

PURCHASE AGREEMENT

This Agreement is made on this ____ day of _____ 2010, by and between KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669 (hereinafter referred to as "KPB") and KENAI PENINSULA RACING LIONS an nonprofit association, who receives mail at PO Box 2755, Kenai, Alaska, 99611 (hereinafter referred to as "BUYER").

WHEREAS, KPB has an ownership interest in that real property located in the Kenai Recording District, Third Judicial District, State of Alaska, and more particularly described as follows:

NE1/4 Section 36, T6N, R11W, S.M. Excepting Beaver Creek Alaska Subdivision according to Plat No. 81-101, containing approximately 157 acres and subject to survey plat

WHEREAS, BUYER has offered to buy, and KPB is willing to sell its interest in the above-described Property as evidenced by KPB Ordinance 2010-__ enacted by the Assembly of the Kenai Peninsula Borough on October 26, 2010.

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

1. PURCHASE PRICE

The purchase price of the subject property is One dollar and NO cents (\$1.00) to be paid as follows:

A. The amount below is herewith submitted to KPB and shall be held in escrow by KPB until closing or until this Agreement is otherwise terminated. This payment shall be credited towards the purchase price and costs unless this Agreement is otherwise terminated, in which case it shall be disbursed in accordance with the applicable provisions of this Agreement.

(1) One dollar and NO Cents (\$1.00) representing the purchase price.

2. TITLE

Title to the parcel shall be delivered at time of closing by **quitclaim deed**, which shall be issued to BUYER. KPB sells only its interest in the property, if any, without warranty of any kind or nature whatsoever. Title shall also be subject to

reservations, easements, rights-of-way, covenants, conditions and restrictions of record.

BUYER warrants and covenants that at the time of closing there shall be no liens or judgments recorded against BUYER.

3. DEED RESTRICTION

The conveyance document shall contain an "Open to the Public Recreational Motor Sports Restriction." The property conveyed to Kenai Peninsula Racing Lions is subject to the restriction that the land conveyed by this deed shall be used solely for pleasure, recreation, and hobby associated with amateur recreational motor sports and motor vehicle operation education and related activities. Grantee shall have the right to regulate use; however, the property must be made available for public use as described in paragraph 8 of the "Application to Request the Negotiated Purchase, Lease or Exchange of Borough Owned land dated August 25, 2010. regardless of race, color, religion or sex. In the event grantee does not use, or ceases to use, the land conveyed by this deed as specified herein, grantor or grantor's assigns may reenter and repossess the premises.

4. ESCROW AND CLOSING COSTS

In addition to the purchase price, BUYER agrees to pay for all closing costs in connection with this Agreement, including without limitation all survey and platting costs, escrow fees, title insurance charges, recording fees and bank charges. All costs must 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 the Purchase Agreement. At closing, BUYER will pay the balance of the purchase price for all cash sales, or the balance of the down payment for financed sales, with a certified check. 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 BUYER at time of recording.

7. BREACH BY BUYER; REMEDIES OF KPB

Prior to closing of the sale, in the event that BUYER fails to make any payment required, or fails to submit or execute any and all documents and papers

necessary in examination of BUYER's financial background, or fails to participate in closing and transfer of title within time periods specified in this Agreement, up to \$1,000.00 of BUYER's deposit shall be retained by KPB as liquidated damages. Additionally, other funds may be retained for out-of-pocket expenses incurred, and this Agreement shall be terminated.

In addition to the foregoing, in the event of a default in the performance or observance of any of the agreement terms, conditions, covenants and stipulations thereto, either prior to or after the closing of the sale, and such default continues thirty days after written notice of the default, KPB may cancel the agreement or take any legal action for damages or recovery of the property. No improvements may be constructed, installed, or removed during the time which the contract is in default without written notice to KPB and the KPB's written approval.

8. NOTICE OF DEFAULT.

Notice of default will be in writing as provided herein below. A copy of the notice will be forwarded to all lienholders or others who have properly recorded their interest in the purchase agreement with KPB.

9. REMOVAL OR REVERSION OF IMPROVEMENTS UPON CANCELLATION OF PURCHASE AGREEMENT OR LEASE.

- A. In the event of cancellation of the purchase agreement or default of any of the conditions of the conveyance at KPB's option KPB may take ownership and possession of improvements made by Buyer on the property.
- B. If owner opts not to pursue its rights set forth in paragraph 9(A) above BUYER covenants that improvements owned by the BUYER on KPB lands shall, within thirty calendar days after written demand by the KPB, be removed by BUYER; provided, such removal will not cause injury or damage to the land; and further provided, that the mayor or planning director when applicable may extend time for removing such improvements in cases where hardship is proven. If any improvements and/or chattels are not removed within the time allowed, such improvements and/or chattels may be removed by the KPB at the BUYER'S expense. BUYER shall pay for KPB's removal of the chattels or improvements within 30 days of written demand made to the BUYER by the KPB.
- C. Rental for Improvements or Chattels not Removed. Any improvements and/or chattels belonging to the BUYER or placed on the land during BUYER'S tenure with or without BUYER'S permission and remaining

upon the premises after termination of the contract shall entitle KPB to charge a reasonable rent therefore unless and until the KPB opts to take ownership of the improvements or chattels

10. RESALE.

In the event that a purchase agreement should be terminated, canceled, forfeited or abandoned, KPB may offer said lands for sale, lease or other appropriate disposal pursuant to provisions of KPB Chapter 17.10 or other applicable regulations. If said land is not immediately disposed of then said land shall return to the Land Bank.

11. HAZARDOUS MATERIAL

A. BUYER covenants and agrees that no hazardous substances or wastes shall be located on or stored on the property or any adjacent property by BUYER, nor shall any such substance be owned, stored, used, or disposed of on the property or any adjacent property by BUYER, its agents, employees, contractors, or invitee's, prior to BUYER's ownership, possession, or control of the property.

B. BUYER covenants and agrees that if the presence of hazardous material on the property is caused or permitted by BUYER, its agents, employees, contractors, or invitee's, or if contamination of the property by hazardous material otherwise occurs on the property, prior to BUYER's ownership, possession, or control of the property, BUYER shall defend, indemnify, and hold harmless KPB from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses (including, but not limited to, sums paid in the settlement of claims, attorney's fees, consultant fees and expert fees) which may arise as a result of such contamination. This defense and indemnification includes, without limitations, costs incurred in connection with any investigation of site conditions or any clean-up, remedial, removal, or restoration work required by any federal, state or local government on or under the property. As used herein, the term "hazardous material" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local government authority, the State of Alaska, or the United States Government.

C. It is specifically agreed and understood by the parties that the BUYER or its predecessors has conducted activities on this parcel since 1972 and that this defense and indemnification clause in favor of the KPB extends to activities conducted on the property with or without the BUYERS knowledge or permission, beginning in 1972 and continues. Section 11 of this Agreement shall survive closing.

12. ASSIGNMENTS

BUYER may assign the lands upon which BUYER has an agreement only if approved by the mayor or planning director when applicable. Applications for assignment shall be made in writing on a form provided by the land management division. Assignment shall be approved if it is found that all interests of KPB are fully protected. The assignment shall be subject to and governed by the applicable provisions of KPB Chapter 17.10 and the ordinance authorizing this purchase.

13. 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 must be made in writing and signed by both KPB and BUYER 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.

14. MISCELLANEOUS

- A. Covenants. BUYER agrees to comply with any Declaration of Covenants, Conditions and Restrictions of record, affecting the Property.
- B. No Warranty. BUYER acknowledges its responsibility to inspect the property. BUYER further agrees that KPB makes no warranties, either expressed or implied, nor assumes any liability whatsoever, regarding the social, economic or environmental aspects of the property, to include without limitation, soil conditions, water drainage, physical access, availability of personal use wood supplies now or in the future, or natural or artificial hazards which may or may not exist or merchantability, suitability, or profitability of the property for any use or purpose. The parties mutually agree that this transfer will not be covered by the Residential Real Property Transfers Act, AS 34.70.010 et. seq.
- C. Development. BUYER agrees that buyer has no right to conduct activities on the property until title is transferred to BUYER., except those approved by the current KPB land use permit, LMD 04-15, dated May 25, 2010. BUYER agrees the construction and maintenance of any improvements, roads, drainage systems and common areas shall be the responsibility of the BUYER. BUYER further agrees to comply with all federal, state, and

KPB regulations regarding use and development of the property, which includes but is not limited to; State of Alaska, Department of Environmental Conservation regulations regarding water and sewer installation; and if applicable, regulations of the U.S. Army Corps of Engineers regarding filling or draining any area within the property designated as wetlands by the appropriate authority.

- D. Time. Time is of the essence in performance of this Agreement.
- E. Cancellation. This agreement, while in good standing may be canceled in whole or in part, at any time, upon mutual written agreement by BUYER and the mayor or planning director when applicable. 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.
- F. Fire Protection. The BUYER shall take all reasonable precautions to prevent, and take all reasonable actions to suppress destructive and uncontrolled grass, brush, and forest fires on the land under agreement, and comply with all laws, regulations and rules promulgated and enforced by the protection agency responsible for forest protection within the area wherein the demised premises are located.
- G. 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 below:

BUYER:
Kenai Peninsula Racing Lions
PO Box 2755
Kenai, Alaska 99611

KPB:
Kenai Peninsula Borough
Land Management Division
144 N. Binkley Street
Soldotna, AK 99669-7520

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.

- H. Responsibility of Location. It shall be the responsibility of the BUYER to properly locate himself and his improvements on the purchased, leased, or permitted lands.

- I. Sanitation. The BUYER, lessee, or permittee shall comply with all regulations or ordinances which a proper public authority in its discretion shall promulgate for promotion of sanitation. Premises under purchase or lease agreement, or permit shall be kept in a clean and sanitary condition and every effort shall be made to prevent any pollution of waters and lands.
- J. Shore Land Public Access Easement. As established by AS 38.05, KPB lands sold or leased may be subject to a minimum 50 foot public access easement landward from the ordinary high water mark or mean high water mark.
- K. Violation. Violation of any provision of KPB Chapter 17.10 or of the terms of this purchase agreement may expose BUYER to appropriate legal action including forfeiture of purchase interest, termination, or cancellation of BUYER'S interest in accordance with state law.
- L. Written Waiver. Receipt of payment by KPB, regardless of knowledge of any breach of the purchase agreement by BUYER, or of any default on the part of BUYER, in observance or performance of any of the conditions or covenants of the agreement, shall not be deemed to be a waiver of any provision of the agreement. Failure of KPB to enforce any covenant or provision therein contained shall not discharge or invalidate such covenants or provision or affect the right of KPB to enforce the same in the event of any subsequent breach or default. Receipt by KPB of any payment of any other sum of money after notice of termination or after the termination of the agreement for any reason, shall not reinstate, continue or extend the agreement, nor shall it destroy or in any manner impair the efficacy of any such notice of termination unless the sole reason for the notice was nonpayment of money due and payment fully satisfies the breach.
- M. Construction. 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.
- N. Effective Date. This Agreement has been executed by the parties on the day and year first above written.

KENAI PENINSULA BOROUGH

BUYER

David R. Carey, Mayor

Jackie McGahan, President
Kenai Peninsula Racing Lions

Sandra Emery, Secretary
Kenai Peninsula Racing Lions

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 _____ 2010, 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 ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____ 2010, by Jackie McGahan, President of the Kenai Peninsula Racing Lions, an Alaskan Non-profit association, for and on behalf of the association.

Notary Public in and for Alaska
My commission expires: _____

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
)ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____ 2010, by Sandra Emery, Secretary of the Kenai Peninsula Racing Lions, an Alaskan Non-profit association, for and on behalf of the association.

Notary Public in and for Alaska
My commission expires: _____