

PURCHASE AGREEMENT

This Purchase Agreement ("Agreement") is made by and between JODI E. MORRISON, as seller, whose address is 1850 Ingram Way, Petaluma, CA 94954, ("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 Seward Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

Lots 3 and 4, Tract A, Crawford Subdivision, according to Plat S-15, filed in the Seward Recording District, Third Judicial District, State of Alaska.
(PARCEL NO. 145-093-06)

AND

Lot 2, Riverside Subdivision, according to Plat S-16, filed in the Seward Recording District, Third Judicial District, State of Alaska.
(PARCEL NO. 145-093-01)

("the Property")

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 One Dollar and NO cents (\$1.00). 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 approval by the KPB Assembly.

2. EXPIRATION OF OFFER

Seller shall sign and return this Agreement to KPB on or before **October 14, 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 shall warrant and covenant 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 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 KPB.

4. ESCROW AND CLOSING COSTS

Except as described in this Section, in addition to the purchase price, KPB agrees to pay for closing costs, title insurance and recording fees up to \$800.00. Any and all closing fees in excess of this amount shall be the responsibility of the Seller. Property taxes for the current year, if any, will be paid current 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.

5. CLOSING

Unless otherwise agreed in writing, closing will occur within 180 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 Agreement and, if applicable, establish an escrow account.

6. POSSESSION

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

7. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the Property by KPB is subject to authorization by the KPB Assembly and specific appropriation of funds. If the KPB Assembly fails to authorize the purchase of the subject land and appropriate funds, this Agreement shall be terminated without penalty.

8. DISCLOSURES

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

9. CONTINGENT UPON INSPECTION

This offer and Agreement are 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 require Seller's express permission and shall be promptly repaired or replaced by KPB in a workmanlike manner. KPB shall have 180 days from the execution of this Agreement to complete inspections and determine its satisfaction unless otherwise provided in writing.

10. HAZARDOUS MATERIAL

Seller covenants to the best of Seller 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 or stored on the Property; nor 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 invitees prior to KPB'S ownership, possession, or control of the Property.

11. ENVIRONMENTAL CONTINGENCY

If, during the course of KPB's due diligence inspection of the Property pursuant to Section 9, 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 are deemed undesirable by KPB, KPB will 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 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 KPB sending 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 shall 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 shall survive closing and termination of this Agreement. Upon successful close of escrow said indemnification shall 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) 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.

12. 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.

13. 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 Sellers or KPB may terminate this Agreement.

14. 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 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 the Parties. It shall 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 shall be governed by the laws of the State of Alaska. Any lawsuit brought arising from this Agreement shall be filed in the court of the Third Judicial District, State of Alaska, located in the City of Homer, 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:

Mike Navarre, Mayor

Jodi E. Morrison 10/5/2022

Jodi E. Morrison

ATTEST:

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

Johni Blankenship,
Borough Clerk

A. Walker Steinhage
Deputy Borough Attorney