

## PURCHASE AGREEMENT

This Agreement is made on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between Lynn C. Martinez, a married woman, whose address 8804 Galena St, El Paso, Texas 79904 (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 Kenai Recording District, Third Judicial District, State of Alaska, (hereinafter referred to as "Property") and more particularly described as follows:

That Portion of the SW1/4 NW1/4 Section 23, T5N, R11W, Seward Meridian, Alaska, LYING North of the Kalifornsky Beach Road and North of Ciechanski Road Right-of-ways, containing 30.3 acres more or less (KPB Assessor Parcel No. 055-031-53)

WHEREAS, KPB has offered to buy, and SELLER is willing to sell the above-described 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 Five Hundred Twenty-five Thousand dollars and NO cents (\$525,000.00). 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 borough assembly approval.

2. EARNEST MONEY RECEIPT

No down payment is required.

The purchase of the property is subject to the approval of the KPB assembly as specified in paragraph 6 of this Purchase Agreement. If the KPB assembly fails to authorize the purchase or if the SELLER breaches any of the terms of this agreement, any down payment made shall be returned to the KPB.

The purchase of the property is further subject to the property being free of environmental contamination as specified in paragraph 8 of this Purchase Agreement. The KPB may terminate this agreement, and any down payment shall be returned to the KPB, if environmental contamination is found on the property.

3. TITLE

Title shall be delivered at time of closing by 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 and further subject to the following:

Prior to closing, Seller shall grant and record a Public Road Easement, sixty-feet in width centered on the travelway known as "Dogleg Avenue" from the point of intersection with the Kalifornsky Beach Road Right-of-way to the Northwest corner of the subject Property. Title shall be subject to said 60-foot Public Road Easement. SELLER acknowledges that KPB intends to vacate such easement upon construction of Phillips Street, wherein such constructed Phillips Street directly ties the Northwest corner of the Subject Property to Kalifornsky Beach Road along the Phillips Street Right-of-way.

Seller will reserve the mineral estate which is subject to an oil and gas lease recorded May 26, 1994 at book 444, page 178 in the Kenai Recording District.

Gravel, rock, sand, peat, fill, topsoil and other similar surface materials shall be conveyed as part of the surface estate to the KPB.

4. ESCROW AND CLOSING COSTS

In addition to the purchase price, KPB agrees to pay for one-half closing costs, not to exceed \$2,500.00, in connection with this Agreement, including without limitation all escrow fees, appraisal fees, title insurance charges, recording fees and bank charges. Taxes will be prorated as of the date of closing. 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 execution of this Purchase Agreement by KPB. 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. Closing shall occur at SouthCentral Title in Soldotna, AK and via mail.

6. KENAI PENINSULA BOROUGH ASSEMBLY APPROVAL

Purchase of the above described 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 fails to enact an ordinance authorizing the purchase of the subject land and appropriation of funds, this agreement shall be terminated without penalty.

7. POSSESSION

Possession shall be delivered to KPB at time of recording warranty deed.

8. 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 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 invitees, prior to KPB'S ownership, possession, or control of the Property.

The KPB or its contractor is authorized to enter the property for the purpose of digging test holes and taking soil samples as part of a Phase 1 Environmental Assessment. Minimal clearing is authorized and no trees shall be cleared greater than 8 inches in diameter. All costs associated with digging test holes and taking soil samples shall be paid by the KPB.

9. 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 of the agreement to finance the sale, and shall continue in full force and effect until the purchase price is paid in full or this agreement is earlier terminated.

10. 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.

11. 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 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 constructed 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.

KENAI PENINSULA BOROUGH:

SELLER:

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David R. Carey  
Kenai Peninsula Borough Mayor

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Lynn C. Martinez

ATTEST:

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

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Johani Blankenship,  
Borough Clerk

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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 \_\_\_\_\_, 2009, by David R. Carey, 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 TEXAS )  
 )ss  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by Lynn C. Martinez.

\_\_\_\_\_  
Notary Public in and for Texas  
My commission expires: \_\_\_\_\_