

Introduced by:	Mayor
Date:	06/19/12
Shortened Hearing:	07/03/12
Action:	Enacted as Amended
Vote:	7 Yes, 0 No, 2 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2012-19-15**

**AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY
ADJACENT TO THE PROPERTY USED BY AURORA BOREALIS CHARTER
SCHOOL IN KENAI ON BEHALF OF THE KENAI PENINSULA BOROUGH
SCHOOL DISTRICT AND APPROPRIATING FUNDS FOR THE ACQUISITION**

WHEREAS, the relationship between the borough school district and borough is established pursuant to AS 14.14.060; and

WHEREAS, the Kenai Peninsula Borough School District (KPBSD) desires to acquire real property that adjoins the Aurora Borealis Charter School (ABCS) property in Kenai; and

WHEREAS, the subject property would be used for much needed space for a playground and a storage building that would be utilized for both the Kenai Alternative School and the ABCS; and

WHEREAS, subject property lies within the Kenai city limits and is zoned as Central Commercial which is appropriate for school purposes; and

WHEREAS, subject lots were appraised on April 13, 2012, by the KPB assessing department which concluded an estimated value of \$20,900 for each lot; and

WHEREAS, the property owners have agreed to proceed with this sale, subject to assembly approval; and

WHEREAS, purchase of the subject property and funding was approved at the KPBSD Board of Education meeting of May 7, 2012; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of June 11, 2012, recommended enactment by unanimous consent;

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

SECTION 1. That the purchase of the following described real property on behalf of the KPBSD is in the best interests of the borough:

Lots 2, 3, 4, and 5 Block 8, as shown on U.S. Survey 3025 A and B, East Addition, Townsite of Kenai. (Assessor Parcel No. 04711804, 04711805, 04711806, and 04711807)

SECTION 2. That the terms and conditions substantially in the form of the Purchase Agreement accompanying this ordinance are hereby approved. The purchase price shall be \$20,900 for each lot. The total cost of the four lots would be \$83,600 plus closing costs not to exceed \$4,000.

SECTION 3. That this acquisition is for the expansion of the property used by the Aurora Borealis Charter School.

SECTION 4. That the proposed classification of this land is government.

SECTION 5. That 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 resolution and the accompanying Purchase Agreement, consistent with applicable provisions of KPB Chapter 17.10.

SECTION 6. That funding for this acquisition, up to \$87,600, will be received from the Kenai Peninsula Borough School District and shall be appropriated to account 400.73010.13AUR.48610 for expenditures associated with this acquisition

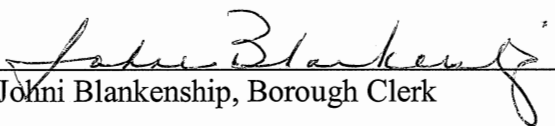
SECTION 7. That this ordinance shall take effect immediately upon its enactment.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 3RD DAY OF JULY, 2012.



Gary Knopp, Assembly President

ATTEST:



Johni Blankenship, Borough Clerk



Yes: Haggerty, McClure, Murphy, Pierce, Smalley, Smith, Knopp
No: None
Absent: Johnson, Tauriainen

PURCHASE AGREEMENT

This Agreement is made on this ____ day of _____, 2012, by and between VIRGINIA A. POORE, a single person, whose address is 4300 Eagle Rock Drive, Kenai Alaska 99611, (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, and more particularly described as follows:

Lots 2, 3, and 4, Block 8, as shown on U.S. Survey 3025 A and B, East Addition, Townsite of Kenai (Hereinafter "the Property").

(Assessor Parcel No. 04711805, 04711806, and 04711807)

WHEREAS, KPB has offered to buy subject to Assembly authorization and appropriation of funds, and SELLER is willing to sell the 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 Sixty Two Thousand Seven Hundred dollars and NO cents (\$62,700.00). 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. 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.

3. ESCROW AND CLOSING COSTS

In addition to the purchase price, KPB agrees to pay for closing costs in connection with this Agreement, including without limitation all escrow fees, title insurance charges, and recording fees up to \$2,000. Property taxes will be prorated. All costs will be paid in full at the time of closing.

4. CLOSING

Unless otherwise agreed in writing, closing will occur within 90 days of execution of the Purchase Agreement. 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.

5. POSSESSION

Possession shall be delivered to KPB at time of recording.

6. 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.

7. SITE INSPECTION APPROVAL

Purchase of the property is subject to approval of a site inspection by KPB Risk Management.

8. HAZARDOUS MATERIAL

SELLER covenants to the best of SELLER'S knowledge, that as 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 invitee's, prior to KPB'S ownership, possession, or control of the Property.

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 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 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.
- 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.

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Virginia A. Poore.

Notary Public in and for Alaska
My commission expires: _____