

# Documents Prepared for the City of Larsen Bay to Conduct a Municipal Land Sale



BRIAN W. DURRELL  
DAVID R. MILLEN  
DOUGLAS S. PARKER  
JAMES N. REEVES

LAW OFFICES  
**BOGLE & GATES**  
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS  
SUITE 525  
900 WEST FIFTH AVENUE  
ANCHORAGE, ALASKA 99501  
(907) 276-4557 TELEX: 090-26-695  
TELECOPIER: 907-276-4152  
  
PLEASE REPLY TO ANCHORAGE OFFICE

SEATTLE OFFICE  
THE BANK OF CALIFORNIA CENTER  
SEATTLE, WASHINGTON 98164  
CABLE "BOGLE SEATTLE"  
(206) 682-5151 TELEX: 12-1087  
  
WASHINGTON, D.C. OFFICE  
SUITE 900  
ONE THOMAS CIRCLE, N.W.  
WASHINGTON, D.C. 20005  
(202) 293-3600 TELEX: 89-7410

September 17, 1984

Mayor Frank M. Carlson  
P.O. Box 8  
Larsen Bay, Alaska 99624

Mr. Jay A. Brunner, Planner  
Municipal and Regional Assistance  
Division  
Alaska Department of Community  
and Regional Affairs  
949 East 36th Avenue, Suite 400  
Anchorage AK 99508

Re: City of Larsen Bay  
Our Ref: 15000/28432

Dear Sirs:

Based upon the telephone conference held among the three of us on September 11, 1984, I have revised the documents which we provided with our letter of September 10. I have also prepared the additional documents which the City will need in order to conduct its land sale. Enclosed are the following:

- 1) Land Disposal Ordinance
- 2) Non-code Ordinance Authorizing Specific Land Sale, to be submitted for voter approval after its adoption by the Council
- 3) Instructions for conducting the sale
- 4) Sworn statement of residency
- 5) Deed containing residential use restriction



Mayor Frank M. Carlson  
Mr. Jay A. Brunner  
September 17, 1984  
Page 2

- 6) Promissory Note
- 7) Deed of Trust

The Land Disposal Ordinance has been revised slightly to make it easier to read and understand. For example, the rules concerning who will be treated as a "resident," set forth in Section 8(c), have been clarified.

The specific non-code ordinance authorizing the land sale has been changed in two important ways. First, it now provides for voter ratification after it has been adopted by the Council. We are proposing to do this in order to avoid any possible legal question which might otherwise be raised, due to some comments in a Alaska Attorney General's opinion last year. To be absolutely safe, we believe that the Council should first adopt this ordinance, and then submit it to the voters as a ballot proposition for their approval. The voters will also see exactly which land will be offered for sale, what the minimum bid (based on estimated value) will be for each lot, and what procedures will be followed.

The second change in the specific sale ordinance involves the procedures for the sale. Rather than using resident preference rights, which would allow nonresidents to participate in the bidding subject to the right of residents to match the high bid, we have substituted a provision restricting participation in the land sale to residents only. In doing this, we are relying upon the Alaska Attorney General's opinion to which we have previously referred.

The authorizing ordinance and the instructions are written with a sealed bid auction procedure in mind. Remember that State law requires that the sealed bids be opened and tabulated in public. The best way to do this is to set a specific date and hour for the bid opening, and conduct it in a public meeting format.

We have also prepared a sworn statement of residency, to be submitted by each person who wants to submit a bid. You should review this carefully, along with Section 8(c) of the ordinance, to be sure that it makes sense to you and meets the community's wishes.

BOGLE & GATES

Mayor Frank M. Carlson  
Mr. Jay A. Brunner  
September 17, 1984  
Page 3

We will stand ready to discuss these documents with you at any time, and to assist the City in the adoption of the ordinances, the conduct of the sale, and the various actions that must be taken after the sale is held.

Very truly yours,

BOGLE & GATES

  
James N. Reeves

jlh







ORDINANCE # \_\_\_\_\_

LEASING, SALE AND EXCHANGE OF CITY LAND

Sections:

1. Power to dispose of real property.
2. Form of document of conveyance.
3. Sale or lease by public auction.
4. Exchange of properties.
5. Procedures applicable for sales, leases and exchanges.
6. Financial terms.
7. Sale of present and after-acquired title or future interest in real property.
8. Preference rights and eligibility limitations for residents.
9. Leases, sales or grants to government agencies or public utilities.

Section 1. Power to dispose of real property.

The City may dispose of real property or interests therein, including future interests and after-acquired title, by sale, lease, exchange or other lawful means of conveyance, subject to the provisions of this chapter.

Section 2. Form of document of conveyance.

No disposal by the City of any interest in real property by any means shall be effective unless the procedure followed by the City complies with the requirements of this Chapter and the disposal is reflected in a document of conveyance which meets the following requirements:

- (a) The document of conveyance must be in a recordable form permitted by state statute;



(b) The document of conveyance must be signed by the Mayor or, in the Mayor's absence, another City official designated in writing by the Mayor.

(c) The document of conveyance must contain a specific reference to the ordinance or resolution by which the City Council has authorized the conveyance to be made.

(d) The document of conveyance must be delivered by the City to its grantee or lessee at the time that the grant or lease is made.

### Section 3. Sale or lease by public auction.

Unless otherwise provided in this chapter, and subject to the preference rights referred to in Section 8 of this chapter, the City may dispose of interests in real property only by sale or lease, at public auction, to the highest responsible bidder. The public auction may be conducted by the sealed bid method or by the outcry method. The method used shall be determined by the City Council and shall be set forth in the ordinance authorizing the sale or lease of City lands.

### Section 4. Exchange of properties.

The preferred method of disposing of interests in City lands are lease and sale. The City may dispose of City property by exchanging it for other property only if both of the following conditions are met:

(a) The Council determines, in findings set forth in its, resolution authorizing the exchange, that the property is not required for City purposes and that the interests of the City in disposing of the property would be better served by an exchange for other property than by a sale or lease; and

(b) The Council determines that the property proposed to be conveyed to the City in exchange for the City's property is of equal or greater value than the City's property.

### Section 5. Procedures applicable for sales, leases and exchanges.

When the City sells, leases or exchanges property, it must follow these procedures:



(a) An estimate of value shall be made by an appraiser or by the assessor. The Clerk may act as the assessor for the purpose of this Section. In the case of a sale or exchange, the estimate of value must be an estimate of the present fair market value of the property. If the proposed disposal is a lease, the estimate of value must be an estimate of both the present fair market value of the property and also the present fair market rental value of the property. Estimates of value may be based upon general information as to recent land sales or leases in Larsen Bay or nearby communities, and need not include detailed site-specific data or real estate market analysis. The estimated value shall be the minimum legally acceptable price for the property. The estimate of value must be reviewed and approved by the City Council prior to the conduct of any sale, lease, or exchange. This review and approval may be made by the Council at any time prior to the acceptance of high bids following their tabulation and review.

(b) Land of estimated value of under twenty-five thousand dollars (\$25,000) shall be disposed of as follows:

(i) The Council must first enact an ordinance setting forth:

[a] A finding that the property proposed to be disposed of is not required for City purposes;

[b] A finding that the best interests of the City would be served by disposing of the land by sale, lease or exchange;

[c] If the Council determines that the land should be disposed of by exchange, additional findings as required by Section 4 of this chapter;

[d] The terms and conditions upon which the sale, lease or exchange will be conducted by the City.

(ii) Notice of the City's intent to dispose of the land, and of the manner by which the land is to be disposed of (i.e., by sale, lease or exchange, sealed bid or public outcry auction), shall be posted in at least three public places



within the City for at least thirty days prior to the disposal. Notice may also be given by other means considered reasonable by the Mayor or Council. The notice must contain a brief description of the land, its area and general location, the minimum purchase or rental price, any terms or limitations concerning land, and the times and places set forth for the public outcry auction or sealed bid opening (if applicable) and for the exercise of preference rights to meet high bids.

(c) Disposal of City land valued at twenty-five thousand dollars (\$25,000) or more shall be in the same manner prescribed in subsection (b) above, except that the ordinance authorizing the disposal must be ratified prior to the disposal by a majority of the qualified voters voting at a regular or special election at which the question of the ratification of the ordinance is submitted.. A notice stating the time of the election and the place of voting and describing the property to be disposed of and the terms and conditions of the disposal shall be posted in at least three public places in the City at least thirty (30) days before the election.

(d) A deed issued by the City in connection with any disposal under this Section shall be in the form of a statutory quitclaim deed.

### Section 6. Financial terms.

Except in the case of an exchange, all disposals of City property under this section shall be for cash. The Council may provide by ordinance for the sale of property pursuant to an installment sale agreement or with a promissory note secured by a first deed of trust on the sale property. Rent on leases shall be payable quarterly or monthly, as the Council may determine. Any lease or installment purchase agreement issued by the City under this chapter must provide, among other terms and conditions, that upon a failure by the purchaser or lessee to make timely payment thereunder the contract or lease is terminated and all payments made thereunder are forfeited to the City.

### Section 7. Sale of present and after-acquired title or future interest in real property.

The Council may authorize the sale of after-acquired title or future interests in real property to which the City is



or may in the future become entitled. When this power is exercised, the ordinance and any deeds issued under this Section must contain a specific disclaimer of any warranty of title. A deed issued under this Section may also contain provision for issuance of a subsequent confirmatory quitclaim deed upon the request of the grantee at such future time as the City may obtain title to the land.

Section 8. Preference rights and eligibility limitations for residents.

(a) The Council may authorize the granting of preference rights to residents, as described in subsection (c) below, for any specific sale. If more than one resident preference right holder applies to purchase the same parcel, the competing preference right holders shall submit sealed bids and the highest bidder shall be entitled to purchase the parcel at the price bid.

(b) Upon a finding by the Council that serious local residential housing needs require it, the Council may impose an eligibility requirement for a specific land sale. If the Council imposes this eligibility requirement, then the sale procedure shall provide that all prospective bidders qualify in advance of the sale by submitting sworn statements of residency to the Clerk. These statements of residency shall be available for public review. Any challenges to residency shall be determined by the Clerk, subject to appeal to the Council.

(c) A resident, for the purposes of this section, is a person who lives in Larsen Bay and has the present intent to make Larsen Bay his/her home and remain in Larsen Bay. Whether or not a person is a resident shall be decided based upon all of the facts concerning that person's living condition and intentions. A person who has maintained his/her dwelling and has physically resided in Larsen Bay continuously for a period of at least one-hundred twenty (120) days immediately preceding the filing of the sworn statement of residency shall normally be a resident. A person who has not resided in Larsen Bay continuously for a period of at least one-hundred twenty (120) days immediately preceding the filing of the sworn statement of residency shall normally be treated as a nonresident. If other facts show that a person having less than the required 120 days of





residency is a resident, however, he/she may be treated as a resident. Likewise, if other facts show that a person having more than the required 120 days of residency is not a resident, he/she should not be treated as a resident.

Section 9. Leases, sales or grants to government agencies or public utilities.

The Council may provide by ordinance for the lease, sale or grant of City lands to a government agency or a public utility at less than its fair market value for use for a public purpose. The ordinance authorizing a public purpose lease, sale or grant must include a statement of the reasons why the Council has decided to dispose of the land for less than its fair market value.



CITY OF LARSEN BAY ORDINANCE # \_\_\_\_\_

AUTHORIZATION FOR SALE OF CERTAIN CITY LANDS

Be it resolved by the Council for the City of Larsen Bay as follows:

1. This non-code ordinance is adopted by the City Council pursuant to Section 3 of the City ordinance entitled "Leasing, Sale and Exchange of City Land" (adopted by the Council on \_\_\_\_\_, 1984), for the purpose of authorizing the sale of certain City lands. After its adoption, this ordinance will be submitted to the voters for ratification as a ballot proposition at the next election.

2. The lands which are the subject of this ordinance are described on Appendix A. The City acquired these lands on \_\_\_\_\_ [date] by a deed from the Townsite Trustee, United States Department of the Interior. Appendix A also lists the estimated value of each lot. The estimated value will be the minimum acceptable bid for the lot.

3. The Council has studied these lands and the existing and future land needs of the City and of its residents, and hereby finds that these lands are not required for City purposes and that the best interests of the City would be served by selling the lands. The Council also finds that there is an important public interest in encouraging Larsen Bay residents to become land owners in order to promote population stability.

4. The lands shall be sold at a sealed bid auction to be held by the City Clerk. Bids shall be accepted by the Clerk from \_\_\_\_\_ [date and hour] until \_\_\_\_\_ [date and hour]. The Clerk shall then publicly open and tabulate the bids on \_\_\_\_\_ [date] at \_\_\_\_\_ [hour].

5. The land sale will be restricted to pre-qualified residents only. Any resident, as that term is defined in Section 8(c) of the City's Land ordinance, may qualify to participate in the sale by submitting a sworn statement of residency with his/her sealed bid.

6. No one may purchase more than one lot at the sale.

## Appendix Three C



7. Each lot purchaser will be required to pay at least twenty percent (20%) of the purchase price within five (5) days after the auction. If a purchaser fails to make this payment within five (5) days, he will lose his right to purchase the lot. The City will accept a promissory note for the balance of purchase price, up to a maximum of 80%, payable in equal annual installments with interest at the rate of twelve percent (12%) over a term of no more than ten (10) years. The promissory note will be secured by a first deed of trust on the lot.

8. Each deed issued by the City will contain the restriction that the lot may not be used for any purpose other than owner-occupied, single-household occupancy during the five years following the date of the auction.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
[name and title]  
For the City Council

Ratified by the votes of the City of Larsen Bay by a  
vote of \_\_\_\_\_ at the election held on \_\_\_\_\_  
[date].

\_\_\_\_\_  
Clerk

## INSTRUCTIONS FOR LARSEN BAY LAND SALE



The following is a step-by-step review of the procedures which should be followed by the City in order to prepare for and conduct the sale of City lands:

1. The Council must first adopt a general ordinance dealing with the sale, lease and exchange of City lands. This will be the framework for all future leases and sales. (A proposed ordinance is provided with these instructions.)

2. Now it is time for the City Council to adopt an ordinance authorizing the Mayor and the Clerk to go forward with the sale of the land which has been identified and subdivided. This non-code ordinance should explain what procedures will be followed in selling the land, what the terms of payment will be, what deed restrictions (if any) should be included, and what preference rights or eligibility limitations will be imposed. After the Council has adopted this ordinance, it should be submitted to the voters for ratification at the next election. (A sample sale ordinance is provided with these instructions.)

3. After the Council has adopted the sale ordinance and the voters have approved it, the Clerk or the Mayor should go forward with the required procedures. The first requirement is to post public notices in the community so that everyone will know about the sale and can decide whether to submit a bid on some land. The law does not require that this public notice be posted or published anywhere outside of the City.

4. The sale ordinance limits participation in the sale to residents only. The person who conducts the sale will have to make blank sworn statements of residency available for any resident who wants to participate in the sale. (A sample sworn statement of residency is provided with these instructions.) If there are any disputes about eligibility, those disputes can be decided by the City Council before the bids are approved and deeds are issued.

5. The next step is to hold the sale. The sale ordinance which is attached calls for what is referred to as a sealed bid auction procedure.

6. After the auction is over, the winning purchasers must pay the City for the land within five (5) days. A winner who does not pay within five (5) days loses his right to buy the lot. The lot will be held by the City, so it can be



offered for sale again at a later land auction. The City will allow purchasers to "borrow" up to eighty percent (80%) of the purchase price from the City, by giving the City a promissory note and a deed of trust on the property. This will make it possible for the purchasers to buy the property for only twenty percent (20%) of its price and pay off the rest of the price with smaller annual payments over a ten-year period. When a purchaser makes his payment to the City (of twenty percent or more of the purchase price), the City should issue a deed to the lot to the purchaser and the purchaser should sign a promissory note and a deed of trust. (Samples of the deed, the promissory note and the deed of trust are provided with these instructions.) The City official conducting the sale should then record the deed and the deed of trust with the recording office, and give the purchaser copies of them.

7. Now that the land has been sold, the only thing left for the City to do is to keep track of payments received from the purchasers and to enforce the deed restrictions. In the sale ordinance and sample deed which are provided with these instructions, there is a deed restriction to prevent purchasers from using the lands for any purpose other than owner-occupied single-household residential use for the first five years after the sale. This does not force anyone to build a house. The purchaser could let the land sit vacant for five years, and then use it for some other purpose. During the first five years, however, only owner-occupied single-household residential use would be allowed. If someone violates this restriction, it will be the City's responsibility to take some action to do something about it.

8. If an owner sells his land before he has finished paying off the City for the purchase price, he should notify the City of the new owner so that the City can make sure that the new owner continues to make the payments. Normally, the original purchaser will still be obligated to make sure that the City is paid. That way, if the new owner does not pay then, the City should be able to go back to the original owner and get the money from him.

SWORN STATEMENT OF RESIDENCY



I, \_\_\_\_\_, hereby swear or  
(name)  
affirm under penalty of perjury that the facts set forth in this  
statement are true. I am a resident of the City of Larsen Bay. I  
have lived in Larsen Bay for the last 120 days.

(If you have not lived in Larsen Bay for the last 120 days,  
but believe that you should be qualified to participate in the  
land sale as a resident anyway, please explain all of the facts  
concerning your residency in writing on the back side of this  
statement.)

\_\_\_\_\_  
(signature)

Date: \_\_\_\_\_

\_\_\_\_\_  
(print your name here)

\_\_\_\_\_  
(signature of witness)







QUITCLAIM DEED

The Grantor, The City of Larsen Bay, P.O. Box 8, Larsen Bay, Alaska, 99624, for and in consideration of the sum of \$ \_\_\_\_\_, conveys and quitclaims to \_\_\_\_\_, the Grantee, of \_\_\_\_\_, Alaska, all interest in the following described real estate, situated in the State of Alaska:

This grant is subject to the condition that, prior to \_\_\_\_\_, 19\_\_, the subject property may not be used for any purpose except owner-occupied single-household residential use. (This condition does not require the owner to construct any building on the property during the period in which it is in effect.) Upon breach of this condition, the grantor shall be entitled to re-enter and recover title to the subject property by filing an action in a court of competent jurisdiction and obtaining a judgment divesting the grantee of title and re-vesting it in the grantor.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

GRANTOR:

\_\_\_\_\_

Title: \_\_\_\_\_

For the City of Larsen Bay

STATE OF ALASKA                    )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

BEFORE ME, the undersigned, a notary public in and for the state of Alaska duly commissioned and sworn as such, this day personally appeared \_\_\_\_\_ known personally to me, who, being duly sworn, stated that \_\_\_\_\_ is the \_\_\_\_\_ [title of office held] for the City of Larsen Bay, acting pursuant to Ordinance # \_\_\_\_\_ duly adopted on \_\_\_\_\_, 19\_\_, and that executed the same freely and voluntarily for the uses and purposes therein set forth.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 1984.

\_\_\_\_\_  
Notary Public for Alaska  
My commission expires \_\_\_\_\_

## Appendix Three F



Liability. The Maker hereby waives demand, presentment for payment, protest, and notice of protest and of nonpayment.

Maximum Interest. Notwithstanding any other provision of this Note or of the Deed of Trust of interest, fees and charges payable by reason of the indebtedness evidenced hereby shall not exceed the maximum, if any, permitted by any governing law.

Applicable Law. This Note shall be construed according to the laws of the State of Alaska.

---

---

## PROMISSORY NOTE

\$ \_\_\_\_\_ Larsen Bay, Alaska  
\_\_\_\_\_, 19\_\_

For value received the undersigned (hereinafter "Maker") promises to pay to the order of The City of Larsen Bay (hereinafter "Holder"), the principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), together with interest from the date hereof until paid on all sums which are and which may become owing hereon from time to time, all as hereinafter provided and upon the following terms and conditions:

Interest. Unless there shall be a default, interest shall accrue from the date hereof and be paid at the rate of \_\_\_ percent (\_\_\_%) per annum; provided, however, that in the event of any default, as hereinafter defined, all sums then and thereafter owing hereon, at the option of the Holder, shall bear interest at the rate of percent (\_\_\_%) per annum (the "Default Rate").

Payments. Maker shall pay this note in \_\_\_\_\_ equal installments on or before the \_\_\_\_\_ day of \_\_\_\_\_ (month) until it has been paid in full. Each payment made on this note shall be applied first to interest accrued to date of payment and then to principal.

Late Payment Charge. If any installment is not paid within \_\_\_\_\_ (\_\_\_) days after it becomes due, then the Maker agrees to pay a late charge equal to \_\_\_\_\_ percent (\_\_\_%) of the delinquent installment to cover the extra expense involved in handling delinquent payments. This is in addition to and not in lieu of any other rights or remedies the Holder may have by virtue of any breach or default.

The Deed of Trust. This Note and the sums evidenced hereby are secured by a deed of trust (the "Deed of Trust") of even date herewith, executed and delivered by, or caused to be executed and delivered by the Maker to the original Holder hereof. The Maker agrees to perform and comply with, or to cause to be performed and complied with, all of the terms and conditions of the Deed of Trust.

Default; Attorneys Fees and Other Costs and Expenses. In the event of any default, including a failure to comply with the provisions of the Deed of Trust, all sums owing and to become owing hereon, at the option of the Holder, shall become immediately due and payable and shall bear interest thereafter at the Default Rate per annum. The Maker agrees to pay all costs and expenses which the Holder may incur by reason of any default, including without limitation reasonable attorneys' fees with respect to legal services relating to any default or to a determination of any rights or remedies of the Holder under this Note and reasonable attorneys' fees relating to any actions or proceedings which the Holder may institute or in which the Holder may appear or participate and in any appeals therefrom. Any judgment recovered by the Holder hereof shall bear interest at the Default Rate per annum, not to exceed however the highest rate then permitted by law on such judgment. The venue of any action hereon may be laid in the Third Judicial District, State of Alaska, at the option of the Holder.







*(Note: This form has been retyped from the original document)*

## Deed of Trust

*THIS DEED OF TRUST*, Made this ..... day of ..... 19.....  
 BETWEEN.....  
 .....herein called TRUSTOR,  
 whose address is ..... , State of Alaska,  
(Number and Street) (City)  
 Transamerica Title Insurance Co. herein called TRUSTEE, and  
 701 E. Tudor Rd. Anchorage  
 City of Larsen Bay , herein called BENEFICIARY.

*WITNESSETH:* That Trustor GRANTS, BARGAINS, SELLS, and CONVEYS to TRUSTEE IN TRUST WITH POWER OF SALE; the property in the ..... Recording District, ..... Judicial District, State of Alaska. described, as:

*TOGETHER* with the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, the rents, issues and profits thereof. SUBJECT, HOWEVER, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits. To have and to hold the same, with the appurtenances, unto Trustee.

**THIS DEED OF TRUST IS MADE FOR THE PURPOSE OF SECURING:** The performance of each agreement of Trustor herein containing and payment of the indebtedness evidenced by one promissory note of even date, herewith, in the Principal sum of \$..... payable to Beneficiary or order.

**A. To protect the security of this Deed of Trust, Trustor agrees:**

1. To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon: not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which form the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To provide, maintain and deliver to Beneficiary fire insurance with extended coverage, satisfactory to and with loss payable to Beneficiary in an amount not less than \$..... The amount collected under any fire or other insurance policy may be applied by Beneficiary upon any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part hereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

3. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustees; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to record this Deed.

4. To pay; at least ten days before delinquency all taxes and assessments affecting said property, when due, all encumbrances,

charges and liens, with interest, on said property or a part thereof, which appear to be prior to superior hereto; all costs, fees and expenses of this Trust.

5. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, pursuant to the provisions thereof, with interest from date of expenditure at ..... per cent per annum.

6. Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may: make or do the same in such manner and to such extent as either may be deemed necessary to protect the security hereof. Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

**B. It is mutually agreed that:**

1. Any award or damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such monies received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

3. At any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon, or join in any

## DEED OF TRUST, Page 2



extension agreement or any agreement subordinating the lien or charge hereof.

4. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto".

5. As additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6. Upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, all sums secured hereby shall immediately become due and payable by at the option of the Beneficiary. In the event of default, Beneficiary shall execute or cause the Trustee to execute a written notice of such default and of his election to cause to be sold the herein described property to satisfy the obligation hereof, and shall cause such notice to be recorded in the office of the recorder of each recording district wherein said real property or some part thereof is situated.

Notice of sale having been given as then required by law and not less than that time required by law having elapsed after

recording of such notice of default, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest per cent per annum; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto. Trustor shall be liable for and agrees to pay any deficit.

7. This Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgee, of the note secured hereby, whether or not named as beneficiary herein, or, if the note has been pledged, the pledgee thereof. In this Deed, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

8. Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.

9. Beneficiary may, from time to time, as provided by statute, appoint another Trustee in place and stead of the Trustee herein named, and thereupon, the Trustee herein named shall be discharged and the Trustee so appointed shall be substituted as Trustee hereunder with the same effect as if originally named Trustee herein.

10. If two or more persons be designated as Trustee herein, any, or all, powers granted herein to Trustee may be exercised by any such persons if such inability in any instrument executed by any of such persons shall be conclusive against Trustor, his heirs and assigns.

undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to him at address hereinbefore set forth.

Signature of Trustor

.....  
.....



DEED OF TRUST, Page 3

**ACKNOWLEDGMENT**

State of Alaska )  
 ) ss  
.....Judicial Division )

I, the undersigned, .....  
hereby certify that on this ..... day of  
....., 19.... personally appeared  
before me, .....  
to me known and known to me to be the individual(s) described  
in and who executed the within instrument, and acknowledged  
that ..... signed and sealed the same freely and  
voluntarily as ..... act and deed, for the uses and  
purpose therein mentioned.

DATED at ..... Alaska, the  
day, month and year herein last above written.

.....  
Notary Public for Alaska

My commission expires: .....

**RECORDING DATA**

**DO NOT RECORD**

**REQUEST FOR FULL RECONVEYANCE**

To be used only when full note has been paid

The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured thereby have been fully paid. You are hereby requested and directed to cancel all evidences of indebtedness secured by said Deed of Trust and to reconvey, without warranty, the estate now held by you under the same.

.....  
.....

**THE PROMISSORY NOTE OR NOTES AND ANY EVIDENCES AND/OR ADDITIONAL ADVANCES MUST BE PRESENTED WITH THIS REQUEST.**

