

# Transfer From KPB

cc

**RELEASE OF DEED RESTRICTION**

WHEREAS, the Kenai Peninsula Borough conveyed the below described property to the City of Homer by quitclaim deed recorded at **Book 303, Page 614** in the **Homer Recording District** pursuant to **KPB Ordinance 98-42** on July 7, 2000:

**Tract 2, Homer School Survey 1999 City Addition, According to Plat No. 2000-22** on file in the **Homer Recording District, Third Judicial District, State of Alaska**

WHEREAS, said conveyance instrument contained the following restriction:

*"FURTHER SUBJECT TO the restriction that the site shall be owned in perpetuity by the City of Homer or its successor and be managed for the use and benefit of the general public"; and*

WHEREAS, on November 25, 2014 the Kenai Peninsula Borough Assembly enacted Ordinance 2014-31 authorizing the release of said restriction.

NOW, THEREFORE, the **GRANTOR, KENAI PENINSULA BOROUGH**, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for the sum of one dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 2014-31, enacted November 25, 2014, **releases forever** unto the **GRANTEE, CITY OF HOMER**, an Alaska Municipal Corporation, whose address is 491 East Pioneer Avenue, Homer, AK 99603, its successors and assigns, the above stated restriction on the use and ownership of the above described real property set forth in the quit claim deed recorded at **Book 303, Page 614, Homer Recording District, Third Judicial District, State of Alaska.**



**CITY OF HOMER  
HOMER, ALASKA**

Howard

**RESOLUTION 13-096**

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA REQUESTING THAT THE KENAI PENINSULA BOROUGH ASSEMBLY AMEND RELEVANT AGREEMENTS AND THE QUITCLAIM DEED REGARDING THE TRANSFER OF OWNERSHIP OF THE OLD MIDDLE SCHOOL PROPERTY TO PERMIT THE CITY TO SELL THE PROPERTY AND DEDICATE THE PROCEEDS FOR THE USE AND BENEFIT OF THE GENERAL PUBLIC.

WHEREAS, The Kenai Peninsula Borough transferred ownership of the Old Intermediate School property to the City of Homer via a Quitclaim Deed dated July 7, 2000; and

WHEREAS, The property is described as Tract 2, Homer School Survey 1999 City Addition according to Plat 2000-22; and

WHEREAS, The City Attorney advises that the only currently operative restriction on the use or disposal of the property is a restriction contained in the Deed which states " the site shall be owned in perpetuity by the City of Homer or its successor and managed for the use and benefit of the general public"; and

WHEREAS, The City cannot afford to operate and maintain the buildings nor bring them up to current code requirements and a suitable future use has not been identified; and

WHEREAS, The City Council has concluded that it is in the best interest of the community to demolish the buildings and use the site for the proposed new public safety building; and

WHEREAS, The Council wishes to expand the options available to it in the event that it is determined the site is not suitable for a public safety building; and

WHEREAS, Permitting the City to sell the property provided that the proceeds of the sale are directed to the use and benefit of the general public would be in the best interest of the community and would be consistent with the original intent of the Borough when it conveyed the property.

NOW THEREFORE BE IT RESOLVED that the Homer City Council hereby requests that the Kenai Peninsula Borough Assembly amend relevant agreements and the Quit Claim Deed on the transfer of ownership of the Old Middle School Property to allow the City to sell the property and dedicate and direct the sale proceeds to the use and benefit of the general public.

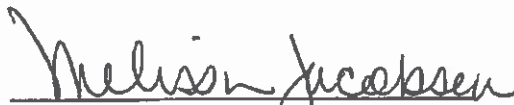
PASSED AND ADOPTED this 23<sup>rd</sup> day of September, 2013.

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CITY OF HOMER

  
MARY E. WYTHE, MAYOR

ATTEST:

  
MELISSA JACOBSEN, CMO  
DEPUTY CITY CLERK

Fiscal Note: NA



**QUITCLAIM DEED**

The GRANTOR, KENAI PENINSULA BOROUGH, an Alaska municipal corporation, whose address is 144 North Binkley Street, Soldotna, Alaska 99669, for ten (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, and pursuant to Assembly Ordinance 98-42 enacted September 1, 1998, conveys and quitclaims unto the GRANTEE, City of Homer, an Alaska municipal corporation, whose address of record is 491 East Pioneer Avenue, Homer, AK 99603-7645 all interest it has, if any, in the following described real property:

Tract 2, Homer School Survey 1999 City Addition, according to Plat No. 2000-22 on file in the Homer Recording District, Third Judicial District, State of Alaska.

TOGETHER WITH all the improvements thereon, if any, and all rights of the Grantor to any and all hereditaments and appurtenances hereto, and

SUBJECT TO any taxes and assessments, exceptions, reservations, restrictions, conditions, covenants, easements, rights-of-way, encroachments either of record or ascertainable by physical inspection.

FURTHER SUBJECT TO the restriction that the site shall be owned in perpetuity by the City of Homer or its successor and be managed for the use and benefit of the general public.

Dated this 7 day of July, 2000.

This Agreement has been executed by the parties on the day and year first above written.

Grantor:

Dale L. Bagley  
Dale L. Bagley, Mayor

8K00303PG0615

NOTARY ACKNOWLEDGMENT

STATE OF ALASKA )  
 )ss.  
THIRD JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 2000, by Dale L. Bagley, Mayor of the Kenai Peninsula Borough, an Alaska municipal corporation.

Bonnie Golden  
Notary Public in and for Alaska  
My commission expires: 11-15-00

RETURN TO: Grantee

NOTARY PUBLIC  
BONNIE GOLDEN  
STATE OF ALASKA

002421  
HOMER  
RECORDING DISTRICT

2000 JUL -7 P 2:42  
REQUESTED BY 1800  
X2

Kenai Peninsula Borough, Alaska  
KPB/City of Homer - Quitclaim Deed

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Introduced by: Mayor at request  
Date: 08/04/98  
Hearings: 08/18/98 and 09/01/98  
Action: Enacted as Amended  
Vote: 8 Yes, 0 No, 1 Absent

**KENAI PENINSULA BOROUGH  
ORDINANCE 98-42**

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF THE REAL PROPERTY  
ASSOCIATED WITH THE FORMER HOMER INTERMEDIATE SCHOOL TO THE  
CITY OF HOMER AT OTHER THAN FAIR MARKET VALUE**

**WHEREAS,** the borough is the owner of the real property known as the former Homer Intermediate [Middle] School located at the corner of the Sterling Highway and Pioneer Avenue in Homer, Alaska; and

**WHEREAS,** the property comprises four parcels that Homer area residents separately donated to the territorial school, the Parent Teacher Association of Homer and to the Territory of Alaska in the 1940's and 1950's, which were then transferred to the borough in 1974; and

**WHEREAS,** the real property known as the former Homer Intermediate [Middle] School is surplus to Kenai Peninsula Borough School District and Borough Administration needs; and

**WHEREAS,** the University of Alaska, Anchorage (UAA) has renovated the second floor of the former Intermediate [Middle] School building for use by the Kachemak Bay Branch of the Kenai Peninsula College, and the deed to the City of Homer will be subject to a lease between the borough and UAA; and

**WHEREAS,** the City of Homer has requested that the borough convey to it for a nominal sum the land and buildings occupied by the former Homer Intermediate [Middle] School, which is presently classified by the City of Homer as public government lands, and is assessed at \$3,203,200 including land at \$703,200 and improvements at \$2,500,000; and

**WHEREAS,** a July 1998 site survey conducted by Architects Alaska estimated renovation costs of one of the two buildings on this parcel to be \$465,780 and demolition costs to be \$190,500; and

**WHEREAS,** the City of Homer desires to allow public use of the gym and associated rest room facilities of the former Homer Intermediate [Middle] School, and has park and



recreation powers while the borough lacks such powers in the City of Homer; and

**WHEREAS,** conveyance of the real property known as the former Homer Intermediate [Middle] School to the City of Homer will facilitate continued use of the property for community purposes and relieve the borough of the time and cost to upgrade, maintain and administer the facility; and

**WHEREAS,** the land is deposited into the land bank; and

**WHEREAS,** the KPB Planning Commission at its regularly scheduled meeting of August 10, 1998 recommended the assembly enact the ordinance by unanimously consent.

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

**SECTION 1.** That the Assembly finds that conveying the real property known as the former Homer Intermediate [Middle] School and located on a portion of the E½ Section 19, T6S, R12W, S.M., in the Homer Recording District, Third Judicial District, State of Alaska (Assessor Parcel No. 175-100-05) to the City of Homer at other than fair market value is in the best interest of the public and the Borough. This finding is based on the following facts:

- a. The real property known as the former Homer Intermediate [Middle] School is surplus to Kenai Peninsula Borough School District and Borough Administration needs.
- b. While the second floor and the gym of the former Homer Intermediate [Middle] School are in excellent condition, continued ownership of this facility will subject the borough to continuing maintenance expenses, and will eventually require the borough to either demolish all or a portion of the building, or incur significant expenses in refurbishment to comply with the Americans with Disabilities Act or other applicable laws.
- c. The land will be used for a public purpose beneficial to the general public.
- d. There is a large demand from the public for use of the gym at the former Homer Intermediate [Middle] School, and the City of Homer is the appropriate entity to properly manage the facility for community purposes as the city has park and recreation powers while the borough presently lacks such powers inside the Homer city limits.

**SECTION 2.** The mayor is authorized, pursuant to KPB 17.10.100 (I), Negotiated Sale or Lease, to negotiate the sale of the former Homer Intermediate [Middle] School located on a portion of the E½ Section 19, T6S, R12W, S.M., in the Homer Recording District, Third Judicial District, State of Alaska (Assessor Parcel No. 175-100-05) to the City of Homer at other than market value subject to the sale conditions required by this ordinance and the applicable provisions of KPB 17.10 and subject to terms and conditions of the Purchase

Agreement. The sale price shall be \$1.00. The land shall be conveyed by Quitclaim Deed subject to a restriction providing that the site shall be owned in perpetuity by the City of Homer or its successor and be managed for the use and benefit of the general public. The City of Homer is to honor the initial lease agreement between the borough and UAA, Kachemak Bay Campus. The authorization is for negotiation solely with the City of Homer, and it may not assign any rights to negotiate or enter an agreement for sale to any other person or entity.

**SECTION 3.** The City of Homer shall plat into one tract as a condition of conveyance the former Homer Intermediate [Middle] School site, also described as Assessor Parcel No. 175-100-05.

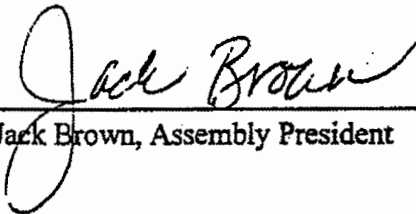
**SECTION 4.** Pursuant to KPB 17.10.230, that the Assembly authorizes an exception to the requirements of KPB 17.10.090, Disposition of borough land; KPB 17.10.110, Notice of disposition; and KPB 17.10.130(D), Conveyance of land based on the following facts:

- a. This is an intergovernmental conveyance for a public purpose.
  - (1) The former Homer Intermediate [Middle] School parcel is not classified pursuant to KPB 17.10.080. Authorizing an exception to KPB 17.10.090 allows conveyance of the site without classifying the site. Classifying the site is a redundant step as the land is zoned public/government by the City of Homer.
  - (2) KPB 17.10.110, Notice of Disposition requires publishing notice of the sale four times in the thirty day period immediately preceding the date of the sale. This notice requirement is intended to make the public aware of an opportunity to purchase borough land and will not serve a useful purpose in this situation.
  - (3) KPB 17.10.130 (D) requires that lands or interests in lands be conveyed by an instrument containing restrictions that restrict the use of land to that classification and prohibit the use of the land for any other purpose. The City of Homer's zoning regulations and the deed restriction specified in Section 2 provide adequate requirements on how the former Homer Intermediate [Middle] School site may be used by the City of Homer.
- b. These exceptions are the most practical manner of complying with the intent of KPB 17.10 without incurring unnecessary expense.
- c. The granting of these exceptions will not be detrimental to the public welfare and will aid the public health, safety, and welfare.

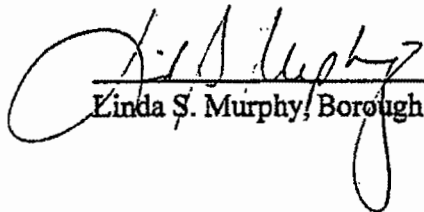
**SECTION 5.** The mayor is authorized to sign any documents necessary to effectuate this ordinance.

**SECTION 6.** That this ordinance shall take effect immediately upon its enactment.

**ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 1ST DAY OF SEPTEMBER, 1998.**

  
\_\_\_\_\_  
Jack Brown, Assembly President

ATTEST:

  
\_\_\_\_\_  
Linda S. Murphy, Borough Clerk

