

Introduced by: Mayor  
Date: 05/17/11  
Action: Adopted as Amended  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
RESOLUTION 2011-055**

**A RESOLUTION APPROVING THE ACQUISITION OF A NON-EXCLUSIVE  
DRAINAGE EASEMENT FROM ROLF B. BARDARSON AND CAROL BARDARSON  
FOR ROAD SERVICE AREA CAPITAL IMPROVEMENT PROJECT #E3MOA MOAT  
WAY, EXCALIBUR WAY AND CAMELOT DRIVE**

**WHEREAS,** KPB 17.10.030 Acquisition of Land and Resources - General Policy and KPB 17.10.040 Acquisition of Lands and Resources – Resolution Contents, requires KPB planning commission consideration and assembly approval for the acquisition of interests in lands; and

**WHEREAS,** an easement is an interest in land; and

**WHEREAS,** the purpose of the acquisition is for the drainage improvement and maintenance for storm water collection and absorption associated with the Road Service Area's Capital Improvement Project #E3MOA Moat Way, Excalibur Way and Camelot Drive; and

**WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of May 9, 2011, recommended approval;

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

**SECTION 1.** That the acquisition of the following described real property easement is the best interests of the borough. The easement is within the Seward Recording District, Third Judicial District, State of Alaska, to wit:

The N½ of the NE¼ and the SE¼ of the NE¼ Excluding Avalon Subdivision and Avalon Street all within Section 26, Township 1 North, Range 1 West, Seward Meridian, in the Seward Recording District, Third Judicial District, State of Alaska (Grantor's Property).

The land constituting the easement extends within the above described land and is more particularly described as follows:

A strip of land ten (10) feet in width for a Drainage Easement situated within N 1/2 NE 1/4, Section 26, Township 1 North, Range 1 West, Seward Meridian,

Alaska, Kenai Peninsula Borough and Seward Recording District (SW) and more particularly described;

Commencing at the common corner of Lot 9 and 10 Block 6 CAMELOT By THE SEA SUBDIVISION according to SW Plat #76 on the section line common to Sections 23 and 26, thence S 89°30'26" W 106.32 ft. along the south line of said Lot 10 identical with the section line to the point of intersection of east edge of the Moat Way Right of Way;

THENCE along the Moat Public Road easement on a curve to the right having a Curve Length: 13.00', Radius: 50.00', Delta: 14°53'57", Tangent: 6.54' Chord Length: 12.97' and Chord Bearing S 06°56'29" W to the point of intersection with the northerly side of the 10 ft. wide Drainage Easement being the Point of Beginning;

THENCE along the Moat Public Road easement identical with the westerly edge of the 10 ft. wide drainage easement on a curve to the right having a Curve Length: 11.72', Radius: 50.00', Delta: 13°26'16", Tangent: 5.89' Chord Length: 11.70' and Chord Bearing S 21°06'36" W to the southerly side of the 10 ft. wide Drainage Easement;

THENCE S 37°37'03" E 20.06' along the southerly side of the 10 ft. wide drainage easement;

THENCE S 85°41'17" E 36.47' along the southerly side of the 10 ft. wide drainage easement;

THENCE S 60°53'46" E 58.62' along the southerly side of the 10 ft. wide drainage easement to the point of intersection with the existing creek drainage;

THENCE N 08°27'25" W 6.31' along the center of the existing creek drainage;

THENCE N 21°29'28" E 5.04' along the center of the existing drainage to the point of intersection with the northerly side of the 10 ft. wide drainage easement;

THENCE N 60°53'46" W 56.30' along the northerly side of the 10 ft. wide drainage easement;

THENCE N 85°41'17" W 34.20' along the northerly side of the 10 ft. wide drainage easement;

THENCE N 37°37'03" W 21.67' along the northerly side of the 10 ft. wide drainage easement to the point of intersection with the 30' Road Easement identical to the point of beginning thus embracing an area of 1,126 sq. ft. or 0.026 acres, all within Section 26, Township 1 North, Range 1 West, Seward Meridian, in the Seward Recording District, Third Judicial District, State of Alaska, as shown on Attachment A attached hereto and incorporated by reference.

**SECTION 2.** That no land classification is required pursuant to KPB 17.10.080(C).

**SECTION 3.** That the purpose of the acquisition is for the drainage improvement and maintenance for storm water collection and absorption associated with the Road Service Area's Capital Improvement Project #E3MOA Moat Way, Excalibur Way and Camelot Drive.

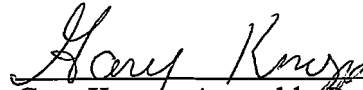
**SECTION 4.** That the Mayor is authorized to execute any and all documents necessary to acquire the interest in real property as described in this resolution in accordance with the terms and conditions contained in this resolution and accompanying Nonexclusive Drainage Easement document and consistent with applicable provisions of KPB Chapter 17.10.

**SECTION 5.** That the proposed acquisition is for ten dollars and other good and valuable consideration.

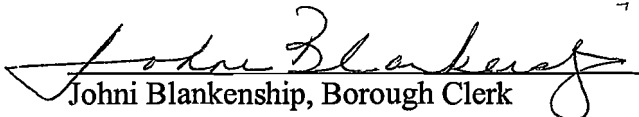
**SECTION 6.** That funds for the acquisition are available in account 434.33950.9STIP.49999.

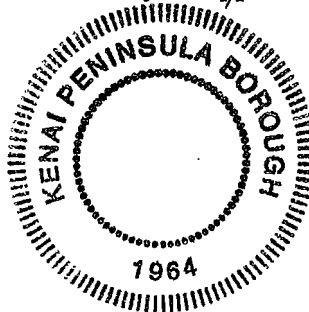
**SECTION 7.** That this resolution takes effect immediately upon its adoption.

**ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 17TH DAY OF MAY, 2011.**

  
\_\_\_\_\_  
Gary Knopp, Assembly President

ATTEST:

  
Johni Blankenship, Borough Clerk



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

## NONEXCLUSIVE DRAINAGE EASEMENT

This easement is granted by Rolf B. Bardarson and Carol Bardarson, whose physical address is 32511 Moat Way, Seward, AK 99664, hereinafter called GRANTOR, to the Kenai Peninsula Borough, a Municipal Corporation, whose address is 144 N. Binkley Street, Soldotna, Alaska 99669, hereinafter called GRANTEE, for ten dollars and other good and valuable consideration, receipt of and sufficiency of which is hereby acknowledged.

This easement which touches and concerns the land and is for the benefit of the Dominant Estate, and shall run with the land is granted to the Grantee for the purpose of drainage improvements and maintenance for storm water collection and absorption over and across the following described land owned by Grantor within the Seward Recording District, Third Judicial District, State of Alaska, to wit:

The N $\frac{1}{2}$  of the NE $\frac{1}{4}$  and the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  Excluding Avalon Subdivision and Avalon Street all within Section 26, Township 1 North, Range 1 West, Seward Meridian, in the Seward Recording District, Third Judicial District, State of Alaska (Grantor's Property).

The land constituting the easement extends within the above described land and is more particularly described as follows:

A strip of land ten (10) feet in width for a Drainage Easement situated within N 1/2 NE 1/4, Section 26, Township 1 North, Range 1 West, Seward Meridian, Alaska, Kenai Peninsula Borough and Seward Recording District (SW) and more particularly described;

Commencing at the common corner of Lot 9 and 10 Block 6 CAMELOT By THE SEA SUBDIVISION according to SW plat #76 on the section line common to Sections 23 and 26, thence S 89°30'26" W 106.32 ft. along the south line of said Lot 10 identical with the section line to the point of intersection of east edge of the Moat Way Right of Way; THENCE along the Moat Public Road easement on a curve to the right having a Curve Length: 13.00', Radius: 50.00', Delta: 14°53'57", Tangent: 6.54' Chord Length: 12.97' and Chord Bearing S 06°56'29" W to the point of intersection with the northerly side of the 10 ft. wide Drainage Easement being the Point of Beginning;

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THENCE N 60°53'46" W 56.30' along the northerly side of the 10 ft. wide drainage easement;  
THENCE N 85°41'17" W 34.20' along the northerly side of the 10 ft. wide drainage easement;  
THENCE N 37°37'03" W 21.67' along the northerly side of the 10 ft. wide drainage easement to the point of intersection with the 30' Road Easement identical to the point of beginning thus embracing an area of 1,126 sq.ft. or 0.026 acres, all within Section 26, Township 1 North, Range 1 West, Seward Meridian, in the Seward Recording District, Third Judicial District, State of Alaska, as shown on Attachment A, attached hereto and incorporated by reference.

The Grantor and Grantee agree that the use of the easement for storm water collection and drainage shall be construed broadly including but not limited to the right to excavate, fill, construct, reconstruct, install, operate, maintain, repair, alter, inspect, replace, improve, locate, and relocate improvements and related facilities, in, under, and across the premises as may from time to time be necessary or desirable for the use and enjoyment of this drainage easement, including the right to excavate, remove soils, or place fill on said premises, and the right to cut and keep clear of all trees, shrubbery, and undergrowth, to landscape the area, place improvements thereon, enjoy, and use, and to remove any obstructions on said property as may be reasonably required for the construction, reconstruction, relocation, installation, operation, and maintenance of such drainage uses.

To have and to hold the same to Grantee, its successors, assigns, licensees, and permittees, FOREVER.

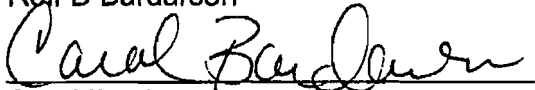
Grantor agrees that no improvements may be constructed or installed on the above-described easements by or for Grantor or its successors, assigns, licensees, and permittees, without the written permission of Grantee, or its successors, assigns, licensees, or permittees, as the case may be.

Grantor covenants that it will not interfere with the lateral support of the easement and will not excavate or fill in any portion of the above-described easement without written approval of Grantee.

GRANTOR:

  
Rolf B Bardarson

4/11/11  
Date

  
Carol Bardarson

04-11-11  
Date

GRANTEE:

KENAI PENINSULA BOROUGH

\_\_\_\_\_  
David R. Carey, Mayor

ATTEST:

Approved as to form and legal  
sufficiency:

\_\_\_\_\_  
John Blankenship, Borough Clerk

\_\_\_\_\_  
Borough Attorney

MAYOR'S (GRANTEE) NOTARY ACKNOWLEDGMENT

STATE OF ALASKA            )  
  ) ss.  
THIRD JUDICIAL DISTRICT    )

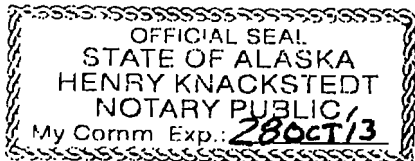
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2011 by David R. Carey, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

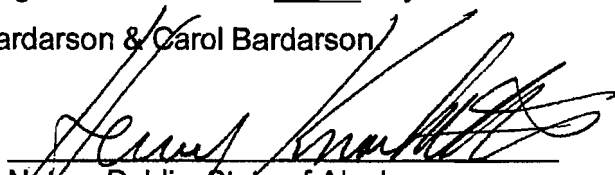
\_\_\_\_\_  
Notary Public, State of Alaska  
My commission expires: \_\_\_\_\_

GRANTOR'S NOTARY ACKNOWLEDGMENT

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this 11 day of  
APRIL 2011, by Rolf B Bardarson & Carol Bardarson

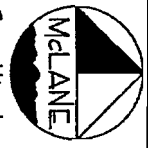


  
\_\_\_\_\_  
Notary Public, State of Alaska  
My commission expires: 28 Oct 13



**KENAI PENINSULA BOROUGH  
MOAT WAY PUBLIC ROAD / DRAINAGE  
EASEMENT "ATTACHMENT A"**

Consulting Inc



AVALON ST.



DRAWN BY: BGB  
HORIZ. SCALE: 1" = 80'  
KPB PROJECT NO.: EMNCA  
DRAWING: 10406  
SHEET: 1

