

Introduced by: Mayor
Date: 09/06/11
Action: Adopted
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
RESOLUTION 2011-095**

**A RESOLUTION APPROVING THE ACQUISITION OF A PUBLIC ROAD
EASEMENT FROM JAMES E. ANDERSON AND DEBORAH A. ANDERSON FOR
ROAD SERVICE AREA NEW CONSTRUCTION ASSOCIATED WITH CAPITAL
IMPROVEMENT PROJECT #S4RID RIDGE STREET, RING OF FIRE AVENUE
AND SPRUCE CIRCLE ROAD**

WHEREAS, KPB 17.10.030, Acquisition of land and resources - General policy, was recently amended by Ordinance 2011-15 (Mayor) Substitute to remove the requirement that the Road Service Area (RSA) receive a planning commission recommendation and assembly approval for the acquisition of easements for road improvements or repair; and

WHEREAS, a portion of Ridge Street is anticipated to be newly constructed in association with RSA CIP project S4RID; and

WHEREAS, the anticipated new construction is on land encumbered by agricultural restrictions which prohibit a dedication of public right-of-way; and

WHEREAS, the acquisition of an easement for new construction does not fall into the exceptions eliminating the need for planning commission review and assembly approval in KPB 17.10.030; and

WHEREAS, the purpose of the acquisition is for construction, improvement and maintenance of a public road associated with the Road Service Area's Capital Improvement Project #S4RID Ridge Street, Ring of Fire Avenue and Spruce Circle Road; and

WHEREAS, a land classification is inappropriate given the intent and purpose of KPB Chapter 17.10 and the use of the property is restricted as described in the accompanying conveyance document; and

WHEREAS, the KPB Planning Commission at its regularly scheduled meeting of August 22, 2011, recommended adoption of this resolution;

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 Homer Recording District, Third Judicial District, State of Alaska, to wit:

Tract "A" Anderson Hills Subdivision as shown on Plat No 2007-96 within Section 23, Township 5 South, Range 14 West, Seward Meridian, Homer 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 sixty (60) feet in width for a Public Road Easement situated within NE ¼, NW ¼, NW ¼, Section 23, Township 5 South, Range 14 West, Seward Meridian, Alaska, Kenai Peninsula Borough and Homer Recording District as located and shown on Exhibit "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 construction, improvement and maintenance of a public road associated with the Road Service Area's Capital Improvement Project #S4RID Ridge Street, Ring of Fire Avenue and Spruce Circle Road.

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 Public Road 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.

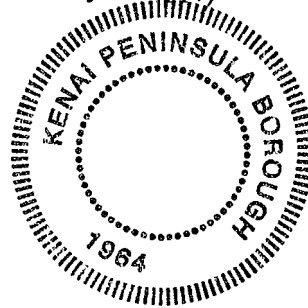
SECTION 7. That this resolution takes effect immediately upon its adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 6TH DAY OF SEPTEMBER, 2011.

ATTEST:


John Blankenship, Borough Clerk


Gary Knopp, Assembly President



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

PUBLIC ROAD EASEMENT

This easement is granted by James E. Anderson and Deborah A. Anderson PO Box 3254, Homer AK 99063, 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 shall run with the land and is perpetual, is granted to the Grantee for the purposes of construction, improvement, and maintenance of a public road over and across the following described land owned by Grantor within the Homer Recording District, Third Judicial District, State of Alaska, to wit:

Tract "A" Anderson Hills Subdivision as shown on Plat No. 2007-96 within Section 23, Township 5 South, Range 14 West, Seward Meridian, in the Homer Recording District, Third Judicial District, State of Alaska (Grantor's Property).

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

A strip of land sixty (60) feet in width for a Public Road Easement situated within the Grantors property as described above, as located and shown on Exhibit "A" attached hereto and incorporated by reference.

The Grantee, its successors, assigns, agents, contractors, subcontractors, and employees are hereby granted the right, without obligation, to construct, improve, and maintain the road. The Grantee is further granted the right to permit activities within the easement, and the Grantor covenants not to conduct any activity within said easement that will in any way interfere with the Grantee's construction, improvement, or maintenance of the road, including but not limited to any activity that impairs or affects the public's use of said road.

It is the intent of the Grantor and Grantee that the general public shall have the right to use the easement for all uses consistent with a public road.

GRANTORS:

James E. Anderson
James E. Anderson

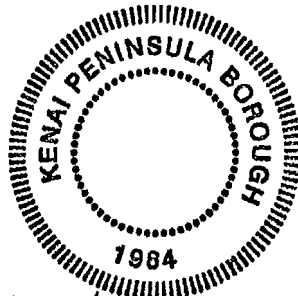
26 Aug 2011
DATE

Deborah A. Anderson
Deborah A. Anderson

26 August 2011
DATE

GRANTEE:

KENAI PENINSULA BOROUGH



David R. Carey
David R. Carey, Mayor

ATTEST:

Approved as to form and legal sufficiency:

John Blankenship
John Blankenship, Borough Clerk

[Signature]
Borough Attorney

MAYOR'S (GRANTEE) NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 26th day of September 2011 by David R. Carey, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation, for and on behalf of the corporation.

Jessica Bohn
Notary Public, State of Alaska

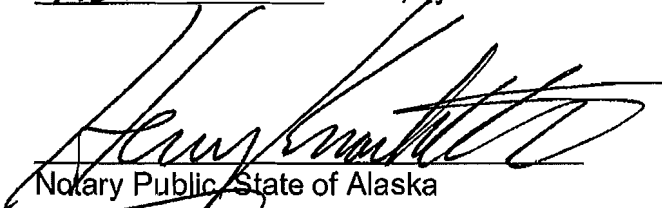


My commission expires: w/o office

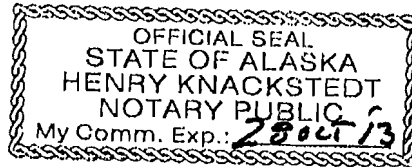
GRANTOR'S NOTARY ACKNOWLEDGMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 26 day of
AUGUST 2011, by James E. Anderson



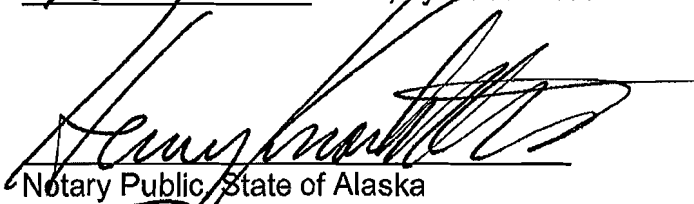
Notary Public, State of Alaska
My commission expires: 28 OCT 13



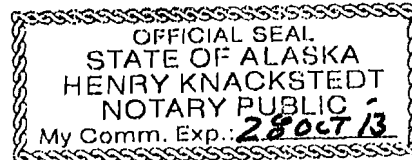
GRANTOR'S NOTARY ACKNOWLEDGMENT

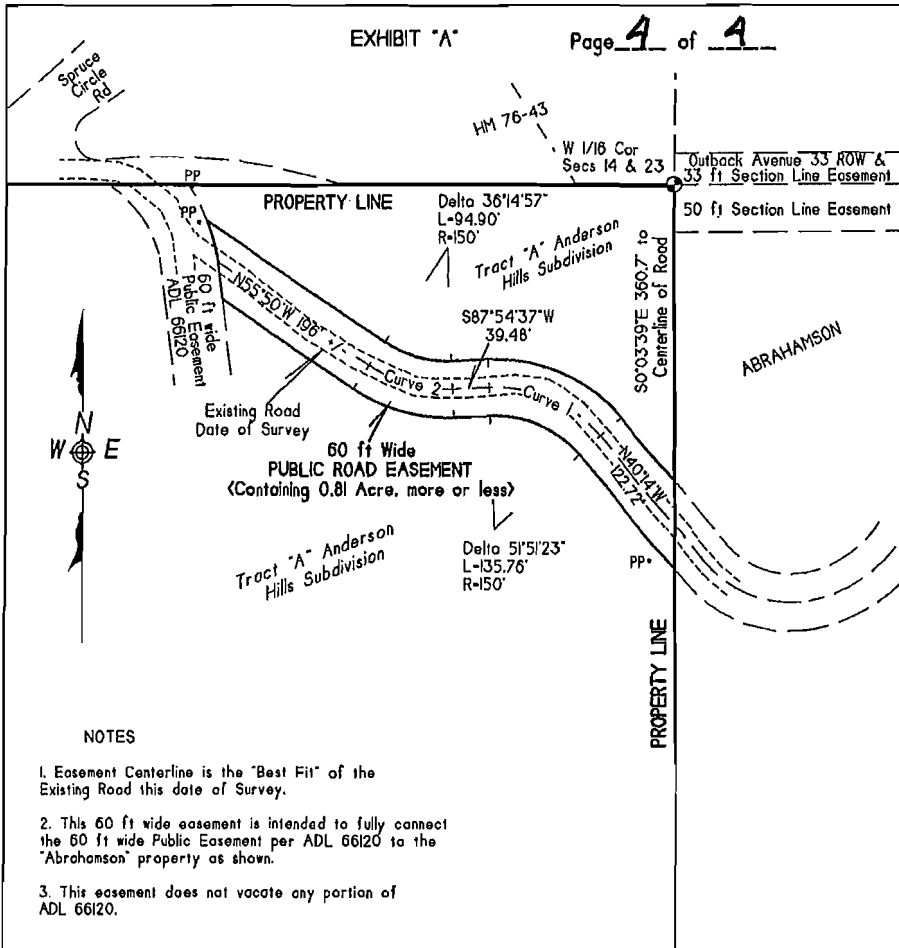
STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

The foregoing instrument was acknowledged before me this 26 day of
AUGUST 2011, by Deborah A. Anderson



Notary Public, State of Alaska
My commission expires: 28 OCT 13





NOTES

1. Easement Centerline is the "Best Fit" of the Existing Road this date of Survey.
2. This 60 ft wide easement is intended to fully connect the 60 ft wide Public Easement per ADL 66120 to the "Abrahamson" property as shown.
3. This easement does not vacate any portion of ADL 66120.

<p><i>Owners:</i> James E. Anderson and Deborah A. Anderson PO Box 3254 Homer Ak 99063</p>		<p><i>Surveyed By:</i> Roger W. Inhoff, RLS PO Box 2588 Homer Ak 99063</p>	<p>Public Road Easement Tract "A" Anderson Hills Subdivision as shown on Plat No. 2007-96 Homer Recording District</p> <p>Located in the NW 1/4 Section 23, T55, R14W, S1M</p> <p>Kenai Peninsula Borough Third Judicial District, Alaska</p>
<p><i>Date of Survey</i> 7-7-21-2011</p>	<p><i>Drawn RWI</i> FB2011-3</p> <p>Scale 1" = 150 ft</p>		