

Introduced by: Mayor
Date: May 21, 1991
Vote: UNANIMOUS
Action: ADOPTED

KENAI PENINSULA BOROUGH

RESOLUTION 91-68

AUTHORIZING THE PURCHASE OF LAND FROM BARBARA JEAN TALLMAN AND SUSAN ANNE TALLMAN FOR THE PURPOSE OF ESTABLISHING A BUFFER ZONE OF PROPERTIES AROUND THE SOLDOTNA LANDFILL SITE

WHEREAS, the Mayor has proposed the purchase of properties adjacent to the Soldotna Landfill to establish a buffer zone; and

WHEREAS, by Ordinance 91-3, the Assembly appropriated \$2,108,600 for the purchase of the properties with the provision that the decision to purchase any individual property and approval of the terms of the sale was reserved to the Assembly; and

WHEREAS, two agreements have been reached with BARBARA JEAN TALLMAN AND SUSAN ANNE TALLMAN that would establish the terms of sale of the property to the Borough; and

WHEREAS, according to the terms of the agreements these offers will be presented to the Assembly for its consideration;

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

Section 1. That the Assembly hereby authorizes the purchase of property as described in the two attached Purchase Agreements and authorizes the Mayor to proceed with the purchases in accordance with the terms and conditions of the agreements and make such payments or execute such deeds of property as are necessary to carry out the purchase agreements.

Section 2. That the two attached agreements hereby approved are hereby incorporated into this resolution as if wholly set forth and shall be a permanent part of the resolution.

Section 3. That this resolution shall take effect at 12:01 a.m. of the date after its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH ON THIS 21st DAY OF May, 1991.

James W. Skogstad
James W. Skogstad, Assembly President

ATTEST:

Jeresa Hudson
acting Borough Clerk

AGREEMENT TO PURCHASE

The KENAI PENINSULA BOROUGH, hereinafter "Purchaser," at 144 N. Binkley Street, Soldotna, Alaska 99669, and Barbara Jean Tallman and Susan Anne Tallman

hereinafter "Sellers," residing at 3605 Arctic Boulevard #861, Anchorage, Alaska 99503, enter into this Agreement for the purchase of the real property and improvements described as:

T04N, R11W, Sec. 13, Kenai Recording District, Third Judicial District, State of Alaska, that portion of the West 980 feet of the Northwest one-quarter Southwest one-quarter lying West of the Sterling Highway, cntg. 05.60 AC M/L. (Assessor's parcel no. 131-094-21)

together with all fixtures and equipment attached to and a part of the above-described property.

1. This Agreement to Purchase is subject to and conditioned upon Assembly appropriation and approval of this Agreement to Purchase. The Purchaser agrees that upon appropriation and approval by the Assembly of this Agreement it will pay \$14,000.00 to purchase the property. This payment will be made to a closing agent who will disburse all sums necessary to pay off prior liens or encumbrances and disburse the net proceeds to the Sellers. The closing agent fee will be paid by Purchaser except as otherwise provided in this Agreement.

2. The Sellers shall convey title by statutory warranty deed. The Sellers warrant that there are no encumbrances or interests in the property affecting the title nor are there any easements to which this property is subject other than for utilities or sectionline easements. Deeds shall be drawn in the name of the Kenai Peninsula Borough, an Alaska municipal corporation, 144 N. Binkley Street, Soldotna, Alaska 99669.

3. This Agreement is entered into by the Sellers in consideration of the Borough's promises to seek Assembly appropriation and approval of the sale agreement and for consideration of \$100.00 earnest money and other good and valuable consideration. If the purchase is completed this amount will be a credit against the purchase price.

4. Purchaser will require title insurance and all fees and expenses for title search and title insurance will be paid by the Purchaser. Arrangements for title searches and title insurance will be the responsibility of the Purchaser.

5. All expenses or costs associated with the prepayment or pay-off of any liens or mortgages on the property will be the responsibility of the Sellers. These costs, if any, will be

deducted from the proceeds of the sale at closing by the closing agent. The Sellers make no representations as to the present or future working conditions or acceptability of any well or sewerage system located on the property.

6. The Purchaser will take possession of the property at closing.

7. In the event that any improvements on the property are destroyed or materially damaged prior to closing, this contract shall at the Purchaser's election immediately become null and void and any earnest money or other considerations shall be returned to the Buyer on demand.

8. The Sellers represent that no hazardous, toxic, or other waste has been disposed of or stored on this site by Sellers or any prior owners of the property and that no contamination exists from any hazardous, toxic, or other waste materials stored or disposed of on the property. The Sellers agree that in the event that any contamination from such source is discovered to exist prior to closing, the Purchaser may withdraw in its agreement to purchase without any obligation or cost.

9. Taxes and assessments for the current calendar year will be prorated as the date of closing. If at closing the amount of taxes due are not yet determined, the taxes shall be estimated on best estimation of the Borough and the necessary amounts deposited and held in escrow for payment of the taxes. If additional amounts are necessary to pay the taxes, the Sellers and Purchaser each agree to provide the necessary additional funds to cover their prorated share of the taxes.

10. Both parties acknowledge that they have not received nor relied upon any statements or representations made to them by the other party other than those contained in this Agreement.

11. In consideration for this Agreement to Purchase the Sellers agree that it will not initiate any action prior to a closing that would attempt to block or prevent the Borough from proceeding with any plans or permits for operation or expansion of the Soldotna Landfill site. If this sale is completed, the Sellers agree that they will not assert or initiate any action attempting to block or otherwise prevent any continued operations or expansion of the Soldotna Landfill. This agreement is given in consideration of the Agreement to Purchase and eventual purchase of the property if completed and in recognition that the purchase of these properties is for the express purpose of providing a buffer zone for continued and expanded operation of the Soldotna Landfill. That should the Borough Assembly not appropriate funds or disapprove this Agreement to Purchase this restriction on the Sellers shall become null and void. The parties agree to sign all

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12. The Sellers agree that the Purchaser has made no representations or assertions regarding any tax consequences to the Sellers that would arise from this sale.

13. Should the Borough Assembly approve this Agreement and appropriate the necessary funds for the purchase and the Sellers refuse or fail to execute the documents conveying title within ninety days of such approval and appropriation by the Borough Assembly, Purchaser may either elect to terminate this Agreement to Purchase and be under no obligation to purchase the property or it may elect to seek performance of the Agreement at its option. In the event the Sellers fail to close as required by this Agreement, the provisions of para. 11 of this Agreement whereby Sellers have agreed not to initiate any action to preclude operation or expansion of the landfill shall continue in full force and effect.

14. Purchaser has made no representations or assurances that the funds necessary for this purchase or approval of the sale will be made by the Kenai Peninsula Borough Assembly.

15. This document contains the entire agreement between the parties. It may not be modified except in writing and signed by the parties.

PURCHASER

SELLER

Donald E. Gilman
Donald E. Gilman, Mayor
Dated: 5-14-91

Susan Anne Tallman
Dated: 2-27-91

SELLER

[Signature]
Dated: 2-27-91

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 14th day of May, 1991, Donald E. Gilman, Mayor, Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of the corporation.

Kristine Schmidt
Notary Public in and for Alaska
My Commission Expires: 7/17/92

ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 27th day of February, 1991, by Barbara Jean Tallman and Susan Anne Tallman.

Lena Hansen
Notary Public in and for Alaska
My Commission Expires: 6-13-93

ATTEST:

APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY:

Jessie Hudson
~~Janet A. Sumey~~
Acting Borough Clerk

for Kristine A Schmidt, Deputy Borough
Thomas R. Boedeker
Borough Attorney Attorney

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hereinafter "Sellers," residing at 3605 Arctic Boulevard #861, Anchorage, Alaska 99503, enter into this Agreement for the purchase of the real property and improvements described as:

T04N, R11W, Sec. 13, Seward Meridian, portion Northwest one-quarter Southwest one-quarter lying South of Sterling Highway, cntg. 16.00 AC M/L. (Assessor's parcel no. 131-094-22)

together with all fixtures and equipment attached to and a part of the above-described property.

1. This Agreement to Purchase is subject to and conditioned upon Assembly appropriation and approval of this Agreement to Purchase. The Purchaser agrees that upon appropriation and approval by the Assembly of this Agreement it will pay \$29,000.00 to purchase the property. This payment will be made to a closing agent who will disburse all sums necessary to pay off prior liens or encumbrances and disburse the net proceeds to the Sellers. The closing agent fee will be paid by Purchaser except as otherwise provided in this Agreement.

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Donald E. Gilman
Donald E. Gilman, Mayor
Dated: 5-14-92

SELLER

Susan Anne Tallman
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SELLER

[Signature]
Dated: 2-27-91

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) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 14th day of May, 1991, Donald E. Gilman, Mayor, Kenai Peninsula Borough, an Alaska municipal corporation, on behalf of the corporation.

Kristine Schmidt
Notary Public in and for Alaska
My Commission Expires: 7/17/92

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) ss.
THIRD JUDICIAL DISTRICT)

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Lerna Haaland
Notary Public in and for Alaska
My Commission Expires: 6-13-93

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APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY:

Terese Hudson
Janet A. Sumey
Acting Borough Clerk

Kristine Schmidt, Deputy Borough
Thomas R. Boedeker
Borough Attorney Attorney

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