscal year.

**SECTION 11.** That this ordinance shall be effective immediately upon adoption.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH  
THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2022.**

\_\_\_\_\_  
Brent Johnson, Assembly President

ATTEST:

\_\_\_\_\_  
Johni Blankenship, MMC, Borough Clerk



# Western Emergency Service Area (WESA) Proposed Acquisition



Leased Facility



- Andrews
- Clark
- Tax Parcels

0 75 150 300 Feet



AH 7/15/2022

State of Alaska, © OpenStreetMap, Microsoft, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, US Census Bureau, USDA

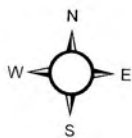




# Western Emergency Service Area (WESA)

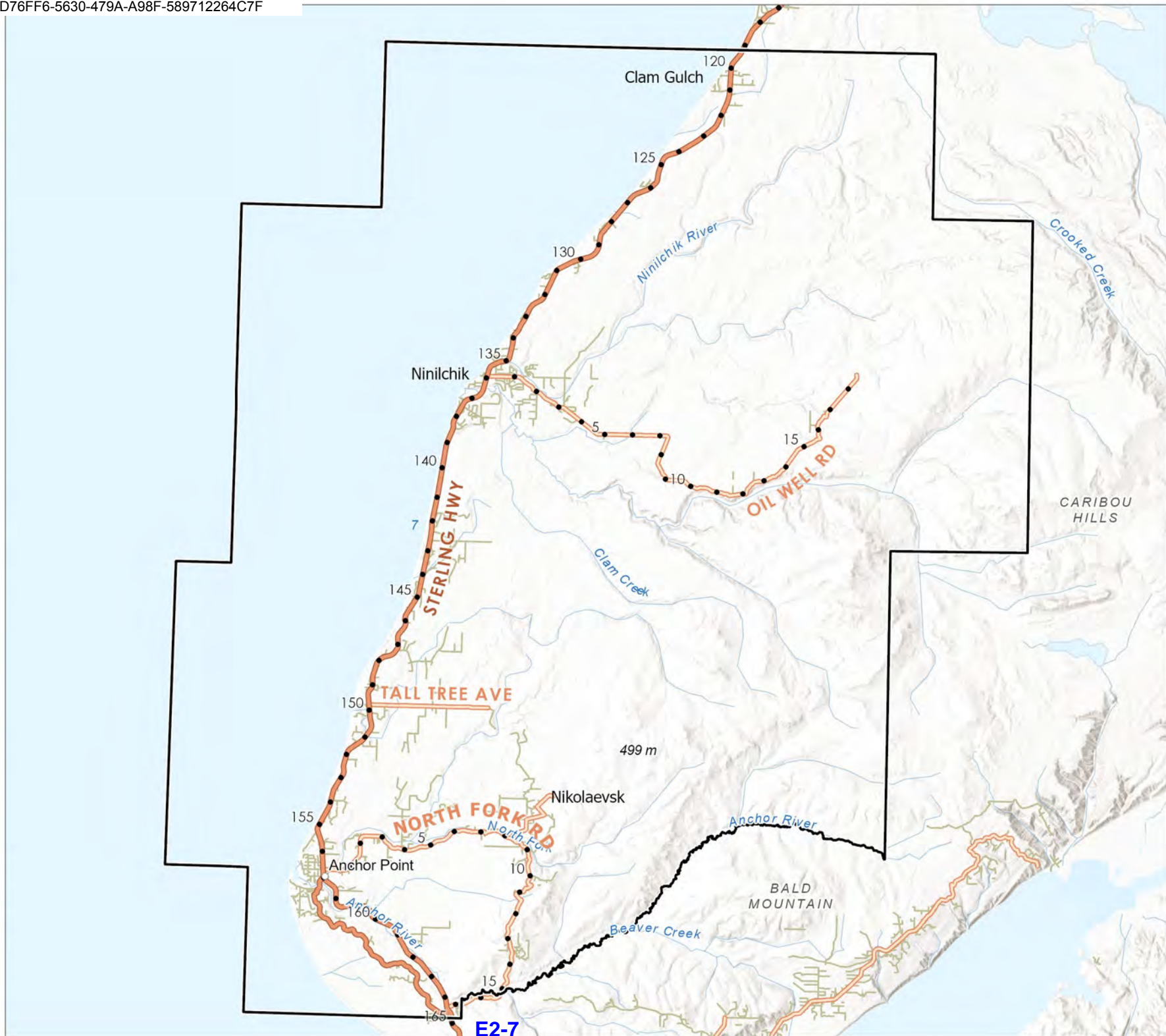
Map Data: 12/9/2020

- State Highway
- Major Road
- Minor Road



0 1 2 Miles

The information depicted hereon is for a graphical representation only of best available sources. The Kenai Peninsula Borough assumes no responsibility for any errors on this map.



E2-7



## **PURCHASE AGREEMENT**

This Purchase Agreement (hereinafter the "Agreement") is made by and between Thomas Clark, whose address is P.O. Box 962, Anchor Point, AK 99603, (hereinafter referred to as "SELLER") and the KENAI PENINSULA BOROUGH, an Alaska municipal corporation, as buyer 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:

**LOT 20, 21, and 24, SPRUCE ACRES SUBDIVISION, ACCORDING TO PLAT NUMBER 60-45, RECORDS OF THE HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. (Parcel Numbers: 165-170-24, 165-170-27, 165-170-22)**

**72405 and 72470 Clutts, Anchor Point, AK 99556  
72485 Rose Ave, Anchor Point, AK 99556**

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

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 Six Hundred and Sixty Thousand Dollars and NO cents (**\$660,000.00**). Purchase price shall be subject to the completion of an independent third-party appraisal, with the final property valuation to be not less than the referenced purchase price. Final payment to be made by KPB at time of closing. The purchase of the property and appropriation for the purchase are subject to approval by the Borough Assembly.

2. EXPIRATION OF OFFER

SELLER shall sign and return this Purchase Agreement to KPB on or before **July 5, 2022** otherwise this offer shall terminate.

3. 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 as agreed to by buyer.

6. ESCROW AND CLOSING COSTS

Except as described in this paragraph, in addition to the purchase price, KPB agrees to pay for buyer related customary closing costs including the appraisal, inspection and recording fees for the conveyance deed in addition to 1/2 of the closing fee. Seller shall pay for seller related customary costs including the title insurance premium, 1/2 of closing fees and all other seller related fees. Property taxes for the current year, if any, will be prorated 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 in writing, closing will occur within 90 days, or as specifically agreed to by both parties. 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.

8. POSSESSION

Possession shall be delivered to KPB at time of recording unless otherwise agreed to in writing by all parties.

9. 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.

10. DISCLOSURES

SELLER hereby agrees to provide property disclosures including any and all information regarding known defects, deficiencies, legal matters, environmental issues or hazards, that may be personally known by the seller in writing. If said disclosure presents a matter unsatisfactory to the buyer, KPB may terminate this agreement without penalty.

11. CONTINGENT ON INSPECTION

This offer and agreement is contingent upon the completion of a property inspection satisfactory to KPB for its use and at KPB's expense. SELLER shall, upon reasonable notice, provide access to the property for inspection purposes to KPB and its representatives. Any invasive inspection procedures shall require SELLER's express permission and shall be promptly repaired or

replaced by KPB in a workman-like manner. KPB shall have 45 days from the execution of this agreement to complete inspections and determine its satisfaction unless otherwise provided in writing.

## 12. 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 shall be located on or stored on the Property, or any adjacent property owned or leased by the 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.

## 13. ENVIRONMENTAL CONTINGENCY

If during the course of KPB's due diligence of the Property pursuant to Section 11, Purchaser 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 are deemed undesirable by purchaser, Purchaser shall have the right to give notice to Seller, 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 shall state:

- (i) that Purchaser is terminating this Contract 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 KPB sending the notice and report described in this section, the parties may negotiate other resolutions as may be agreeable to both 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 shall automatically terminate.

It is expressly understood, by execution of this agreement, seller hereby indemnifies buyer for any and all CERCLA related claims, liabilities or matters, unless otherwise provided for in this agreement. Said indemnification shall survive closing and termination of this agreement. Upon successful close of escrow said indemnification shall continue for a period of not less than 36 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) shall 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 hereto. Notwithstanding, the report will be released pursuant to a valid court order and may be released to the State of Alaska upon request.

#### 14. 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.

#### 15. 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.

#### 16. PERSON PROPERTY

It is understood and agreed to by both KPB and seller that any and all personal property located on the property (mobile structure / office), shall remain the property of the seller. It is the seller's responsibility to move the mobile home from the property prior to the close of escrow. Upon notice of removal, KPB will be entitled to conduct a final inspection of the property prior to closing.

#### 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 Purchase Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts. Buyer may cancel this agreement without penalty in the event additional contracts are not secured required of this project.
- 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. Condition of Property.  
SELLER shall deliver the property in its as-is condition.
- F. Confidentiality. This Agreement shall 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 shall be deemed an original but all of which together will constitute one and the same instrument

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

KENAI PENINSULA BOROUGH:

SELLER:

\_\_\_\_\_  
Charlie Pierce, Mayor

*Thomas Clark*  
\_\_\_\_\_  
Thomas Clark

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship,  
Borough Clerk

\_\_\_\_\_  
A. Walker Steinhage,  
Deputy Borough Attorney



RE: **4.36-Acre Anchor Point Property**

As a result of research and analysis, the value estimate(s) for the subject is/are as follows:

<b>FINAL MARKET VALUE ESTIMATE</b>	
<b>4.36-Acre Anchor Point Property</b>	
<b>Property Rights</b>	<b>Fee Simple</b>
<b>Condition</b>	<b>As Is</b>
<b>Effective Date of Appraisal</b>	<b>February 18, 2022</b>
<b>Vacant Lot 21 (16517027)</b>	<b>\$81,500</b>
<b>Improved Lot 20 (16517024)</b>	<b>\$454,100</b>
<b>Vacant Lot 24 (16517022)</b>	<b>\$64,400</b>
<b>Final Market Value Estimate - Bulk Sale</b>	<b>\$600,000</b>

The value estimates are based on a marketing period of approximately 9 months and an exposure period of approximately 9 months. The value opinion reported above is qualified by certain assumptions, limiting conditions, certifications, and definitions, which are set forth in the body of the report. This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits and Addendum. Thank you for the opportunity to be of service. If you have any questions, please feel free to call.

Respectfully submitted,

A handwritten signature in blue ink that reads 'B.T. Bowman'.

**Beverly Bowman**

Appraiser

Alaska Certified General – No. 134284

bbowman@reliantadvisory.com

A handwritten signature in blue ink that reads 'E. Bjorn-Roli'.

**Per E. Bjorn-Roli, MAI**

Managing Member

Alaska Certified General – No. 302



## **PURCHASE AGREEMENT**

This Purchase Agreement (hereinafter the "Agreement") is made by and between Karen A. Andrews, whose address is 2298 Mount Augustine, Homer, AK 99603, (hereinafter referred to as "SELLER") and the KENAI PENINSULA BOROUGH, an Alaska municipal corporation, as buyer 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:

**LOT 22, SPRUCE ACRES SUBDIVISION, ACCORDING TO PLAT NUMBER 60-45, RECORDS OF THE HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA. (Parcel Number: 165-170-26)**

**72478 Milo Fritz Avenue, Anchor Point, AK 99556**

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

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 Seventy-Five Thousand Dollars and NO cents (**\$75,000.00**). Purchase price shall be subject to the completion of an independent third-party appraisal, with the final property valuation to be not less than the referenced purchase price. Final payment to be made by KPB at time of closing. The purchase of the property and appropriation for the purchase are subject to approval by the Borough Assembly.

2. **EXPIRATION OF OFFER**

SELLER shall sign and return this Purchase Agreement to KPB on or before **July 1, 2022** otherwise this offer shall terminate.

3. **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 as agreed to by buyer.

6. ESCROW AND CLOSING COSTS

Except as described in this paragraph, in addition to the purchase price, KPB agrees to pay for buyer related customary closing costs including the appraisal, inspection and recording fees for the conveyance deed in addition to 1/2 of the closing fee. Seller shall pay for seller related customary costs including the title insurance premium, 1/2 of closing fee and all other seller related fees. Property taxes for the current year, if any, will be prorated 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 in writing, closing will occur within 90 days, or as specifically agreed to by both parties. 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.

8. POSSESSION

Possession shall be delivered to KPB at time of recording unless otherwise agreed to in writing by all parties.

9. 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.

10. DISCLOSURES

SELLER hereby agrees to provide property disclosures including any and all information regarding known defects, deficiencies, legal matters, environmental issues or hazards, that may be personally known by the seller in writing. If said disclosure presents a matter unsatisfactory to the buyer, KPB may terminate this agreement without penalty.

11. CONTINGENT ON INSPECTION

This offer and agreement is contingent upon the completion of a property inspection satisfactory to KPB for its use and at KPB's expense. SELLER shall, upon reasonable notice, provide access to the property for inspection purposes to KPB and its representatives. Any invasive inspection procedures shall require SELLER's express permission and shall be promptly repaired or replaced by KPB in a workman-like manner. KPB shall have 45 days from the execution of this agreement to complete inspections and determine its satisfaction unless otherwise provided in writing.

## 12. 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 shall be located on or stored on the Property, or any adjacent property owned or leased by the 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.

## 13. ENVIRONMENTAL CONTINGENCY

If during the course of KPB's due diligence of the Property pursuant to Section 11, Purchaser 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 are deemed undesirable by purchaser, Purchaser shall have the right to give notice to Seller, 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 shall state:

- (i) that Purchaser is terminating this Contract 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 sellers expense.

Following the KPB sending the notice and report described in this section, the parties may negotiate other resolutions as may be agreeable to both 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 shall automatically terminate.

It is expressly understood, by execution of this agreement, seller hereby indemnifies buyer for any and all CERCLA related claims, liabilities or matters, unless otherwise provided for in this agreement. Said indemnification shall survive closing and termination of this agreement. Upon successful close of escrow said indemnification shall continue for a period of not less than 36 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) shall 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 hereto. Notwithstanding, the



report will be released pursuant to a valid court order and may be released to the State of Alaska upon request.

14. 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.

15. 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.

16. PERSONAL PROPERTY

It is understood and agreed to by both KPB and Seller, that any and all personal property located on the property (mobile home) shall remain the property of the seller. It is the seller's responsibility to move the mobile home from the property prior to the close of escrow. Upon notice of removal, KPB will be entitled to conduct a final inspection of the property prior to closing.

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 Purchase Agreement is subject to cancellation in whole or in part if improperly issued through error in procedure or with respect to material facts. Buyer may cancel this agreement without penalty in the event additional contracts are not secured required of this project.
- 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. Condition of Property.  
SELLER shall deliver the property in its as-is condition.
- F. Confidentiality. This Agreement shall 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 shall be deemed an original but all of which together will constitute one and the same instrument

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

KENAI PENINSULA BOROUGH:

SELLER:

\_\_\_\_\_  
Charlie Pierce, Mayor

  
\_\_\_\_\_  
Karen A. Andrews

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
Johni Blankenship,  
Borough Clerk

\_\_\_\_\_  
A. Walker Steinhage,  
Deputy Borough Attorney



RE: **Lot 22, Spruce Acres Subdivision**

As a result of research and analysis, the value estimate(s) for the subject is/are as follows:

<b><u>FINAL MARKET VALUE ESTIMATE</u></b>	
<b><u>Lot 22 of the Spruce Acres Subdivision</u></b>	
<b>Property Rights</b>	<b>Fee Simple</b>
<b>Condition</b>	<b>As Is</b>
<b>Effective Date of Appraisal</b>	<b>February 18, 2022</b>
<b>Final Market Value Estimate</b>	<b>\$74,400</b>

The value estimates are based on a marketing period of approximately 8 months and an exposure period of approximately 8 months. The value opinion reported above is qualified by certain assumptions, limiting conditions, certifications, and definitions, which are set forth in the body of the report. This letter is invalid as an opinion of value if detached from the report, which contains the text, exhibits and Addendum. Thank you for the opportunity to be of service. If you have any questions, please feel free to call.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'B.T. Bowman'.

**Beverly Bowman**

Appraiser  
Alaska Certified General – No. 134284  
bbowman@reliantadvisory.com

A handwritten signature in blue ink, appearing to read 'E. Bjorn-Roli'.

**Per E. Bjorn-Roli, MAI**

Managing Member  
Alaska Certified General – No. 302



Introduced by:	Mayor
Date:	08/07/18
Hearing:	09/04/18
Action:	Enacted
Vote:	9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 2018-29**

**AN ORDINANCE ESTABLISHING THE LAND TRUST INVESTMENT FUND, AND  
SETTING PARAMETERS FOR FUNDING, USES AND INVESTMENTS OF THE FUND**

- WHEREAS,** the Land Trust Fund, per KPB 5.20.080, accounts for activities related to the acquisition, sale and use of Kenai Peninsula Borough (“borough”) lands; and
- WHEREAS,** borough lands, especially lands acquired from the State of Alaska as a result of formation of the borough, have significant value for all current and future generations of borough residents, and therefore should be managed for the long-term benefit of borough residents; and
- WHEREAS,** the creation of a Land Trust Investment Fund (“LTIF”) to account for the proceeds of borough land sales and the financial assets of the Land Trust Fund in excess of annual operating needs will enhance the ability to manage borough lands for the long term; and
- WHEREAS,** a portion of the fund balance of the Land Trust Fund will capitalize the LTIF; and
- WHEREAS,** financial endowments, due to their long time horizons, are typically invested in instruments which carry more risk and volatility and have the potential of greater returns over the long term than short term investment instruments; and
- WHEREAS,** the financial assets in the LTIF shall essentially be an endowment intended to preserve the value of land assets that are sold and to generate investment income to support and supplement the operating revenue of the Land Trust Fund and for other uses as determined by the assembly; and
- WHEREAS,** the initial capitalization of the LTIF will not exceed normal fund balance policy requirements of the Land Trust Fund; and
- WHEREAS,** this ordinance provides benefits to the General Fund including long-term autonomous funding for borough land programs and the ability in the future to utilize earnings generated by the LTIF for General Fund purposes;

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

**SECTION 1.** That KPB 5.10.010 Scope is amended as follows:

**5.10.010. Scope.**

- A. This chapter applies to the investment of all borough moneys, unless otherwise provided expressly by ordinance.
- B. Sections 5.10.040 through 5.10.120 apply to all fund types except the Land Trust Investment Fund.
- C. Objectives. The borough investment portfolio shall be managed so that the portfolio, as a whole, meets the objectives set forth below. All persons selecting investments for borough moneys shall adhere to these objectives, which are listed in order of relative importance.

**SECTION 2.** That KPB 5.10.200 Authorized Investments for the Land Trust Investment Fund is hereby enacted as follows:

**5.10.200. Authorized Investments For The Land Trust Investment Fund**

- A. Land Trust Investment Fund investments include two categories: Financial Assets and Non-Financial Assets outlined in sections B and C below. Financial assets shall be managed by the finance director with the following conditions:
  - 1. The borough shall contract for management of the financial asset investments for the Land Trust Investment Fund with one or more professional investment managers with experience handling institutional endowment investments.
  - 2. The financial asset investments of the Land Trust Investment Fund shall be approved by resolution annually, usually during the budget process, in the form of an asset allocation plan. The asset allocation plan shall have specific categories of investments for the fund with percentage targets that allow for reasonable fluctuations above and below the target percentage. The plan will establish benchmarks for evaluating the performance of each investment manager and asset classification. Investments shall be managed to adhere to the target ranges of the asset allocation plan.

3. The finance director shall submit quarterly to the assembly an investment report that summarizes the portfolio in terms of investment securities, maturities, risk categories, returns and other features.

B. Authorized Investments - Financial Assets

Moneys in the Land Trust Investment Fund shall be invested only in the following instruments and subject to the applicable limitations and requirements.

1. Investments authorized by KPB 5.10.040.
2. Bonds or other U.S. dollar denominated debt instrument of this state, its agencies, municipalities, any other state which at the time of investment have an investment grade rating by a nationally recognized rating agency. If, after purchase, these obligations are downgraded below investment grade, the obligations shall be sold in an orderly manner within ninety days of downgrading.
3. Corporate obligations of investment-grade quality as recognized by a nationally recognized rating organization. If, after purchase, these obligations are downgraded below investment grade, the obligations shall be sold in an orderly manner within ninety days of downgrading.
4. Domestic equities, which taken as a whole, attempt to mirror the characteristics or replicate the Standard and Poor's 500 Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).
5. Domestic equities, which taken as a whole, attempt to replicate the Standard and Poor's 400 Mid-Cap Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).
6. Domestic equities, which taken as a whole, attempt to replicate the Standard and Poor's 600 Small-Cap Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).
7. International equities, which taken as a whole, attempt to replicate the Financial Times Stock Exchange Developed ex North America Index or another index of similar characteristics, including both mutual funds and exchange traded funds (ETFs).

8. Equities, which taken as a whole, attempt to replicate the universe of domestic real estate investment trusts as represented by the Standard and Poor's REIT composite index or another index of similar characteristics including both mutual funds and exchange traded funds (ETFs).
9. Emerging market equities, which taken as a whole, attempt to replicate the Financial Times Stock Exchange Emerging Index or another index of similar characteristics including both mutual funds and exchange traded funds (ETFs).
10. Interfund loans for land or capital improvements.
  - a) Loans shall only be for the purpose of financing the acquisition of land or capital improvements for the borough including its service areas;
  - b) The rate of interest shall be the prime rate in effect on the date of ordinance approval;
  - c) The term of a loan shall not be longer than the term allowed for a land sale contract of similar size;
  - d) Payments shall be paid in equal annual installments upon adoption of each year's annual budget until the loan is paid in full and each payment is subject to the appropriation of available funds; and
  - e) All such loans must be approved by the assembly by ordinance, and the assembly may add such additional terms and conditions as appropriate.

C. Authorized Investments - Non-Financial Assets

Land Trust Investment Fund assets may be used to supplement Land Trust Fund assets for investment in the following:

1. Land which will be added to the inventory of land assets.
2. Income producing assets such as improvement to borough lands.

**SECTION 3.** That KPB 5.20.030. Special revenue funds are amended as follows:

**5.20.030. Special revenue funds.**

Special revenue funds account for the proceeds from specific revenue sources (other than expendable trust or major capital projects) that are legally restricted to expenditures for specific purposes. These funds consist of the following:

Nikiski Fire Service Area Fund  
 Bear Creek Fire Service Area Fund  
 Anchor Point Fire and Emergency Medical Service Area Fund

Central Emergency Service Area Fund



Kachemak Emergency Service Area Fund  
 Lowell Point Fire Service Area  
 Central Peninsula Emergency Medical Service Area Fund  
 North Peninsula Recreation Service Area Fund  
 Road Service Area Fund  
 Road Improvement Assessment District Engineer's Estimate Fund  
 RIAD Match Fund  
 School Fund  
 Post-Secondary Education Fund  
 Land Trust Fund  
Land Trust Investment Fund  
 Kenai River Center Fund  
 Coastal Zone Management Fund  
 Seward Bear Creek Flood Service Area  
 Disaster Relief Fund  
 Environmental Protection Programs Fund  
 Underground Storage Tank Removal and Upgrade Fund  
 Pass-Through Grants Fund  
 Miscellaneous Grants Fund  
 Nikiski Senior Citizen Service Area Fund  
 Solid Waste Fund  
 Local Emergency Planning Committee Fund  
 Central Kenai Peninsula Hospital Service Area Fund  
 South Peninsula Hospital Service Area Fund

**SECTION 4.** That KPB 5.20.080 is amended as follows:

**5.20.080. Land Trust Fund.**

- A. The land trust fund is established to receive, disburse, and account for all moneys accruing to the borough in lieu of lands or from the use or sale of lands. Disbursement from said fund shall be for the acquisition of property and expenses related to the borough land management operations, or such other purposes as the assembly may authorize.
- [B. FIFTY PERCENT OF ANY AMOUNT IN EXCESS OF THE HIGHEST PREVIOUS FUND BALANCE MAY BE AVAILABLE FOR APPROPRIATION TO THE GENERAL FUND. FUND BALANCES PRIOR TO 2005 SHALL NOT BE CONSIDERED WHEN DETERMINING THE HIGHEST FUND BALANCE. FOR PURPOSES OF COMPUTING REVENUES THAT MAY BE AVAILABLE FOR APPROPRIATION TO THE GENERAL FUND, ON MARCH 1 OF EACH YEAR THE BALANCE OF THE BUDGET NOT YET SPENT FOR LAND MANAGEMENT ADMINISTRATION FOR THAT FISCAL YEAR WILL BE SUBTRACTED FROM THE LAND TRUST FUND BALANCE. ALSO, REVENUES EXPECTED TO BE RECEIVED AFTER MARCH 1 AND BEFORE JULY 1 OF THAT YEAR MAY BE ADDED TO THE LAND TRUST FUND BALANCE.]

B. The net proceeds of land sales will be transferred to the Land Trust Investment Fund provided that the fund balance policy minimum requirements of the Land Trust Fund are met.

C. After the first five years, if the fund balance of the Land Trust Fund is more than 125 percent of the maximum established in the fund balance policy the amount greater than 125 percent may be transferred to the general fund or may be used for any other purpose as determined by the assembly.

**SECTION 5.** That KPB 5.20.200 – Land Trust Investment Fund is enacted as follows:

**5.20.200. Land Trust Investment Fund.**

The Land Trust Investment Fund is established to manage the proceeds of land sales and the financial assets of the Land Trust Fund in excess of annual operating needs of the Land Trust Fund and to generate investment earnings to be used for Land Trust Fund operations, General Fund functions, or for other purposes as determined by the assembly.

A. Transfers to support operations in the Land Trust Fund or the General Fund shall be limited to 5 percent of the market value (5% POMV) of the Land Trust Investment Fund. The allocation of the 5% POMV shall be first to the Land Trust Fund to subsidize operations and to ensure compliance with the fund balance policy. If the transfer to the Land Trust Fund is less than 5% POMV the excess may be transferred to the General Fund at the direction of the assembly.

B. Transfers to the Land Trust Fund to invest in non-financial assets such as land or income producing investments shall not exceed 10 percent of the market value of the Land Trust Investment Fund in any year or 25 percent in any five-year period. These limits do not apply to investment in Interfund Loans or any other allowable financial asset.

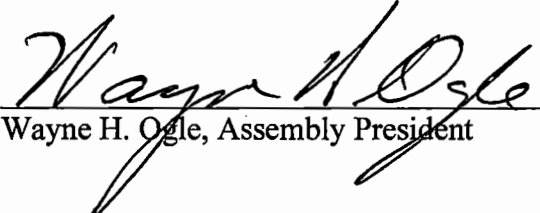
C. The Land Trust Fund may utilize an interfund loan from the Land Trust Investment Fund if the fund balance in the Land Trust Fund falls below the minimum requirements of the fund balance policy. Any such interfund loan must be repaid within five years.

D. The Land Trust Investment Fund is a special revenue fund and shall not require an annual budget.

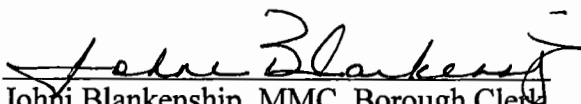
**SECTION 6.** That \$5,275,000 is appropriated from the Land Trust Fund balance, account 250.27910 for the initial operating transfer to the Land Trust Investment Fund.

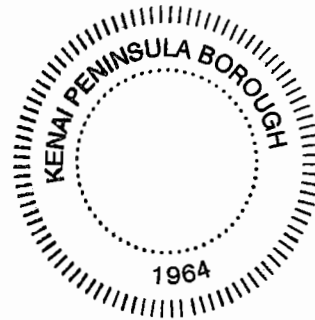
**SECTION 7.** That this ordinance takes effect upon enactment; however, no operating transfer may be made from the Land Trust Investment Fund to the Land Trust Fund until after commencement of the first full budget year following enactment of this ordinance.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 4TH DAY OF SEPTEMBER, 2018.**

  
Wayne H. Ogle, Assembly President

ATTEST:

  
John Blankenship, MMC, Borough Clerk



Yes: Bagley, Blakeley, Carpenter, Cooper, Dunne, Fischer, Hibbert, Smalley, Ogle  
No: None  
Absent: None