



City and Borough of Wrangell
Economic Development Board
AGENDA

Wednesday, June 19, 2024
5:30 PM

Location: Borough Assembly Chambers

1. CALL TO ORDER

2. ROLL CALL

3. AMENDMENTS TO THE AGENDA

4. CONFLICT OF INTEREST

5. APPROVAL OF MINUTES

6. CORRESPONDENCE

7. PERSONS TO BE HEARD

8. BOARD MEMBER REPORTS

9. DIRECTOR REPORT

10. UNFINISHED BUSINESS

11. NEW BUSINESS

- a.** Request from Mr. Wayne Johnson to purchase Borough Owned Real Property within the Wrangell Townsite, Lot 2, 3, 4, 5, 8 and 9, of the Subdivision Plat Block 54, according to Plat No. 68-81, zoned Open Space for less than fair market value, for the purposes of economic development.

12. NEXT AGENDA ITEMS

13. ADJOURN

City and Borough of Wrangell, Alaska
Economic Development Board
Regular Meeting June 19th, 2024
Agenda Statement

Agenda Item: New Business, Item 11 A

From: Kate Thomas, Economic Development Director

Subject: Request from Mr. Wayne Johnson to purchase Borough Owned Real Property within the Wrangell Townsite, Lot 2, 3, 4, 5, 8 and 9, of the Subdivision Plat Block 54, according to Plat No. 68-81, zoned Open Space for less than fair market value, for the purposes of economic development.

INFORMATION

The City and Borough of Wrangell (Borough) has been marketing the Wrangell Medical Center property (WMC) for sale since 2022. The Borough desires to divest of the WMC and sees its redevelopment as an economic development opportunity.

Mr. Wayne Johnson began discussions with the Borough in January 2024 regarding the prospective sale of the Wrangell Medical Center. Following those discussions, the Borough received a letter of interest from Mr. Wayne Johnson requesting consideration of a property sale, specifically the six lots adjacent to the WMC. A Purchase and Sale Agreement was drafted in February through the Borough Attorney's office regarding the sale of the Wrangell Medical Center, as well as terms for the sale of the adjacent six lots.

Section 4 ii of the Purchase and Sale Agreement states "Buyer's agreement and obligation to complete this purchase as set forth in this Agreement is contingent upon Seller and Buyer reaching a mutually agreeable understanding on the six adjacent properties (lots) which Buyer has requested to purchase in addition to the property described in this Agreement. This mutually agreeable understanding, once it is reached, shall be evidenced in writing signed by both parties to this Agreement."

The Planning and Zoning Commission, along with the Economic Development Board reviewed the request to purchase the Wrangell Medical Center, both approving a recommendation to the Borough Assembly to proceed with the sale of the WMC for less than fair market value. The market value was established to be \$800,000, whereas the Borough agreed to sell the property for \$200,000 as per Resolution No. 04-24-1850 which was passed on April 9th, 2024 at the regular Assembly Meeting.

The Planning and Zoning Commission also reviewed the sale of the adjacent six lots for market value. The request did not go before the Economic Development Board at that time because the proposed sale price was for fair market value. The Economic Development Board is tasked with review of land sales solely when the prospective purchaser/developer wishes to purchase the property for less than fair market value for the purposes of Economic Development.

The Planning and Zoning Commission reviewed and recommended approval of the sale of the adjacent six lots to the Borough Assembly in February 2024. On April 9th, 2024, Resolution No. 04-24-1853 was brought before the Borough Assembly, approving the sale of the adjacent six lots at fair market value, which was determined to be \$316,800.

Prior to executing the original sale agreement, which was subject to take place on May 31, 2024, Mr. Wayne Johnson requested further negotiations on the sale price to further his initiative for the benefit of the community as stated in his correspondence with the Borough Manager. Mr. Wayne Johnson has been informed that his request requires additional review from the Economic Development Board since he is requesting to purchase the properties at no cost.

If the Borough were to proceed with demolition of the Wrangell Medical Center, construction is estimated to be over \$2,000,000. Currently the Borough does not have the funding capacity to prioritize demolition. To date it has been the Borough's desire to divest itself of the property. More specifically the Borough wishes to see the property re-developed for other valued purposes that benefit the community.

Staff see the value of the sale at less than fair market value in the completion of demolition. While Mr. Wayne Johnson has expressed his plans to develop the property into a modern Planned Unit Development or Condominium Complex, there are no terms within the Purchase and Sale Agreement that are binding. The terms of the sale of the six adjacent lots are contingent upon satisfactory completion of the demolition of the building.

THE AMENDMENT TO THE PURCHASE AND SALES AGREEMENT TERMS

- Amend section 8 by adjusting the closing date of the sale, beyond June 30th, 2024
- Add section 23 to include:
 - Scope/definition of demolition
 - liability clause
 - completion deadline
 - inspection and approval by seller
- Add section 24 to include:
 - conveyance of lots contingent on satisfactory demolition
 - lots sold at no cost
 - allowance for buyer to purchase lots at 60k if desired prior to demolition
 - full refund 60k upon demolition

WRANGELL MUNICIPAL CODE REVIEW CRITERIA

As per Chapter 16.12.012 of the Wrangell Municipal Code, "In the exercise of the borough's economic development powers, the assembly may determine, in its sole discretion, that it is in the best interest of the borough to dispose of borough-owned real property, including tidelands, or any interest therein, which interest has a value of \$1,000,000 or less (as determined by the borough assessor or a qualified appraiser), without requests for proposals or sealed bid procedures and at less than fair market value.

In determining the best interests of the borough under this section, the assembly may consider any relevant factors, which may include:

1. The desirability of the economic development project;
2. The actual or potential economic benefits to the borough, its economy and other businesses within the borough;
3. The contribution of the proponent to the economic development project in terms of money, labor, innovation, expertise, experience and otherwise;
4. The business needs of the proponent of the project in terms of integration into existing facilities and operations, stability in business planning, business commitments, and marketing;
5. Actual or potential local employment due to the economic development project;
6. Actual and potential enhancement of tax and other revenues to the borough related to the project; and
7. Existing and reasonably foreseeable land use patterns and ownership.

Prior to disposal under subsection (A) of this section, the assembly shall hold a public hearing. The borough clerk shall publish notice of the public hearing in a newspaper of general circulation in the borough at least 14 days prior to the hearing. The notice shall include the date, time and place of the hearing, and general or legal description of the real property or interest, and the proposed disposition and its purpose.

Following the hearing, and with comments/recommendations from the port commission, the planning and zoning commission, and the economic development committee, the assembly may authorize disposition of the real property or interest therein by resolution.

ATTACHMENTS:

- 1.) Letter of Interest, 2.) Aerial Map of Properties, 3.) Original Sale and Purchase Agreement, 4.) Amendment One to the Sale and Purchase Agreement, 5.) [Wrangell Municipal Code Chapter 16.12- Disposition of Public Lands and Tidelands](#)

STAFF RECOMMENDATION:

Staff recommend that the Economic Development Board approve a recommendation to the Borough Assembly to approve the sale of Borough Owned Real Property within the Wrangell Townsite, Lot 2, 3, 4, 5, 8 and 9, of the Subdivision Plat Block 54, according to Plat No. 68-81, zoned Open Space for less than fair market value, for the purposes of economic development, requested by Mr. Wayne Johnson.

This recommendation is based on the facts presented in the Agenda Statement, specifically noting the value of the demolition which is subject to be more than 2 million dollars.

RECOMMENDED MOTION:

Move to recommend approval of Mr. Wayne Johnson request to purchase Borough Owned Real Property within the Wrangell Townsite, Lot 2, 3, 4, 5, 8 and 9, of the Subdivision Plat Block 54, according to Plat No. 68-81, zoned Open Space under the terms of the Purchase and Sales Agreement, and subsequent First Amendment to the Purchase and Sales Agreement.

January 26, 2024

Attn: Kim Lane
Borough Clerk
City & Borough of Wrangell
205 Brueger Avenue
Wrangell, Alaska 99929

Dear Mrs. Lane,

I am contacting you today to express my interest in purchasing six parcels of undeveloped land from the City and Borough of Wrangell. Please consider this letter as a formal request to purchase the following parcels of land:

Parcel 02-030-252, Lot 9, Plat 68-81
Parcel 02-030-250, Lot 8, Plat 68-81
Parcel 02-031-357, Lot 2, Plat 68-81
Parcel 02-031-359, Lot 3, Plat 68-81
Parcel 02-031-361, Lot 4, Plat 68-81
Parcel 02-031-363, Lot 5, Plat 68-81

**See attached Schedule A*

As per WMC 16.12.040, it is necessary for me to outline my purpose and the intended use of the land I am requesting to purchase. The aforementioned parcels are adjacent to the Old Wrangell Medical Center which I am simultaneously attempting to purchase. My vision is to demolish the Old Wrangell Medical Center and utilize that land and these adjacent six parcels to develop housing units. With the current housing crisis affecting Wrangell and the rest of the State, I believe this to be of great benefit to the community of Wrangell as it will help offer a housing solution and aid in spurring further economic growth in the Borough. The Borough would also benefit from this transaction as it would expand its tax base. It is my understanding that the Borough has no plans to develop these properties, and I believe such a transaction is mutually beneficial.

Please feel free to contact me directly at (404) 316-1365 regarding next steps. I sincerely hope you consider this request to purchase.

Respectfully,



Wayne Johnson
Wrangell Heritage House LLC

Schedule A – Request to Purchase



CITY AND BOROUGH OF WRANGELL, ALASKA

Item a.



Public Map



1 inch = 88.640382 feet

8 Date: 2/12/2024

**DISCLAIMER: THESE MAPS ARE FOR PLANNING PURPOSES ONLY.
PROPERTY LINES ARE APPROXIMATE. AERIAL 2002.**

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (the “**Agreement**”) is made and entered into effective as of the 23rd day of February 2024 (the “**Effective Date**”), by and between CITY AND BOROUGH OF WRANGELL, whose address is PO Box 531, Wrangell, AK 99929 (collectively, “**Seller**”), and WRANGELL HERITAGE HOUSE DEVELOPMENT, LLC, an Georgia limited liability company, whose address is 5228 Forsyth Rd, Macon, GA 31210 (“**Buyer**”).

RECITALS

WHEREAS, Seller owns certain property located in Wrangell, Alaska described in this Agreement;

WHEREAS, Seller desires to sell to Buyer and Buyer desires to purchase from Seller the property owned by Seller on the terms and conditions mutually agreed to by the parties, as memorialized herein.

NOW, THEREFORE, the parties agree as follows:

Section 1. Sale of the Property. Subject to and as provided by the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, all of Seller’s rights, title and interest in and to the following-described real property and all improvements thereon and all rights and privileges appurtenant thereto (the “**Property**”) hereto:

LOT A, BLOCK 54, OF THE W.M.C. REPLAT, ACCORDING TO PLAT 2018-6, ZONED OPEN SPACE (PARCEL # 02-031-351).

Section 2. Purchase Price and Terms of Payment. The purchase price for the Property (the “**Purchase Price**”) shall be Two Hundred Thousand and 00/100 Dollars (\$200,000.00). The Purchase Price shall be paid by Buyer at Closing, as follows:

- a. The Purchase Price shall be paid to Seller on the Closing Date, simultaneously with the delivery of the Conveyance Deed, by federal funds wire transfer of immediately available funds to an account at such bank or banks as shall be designated by Seller by notice to Buyer at least 10 Business Day[s] prior to the Closing Date.

Buyer expressly acknowledges that Buyer's obligations to pay the Purchase Price and otherwise consummate the transactions contemplated hereby are not in any way conditioned upon Buyer's ability to obtain financing of any type or nature whatsoever, whether by way of debt financing, equity investment, or otherwise.

Section 3. [Reserved].

[Exhibits to Real Estate Purchase and Sale Agreement]

Section 4. Contingencies.

(a) Buyer's Contingencies. Buyer's obligation to consummate the transactions contemplated by this Agreement and close on the purchase of the Property is contingent upon the satisfaction of the following contingencies:

i. Title Review. Buyer shall promptly order from Alaska Escrow and Title Insurance Agency, Inc. (the "**Title Company**") a title examination report (the "**Title Report**") and survey update and shall cause a copy of the Title Report and updated survey to be delivered to Seller. No later than 5:00 PM Alaska time on the date that is twenty (20) Business Days after the date hereof (the "**Title Report Objection Date**"), Buyer shall furnish to Seller a writing (the "**Title Report Objection Notice**") specifying any exceptions to title to the Property set forth in the Title Report which are not Permitted Exceptions (each, a "**Title Objection**"). Buyer's failure to timely deliver the Title Report Objection Notice on the Title Report Objection Date shall constitute Buyer's irrevocable acceptance of the Title Report and Buyer shall be deemed to have unconditionally waived any right to object to any matters set forth therein. If, after giving the Title Report Objection Notice to Seller, Buyer receives a continuation report showing any exceptions to title to the Property which are not Permitted Exceptions, Buyer shall give written notice thereof to Seller no later than 5:00 PM Alaska time on the date that is ten (10) Business Days after the date Buyer receives such continuation report. If Buyer fails to give Seller such notice, Buyer shall be deemed to have unconditionally waived any additional matters as to which it fails to give such notice to Seller. Buyer hereby acknowledges and agrees that **TIME IS OF THE ESSENCE** with respect to all time periods relating to Buyer's obligations as set forth in this Article.

ii. Sale of Adjacent Lots. Buyer's agreement and obligation to complete this purchase as set forth in this Agreement is contingent upon Seller and Buyer reaching a mutually agreeable understanding on the six adjacent properties (lots) which Buyer has requested to purchase in addition to the property described in this Agreement. This mutually agreeable understanding, once it is reached, shall be evidenced in writing signed by both parties to this Agreement.

(b) Seller's Contingencies. Seller's obligation to consummate the transactions contemplated by this Agreement and close on the purchase of the Property is contingent upon the satisfaction of the following contingencies:

i. Borough Assembly Approval. Before this Agreement may be executed and the transactions contemplated in this Agreement may be consummated, the City and Borough of Wrangell Assembly must formally approve the transactions contemplated by this Agreement in accordance with Wrangell Municipal Code and Alaska law.

Section 5. Property Sold "AS IS, WHERE IS".

(a) As-Is, Where-Is. Except as expressly set forth in this Agreement to the contrary, Buyer is expressly purchasing the Property in its existing condition "AS-IS, WHERE-IS, AND WITH ALL FAULTS" with respect to all facts, circumstances, conditions, and defects, and Seller

has no obligation to determine or correct any such facts, circumstances, conditions, or defects or to compensate Buyer for same. Seller has specifically bargained for the assumption by Buyer of all responsibility to investigate the Property, Laws and Regulations, Rights, Facts, Leases, Service Contracts, Violations, Employees, and of all risk of adverse conditions and has structured the Purchase Price and other terms of this Agreement in consideration thereof. Buyer has undertaken all such investigations of the Property, Laws and Regulations, Rights, Facts, Leases, and Violations, as Buyer deems necessary or appropriate under the circumstances as to the status of the Property and based upon same, Buyer is and shall be relying strictly and solely upon such inspections and examinations and the advice and counsel of its own consultants, agents, legal counsel, and officers. Buyer is and shall be fully satisfied that the Purchase Price is fair and adequate consideration for the Property and, by reason of all the foregoing, Buyer assumes the full risk of any loss or damage occasioned by any fact, circumstance, condition, or defect pertaining to the Property.

(b) No Warranty or Other Representation. Except as expressly set forth in this Agreement to the contrary, Seller hereby disclaims all warranties of any kind or nature whatsoever (including, without limitation, warranties of habitability and fitness for particular purposes), whether expressed or implied including, without limitation warranties with respect to the Property. Except as is expressly set forth in this Agreement to the contrary, Buyer acknowledges that it is not relying upon any representation of any kind or nature made by Seller, or any of Seller's officials, employees, or agents, with respect to the Property, and that, in fact, except as expressly set forth in this Agreement to the contrary, no such representations were made. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation, or order. Seller makes no warranty or representation that any proposed development, construction, land use, or activity on the Property by Buyer or any other party or entity will be authorized or permitted by the City and Borough of Wrangell or any other governmental authority.

(c) Environmental Laws; Hazardous Materials. Seller makes no warranty with respect to the presence of Hazardous Materials on, above, or beneath the Property (or any parcel in proximity thereto) or in any water on or under the Property. The Closing hereunder shall be deemed to constitute an express waiver of Buyer's right to cause Seller to be joined in any action brought under any Environmental Laws. Seller has disclosed to Buyer information and documentation related to the Alaska Department of Environmental Conservation's ("ADEC") soil testing and other work at the Property related to a leak of diesel fuel discovered on the Property in 2016. Buyer agrees that it has reviewed this information, has had an adequate opportunity to investigate the issue and the Property for the presence of Hazardous Materials. Buyer agrees that it will be solely responsible for all ADEC requirements related to this issue.

As used herein, the term "**Hazardous Materials**" shall mean: (a) those substances included within the definitions of any one or more of the terms "hazardous materials," "hazardous wastes," "hazardous substances," "industrial wastes," and "toxic pollutants," as such terms are defined under the Environmental Laws, or any of them; (b) petroleum and petroleum products, including, without limitation, crude oil and any fractions thereof; (c) natural gas, synthetic gas, and any mixtures thereof; (d) asbestos and or any material which contains any hydrated mineral silicate, including, without limitation, chrysotile, amosite, crocidolite, tremolite, anthophyllite, and/or actinolite,

whether friable or non-friable; (e) polychlorinated biphenyl ("**PCBs**") or PCB-containing materials or fluids; (f) radon; (g) any other hazardous or radioactive substance, material, pollutant, contaminant, or waste; and (h) any other substance with respect to which any Environmental Law or governmental authority requires environmental investigation, monitoring, or remediation. As used herein, the term "**Environmental Laws**" shall mean all federal, state, and local laws, statutes, ordinances, and regulations, now or hereafter in effect, in each case as amended or supplemented from time to time, including, without limitation, all applicable judicial or administrative orders, applicable consent decrees, and binding judgments relating to the regulation and protection of human health, safety, the environment, and natural resources (including, without limitation, ambient air, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation), including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 *et seq.*), the Hazardous Material Transportation Act, as amended (49 U.S.C. §§ 5101 *et seq.*), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §§ 136 *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. §§ 2601 *et seq.*), the Clean Air Act, as amended (42 U.S.C. §§ 7401 *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 *et seq.*), the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300f *et seq.*), any state or local counterpart or equivalent of any of the foregoing, and any federal, state, or local transfer of ownership notification or approval statutes.

(d) Seller Release. Buyer shall rely solely upon Buyer's own knowledge of the Property based on its investigation of the Property and its own inspection of the Property in determining the Property's physical condition and Buyer agrees that it shall, subject to the express warranties, representations, and conditions contained in this Agreement, assume the risk that adverse matters, including but not limited to, construction defects and adverse physical and environmental conditions, may not have been revealed by Buyer's investigations. Except as expressly set forth in this Agreement to the contrary, Buyer releases Seller, the Seller-Related Parties and their respective successors and assigns from and against any and all claims which Buyer or any party related to or affiliated with Buyer (each, a "**Buyer-Related Party**") has or may have arising from or related to any matter or thing related to or in connection with the Property except as expressly set forth in this Agreement to the contrary, including the documents and information referred to herein, the Leases, the Tenants, any construction defects, errors, or omissions in the design or construction and any environmental conditions and, except as expressly set forth in this Agreement to the contrary, neither Buyer nor any Buyer-Related Party shall look to Seller, the Seller-Related Parties, or their respective successors and assigns in connection with the foregoing for any redress or relief. This release shall be given full force and effect according to each of its express terms and provisions, including those relating to unknown and unsuspected claims, damages, and causes of action. To the extent required to be operative, the disclaimers and warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation, or order.

(e) Property Taxes. Buyer acknowledges that it will be responsible for the payment of property taxes for the Property pursuant to Wrangell Municipal Code and Alaska statutes. If Buyer contends that the property is exempt from property taxes, Buyer agrees to make a payment in lieu

of taxes commensurate to the assessed value of the land and improvements thereon as assessed in the current tax year multiplied by the mill rate adopted by the Borough Assembly.

(f) Survival. The provisions of this Section 5 shall survive the Closing or the earlier termination of this Agreement and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

Section 6. Limited Representations and Warranties of Seller. As of the Effective Date, Seller hereby represents and warrants to Buyer as follows, each of which is being relied upon by Buyer, shall be deemed to be restated as of the Closing, and shall survive Closing and not merge into the deed or other documents to be delivered at Closing:

(a) Ownership and Authority. Seller owns the Property and has the full power, capacity and legal right to execute and deliver this Agreement and to sell the Property to Buyer, pursuant to the terms of this Agreement and subject to approval by the City and Borough of Wrangell Assembly as required by Wrangell Municipal Code and state law. Seller will transfer the Property at Closing to Buyer free and clear of any liens and encumbrances, subject only to the Permitted Exceptions.

(b) No Conflict. The execution and delivery of this Agreement and the performance of Seller's obligations under this Agreement are not prohibited by and will not breach any contractual covenant or restriction between Seller and any third party, nor create or cause to be created any mortgage, lien, encumbrance or charge on the Property, and, there are no existing purchase agreements, option agreements, contracts, leases, licenses, or use agreements, recorded or unrecorded, relating to the Property to which Seller is a party or by which Seller or the Property are bound.

(c) Litigation. There is no action, suit or proceeding pending or, to Seller's knowledge, threatened by or against or affecting Seller or the Property which does or will affect the Property or Seller's interest therein.

Section 7. Limited Representations and Warranties of Buyer. As of the Effective Date, Buyer hereby represents and warrants to Seller as follows, each of which is being relied upon by Seller, shall be deemed to be restated as of the Closing, and shall survive Closing and not merge into the deed or other documents to be delivered at Closing:

(a) Authority. Buyer has full power and authority to enter into and perform this Agreement in accordance with its terms. Buyer is a LLC validly formed and in good standing under the laws of the State of Georgia. Buyer is duly qualified to do business and is in good standing in the State of Alaska. All requisite action (corporate, trust, partnership, or otherwise) has been taken by Buyer in connection with this Agreement or shall have been taken on or prior to the Closing Date. Buyer's execution, delivery, and performance of this Agreement have been duly authorized, and all required consents or approvals have been obtained. The individuals executing this Agreement on behalf of Buyer have the power and authority to bind Buyer to the terms and conditions of this Agreement.

(b) Enforceability. This Agreement is a valid and binding obligation of Buyer, enforceable against Buyer in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, or other similar laws affecting the enforcement of creditors' rights generally.

(c) No Conflict. The execution and entry into this Agreement, the execution and delivery of the documents and instruments to be executed and delivered by Buyer on the Closing Date, and the performance by Buyer of Buyer's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase of the Property as contemplated herein, are consistent with all applicable contracts, agreements and other instruments to which Buyer is a party.

(d) Litigation. There are no actions, lawsuits, litigation, or proceedings pending or threatened in any court or before any governmental or regulatory agency that affect Buyer's power or authority to enter into or perform this Agreement.

Section 8. Time and Place for Closing. The closing of the transaction contemplated by this Agreement (the "**Closing**") will occur on or before May 30, 2024, or at such other date as agreed by the Parties in writing. The actual date on which the Closing occurs is referred to as the "**Closing Date.**"

Section 9. Deliveries at Closing. All documents executed or delivered at the Closing will be in a form attached hereto, or as agreed to by the parties prior to Closing, consistent with this Agreement. At Closing,

(a) Seller will deliver or cause to be delivered to Buyer the following executed, certified and acknowledged by Seller, as appropriate:

(i) A statutory warranty deed for recording in the Wrangell Recording District.

(ii) All other documents reasonably requested by Buyer.

(b) Buyer will deliver or cause to be delivered to Seller the following executed, certified and acknowledged by Buyer, as appropriate:

(i) The Purchase Price.

(ii) All other documents reasonably requested by Seller.

Section 10. Closing Costs & Apportionments.

Buyer shall pay: (i) all document recording charges; (ii) the cost of a Title Insurance Policy; (iii) all costs associated with the requirements of Wrangell Municipal Code for the sale of Borough property, including but not limited to an appraisal of the Property, publishing public notices, and recording fees; (iv) all costs associated with any financing Buyer may obtain to consummate the Property's acquisition; (v) the Title Company's fees, (vi) all costs and expenses

related to the Buyer's due diligence investigations; and (vii) all legal and professional fees and costs of attorneys and other consultants and agents retained by Buyer. All fees shall be identified on the Settlement Statement prepared by the Title Company.

This Section 10 shall survive the Closing or any termination of this Agreement and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

Section 11. Risk of Loss. If prior to the Closing Date any portion of the Property shall be taken by condemnation or eminent domain or damaged or destroyed by fire or other casualty, neither party shall have the right to cancel this Agreement. Buyer shall purchase the Property in accordance with this Agreement, and the Purchase Price shall not be reduced; provided, however, that Seller's rights to any award resulting from such taking or any insurance proceeds resulting from such fire or other casualty (less any sums expended by Seller for repair or restoration through the Closing Date) shall be assigned by Seller to Buyer at the Closing. Buyer and Seller hereby irrevocably waive the provision of any statute that provides for a different outcome or treatment if the Property shall be taken or damaged or destroyed by fire or other casualty.

Section 12. Defaults and Remedies.

(a) Default by Seller. If Seller breaches any of its representations or warranties or fails to perform any of the covenants or agreements contained herein which are to be performed by Seller and the Closing does not occur as provided herein (each, a "**Seller Default**"), the sole and exclusive remedy of the Buyer shall be to terminate this Agreement by notice to Seller, and the parties shall be released from further liability to each other hereunder, except for those obligations and liabilities that are expressly stated to survive termination. Buyer shall have no right to specific performance or right to any damages other than as set forth herein.

(b) Default by Buyer. If Buyer breaches any of its representations or warranties or fails to perform any of the covenants or agreements contained herein which are to be performed by Buyer and the Closing does not occur as a result thereof (a "**Buyer Default**"), the sole and exclusive remedy of the Seller shall be to terminate this Agreement by notice to Buyer, and the parties shall be released from further liability to each other hereunder, except for those obligations and liabilities that are expressly stated to survive termination. Seller shall have no right to specific performance or right to any damages other than as set forth herein.

This Agreement confers no present right, title, or interest in the Property to Buyer and Buyer agrees not to, and waives its right to, file a *lis pendens* or other similar notice against the Property. Notwithstanding the foregoing, if Seller terminates this Agreement pursuant to a right given to it hereunder and Buyer takes any action which interferes with Seller's ability to sell, exchange, transfer, lease, dispose of, or finance the Property or take any other actions with respect thereto (including, without limitation, the filing of any *lis pendens* or other form of attachment against the Property), then Buyer shall be liable for all loss, cost, damage, liability, or expense

(including, without limitation, reasonable attorneys' fees, court costs, and disbursements and consequential damages) incurred by Seller by reason of such action by Buyer.

(c) Survival. The provisions of this Section 12 shall survive the termination of this Agreement and the Closing and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

Section 13 Indemnification for Environmental Claims.

(a) Indemnified Obligations. Buyer shall indemnify, defend, release, and hold harmless the Seller for, from, and against any and all Losses incurred by or asserted against Seller and directly or indirectly arising out of, or in any way relating to, one or more of any of the following (collectively, "**Indemnified Obligations**"):

(i) The presence of any Hazardous Materials, in, on, above, under, or migrating to or from the Property;

(ii) Any past, present, or threatened release of Hazardous Materials in, on, above, under, or migrating to or from the Property;

(iii) Any Remedial Work, whether voluntary or pursuant to court order or administrative directive. "**Remedial Work**" means any activity, response, corrective action, site monitoring, auditing, sampling, testing, containment, abatement, cleaning, removal, restoration, or other work to clean up, detoxify, decontaminate, close, contain, abate, or otherwise remediate any Prohibited Activities or Conditions located in, on, under, above, or migrating from or onto the Property, including, without limitation, any post-remedial studies, monitoring, or testing, whether such actions shall be required by Environmental Laws, or by order of, or pursuant to agreements with, any Governmental Authority, or recommended by any environmental professional, certified industrial hygienist, or Person with similar qualifications;

(iv) Any Prohibited Activities or Conditions by Buyer, an Affiliate of Buyer, or any tenant or other user of the Property. "**Prohibited Activities or Conditions**" means the occurrence of any of the following activities or conditions: (a) the presence, use, generation, release, treatment, processing, storage, handling, or disposal of any Hazardous Materials on, about, from, upon, or under the Property; (b) the transportation of any Hazardous Materials to, from, or across the Property; (c) any Remedial Work at, on, or under the Property undertaken without Seller's prior written consent; (d) any activity at the Property requiring an Environmental Permit or other written authorization from any Governmental Authority that is performed without Seller's prior written consent; (e) any occurrence or condition in violation of, or noncompliance with, Environmental Laws, or the terms of any Environmental Permit; or (f) any activity on or emanating from the Property that, directly or indirectly, results in

the contamination of another property (wherever located) or which causes such other property to be in violation of Environmental Laws;

(v) The imposition of any environmental lien encumbering the Property;

(vi) Any acts of the Buyer in connection with the abatement, removal, disposal, or treatment (whether done directly or arranged through a third party), of Hazardous Materials, including, without limitation, any release occurring during such abatement, removal, disposal, or treatment; and

(vii) Any judgment or liability arising out of, any claim, suit, action, or proceeding, whether judicial or administrative in nature, and any other expense in any way connected to or pertaining to the matters addressed in this section.

As used herein, "**Losses**" means any and all claims (including, without limitation, personal injury, wrongful death, damage to property or natural resources, strict liability, and punitive damages), obligations, expenses, fines, penalties, fees, judgments, awards, amounts paid in settlement, costs of Remediation (whether or not performed voluntarily), financial assurances (including, without limitation, bonds and other surety posted for completion of any Remediation), costs of administrative oversight, reasonable legal fees and disbursements, engineering fees, environmental consultant fees, investigation costs, (including, without limitation sampling, testing, and analysis of soil, water, air, and building materials), costs of defending any action, suit, claim, or proceeding (judicial, nonjudicial, or administrative), costs recoverable by any Governmental Authority, and all other liabilities incurred of whatever kind or nature.

(b) Waivers of Defense and Additional Waivers. Buyer hereby irrevocably and unconditionally waives and relinquishes:

(i) Any right to revoke the requirements of this Section 13, it being agreed that Section 13 is continuing and applies to all present and future Indemnified Obligations;

(ii) Any defense related to a failure or delay by Seller to exercise any rights or remedies in Section 13;

(iii) Any defense, setoff, or counterclaim (other than a defense of performance) related to the obligations in Section 13 that may at any time be available to, or be asserted by, Buyer;

(iv) Any defense related to any change in the laws, including without limitation, Environmental Laws, after the Effective Date of this Agreement;

(v) Any defense related to any benefits of a statute of limitations or repose applicable to Buyers.

(c) Enforcement Costs. Buyer agrees to pay, upon written demand from Seller, all costs incurred by Seller to collect any amounts payable under Section 13 or to enforce, protect, or defend its rights hereunder, in each case, without regard to whether any legal action or proceeding is commenced. Such amounts shall include, without limitation, reasonable fees for attorneys, paralegals, and other hired legal professionals, court fees, including, without limitation, pretrial, trial, and appellate proceedings, fees for discovery, expert witnesses, environmental specialists, and costs incurred in post-judgment collection efforts and any bankruptcy proceeding (collectively, "**Enforcement Costs**"). Enforcement Costs incurred by Seller shall be immediately due and payment on demand and shall bear interest at the applicable statutory rate from the date incurred if not paid in full within sixty (60) days of demand.

(d) Survival. The provisions of this Section 13 shall survive the Closing and shall not be deemed to have merged into any of the documents executed or delivered at the Closing.

Section 14. Notices. Except to the extent otherwise expressly provided in this Agreement, any notice or communication which may be or is required to be given pursuant to the terms of this Agreement shall be in writing, and any such notice or communication will be deemed to have been given if and when delivered or mailed to any such party by commercial overnight courier, personal delivery, email, or certified mail, return receipt requested, addressed to such party at such party's address as provided below or such other address as either party may designate by notice similarly sent. Notice by mail is effective three (3) days after the date such notice is deposited in the mail. Notice given by commercial overnight courier or personal delivery is effective upon receipt. Notice given by email is effective upon confirmation of successful transmission by the transmitting machine.

If to Seller:

Borough Clerk
City and Borough of Wrangell
PO Box 531
Wrangell, AK 99929

If to Buyer:

Wrangell Heritage House Development, LLC
5228 Forsyth Rd
Macon, GA 31210
Attn: Arthur Wayne Johnson

Section 15. Assignment. Neither this Agreement nor the rights or obligations of any party under this Agreement may be assigned by any party without the prior written consent of the

other party, which consent may not be unreasonably withheld, and any transfer or assignment in violation hereof shall be null and void and of no force or effect.

Section 16. Further Assurances and Cooperation. Each party shall from time to time take such actions and execute such additional instruments as may be reasonably necessary or convenient to implement and carry out the intent and purpose of this Agreement.

Section 17. Counterparts and Electronic Signatures. This Agreement may be executed in one or more counterparts, all of which together shall constitute one and the same agreement. A signed copy of this Agreement delivered by e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

Section 18. No Recordation. This Agreement shall not be recorded.

Section 19. Time. Time is of the essence under this Agreement. In the event any deadline or contingency termination falls on a Saturday, Sunday or state or federal holiday, the deadline or contingency shall be extended to the first business day following the Saturday, Sunday or state or federal holiday.

Section 20. No Brokers or Licensee Relationships. The parties represent to each other that there are no brokers or licensees involved in this transaction and each party agrees to indemnify, defend and hold harmless the other party from claims of any person for brokerage or finder's fees or commissions based upon any agreement or understanding alleged to have been made by any such person in connection with this Agreement.

Section 21. Survival. The terms, representations, conditions and provisions of this Agreement shall survive Closing and not merge into the deed or other documents to be delivered at Closing.

Section 22. Miscellaneous. All prior oral and written understandings are merged herein, and no provision hereof may be waived except in writing signed by the party to be charged with such waiver. Any amendment to this Agreement must be executed in writing by both Buyer and Seller. This Agreement shall not be construed more strongly against one party than the other. The captions in this Agreement are for the convenience of the parties only and shall contain no independent significance. This Agreement shall be governed by the laws of the State of Alaska. Each of the Parties irrevocably agrees that any legal action, suit, or proceeding arising out of or relating to this Agreement, brought by any Party or its successors or assigns, shall be brought and determined in the state courts for the State of Alaska, First Judicial District at Wrangell. Both Buyer and Seller acknowledge that they have had the opportunity, if each party so desired, for the assistance of counsel in the preparation and review of this Agreement. Nothing contained herein shall be construed or interpreted as creating a partnership, joint venture or similar relationship between the parties. This Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement.

[Signature Page Follows]

[Exhibits to Real Estate Purchase and Sale Agreement]

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first set forth above.

SELLER: CITY & BOROUGH OF WRANGELL

By: Mason Villarma
Its: Interim Borough Manager

By: Patricia Gilbert
Its: Mayor

BUYER: WRANGELL HERITAGE HOUSE DEVELOPMENT, LLC



By: Arthur Wayne Johnson
Its: Managing Member

FIRST AMENDMENT TO REAL ESTATE PURCHASE AND SALE AGREEMENT

This First Amendment (“**Amendment**”) is made effective as of _____, 2024 (“**Effective Date**”) to the Real Estate Purchase and Sale Agreement (the “**Agreement**”) by and between the City and Borough of Wrangell, whose address is PO Box 531, Wrangell, AK 99929 (“**Seller**”), and Wrangell Heritage House Development, LLC, an Alaska limited liability company, whose address is 5228 Forsyth Road, Macon, GA 31210 (“**Buyer**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, the Parties entered into the Agreement for the sale of certain real property that is the site of the former Wrangell Medical Center, described in more detail in the Agreement;

WHEREAS, Section 4(a)(ii) of the Agreement makes Buyer’s agreement and obligation to purchase the real property contingent upon Buyer and Seller reaching an agreement with regard to the conveyance of six adjacent parcels to Buyer, which real property is described in more detail herein;

WHEREAS, Wrangell Municipal Code section 16.12.012 provides that in the exercise of Seller’s economic development powers, the Borough Assembly may determine that it is in the best interest of Seller to dispose of real property without requests for proposals or sealed bid procedures and at less than fair market value;

WHEREAS, the Parties have agreed that Buyer will safely and professionally demolish the former Wrangell Medical Center on or before June 30, 2026, and the Parties acknowledge that Buyer will bear all costs for the demolition and removal of all debris from the real property; and

WHEREAS, the Parties recognize that Seller’s agreement to take possession of and demolish the former Wrangell Medical Center will create an important benefit to Seller that justifies conveyance of the six adjacent parcels to Buyer at no cost;

NOW, THEREFORE, in consideration of the mutual promises, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

The Parties incorporate by reference and agree to the accuracy of the above Recitals and further agree as follows:

Section 8 is amended as follows:

Section 8. Time and Place for Closing. The closing of the transaction contemplated by this Agreement (the “**Closing**”) will occur on or before June 30, 2024, or at such other date as agreed by the Parties in writing. The actual date on which the Closing occurs is referred to herein as the “**Closing Date.**”

A new Section 23 is added as follows:

Section 23. Demolition of Former Wrangell Medical Center

- a. Buyer agrees to demolish the former Wrangell Medical Center structure and to abate, remove, and dispose of all debris remaining after the demolition. Buyer agrees to furnish all labor, material, and equipment necessary to complete the demolition and removal of all debris, and further agrees to bear all costs and expenses for these activities. No demolition debris may be used as fill, or for any other purpose on the property. Buyer’s obligation to dispose of all demolition debris includes an obligation to transport all debris outside of the City and Borough of Wrangell. Buyer may not dispose of demolition debris at the Wrangell Solid Waste Transfer Station or anywhere else in the City and Borough of Wrangell. Buyer further agrees to conduct all demolition, removal, and disposal activities in compliance with all local, state, and federal laws, regulations, and ordinances.
- b. Buyer, as well as its agents, contractors, and employees, shall exercise proper precaution at all times for the protection of persons and property while performing the demolition, removal, and disposal discussed in this section. Buyer shall be responsible for any injuries or property damage which occur as a result of its execution of the work described in this section.
- c. The demolition, removal, and disposal of all debris must be complete on or before June 30, 2026.
- d. Within 30 days following the completion of demolition, as well as the removal and disposal of all debris, Seller will inspect the property to ensure that all work is complete and was performed in accordance with the requirements stated herein. The Parties agree that Seller retains the sole discretion to determine whether all work is complete and satisfactory.
- e. Following the inspection of the property, Seller will issue a written notice to Buyer within 30 days either approving of the work completed or

outlining defects to be remedied or further necessary work, and a timeline for completing the work.

A new Section 24 is added as follows:

Section 24. Conveyance of Six Adjacent Parcels

- a. Within 30 days after Seller issues a written notice that the demolition, removal, and disposal discussed in Section 23 is complete, Seller will convey Seller's rights, title, and interest in and to the following described real property, and all improvements thereon and all rights and privileges appurtenant thereto, to Buyer (the "**Six Adjacent Parcels**"):

LOTS 2, 3, 4, 5, 8, AND 9 WITHIN WRANGELL TOWNSITE,
SUBDIVISION PLAT BLOCK 54, ACCORDING TO PLAT NO. 68-81.

- b. The Parties agree that Seller will convey these parcels to Buyer at no cost. The Parties further agree that the demolition, removal, and disposal of the old Wrangell Medical Center constitutes sufficient valuable consideration for the conveyance of the Six Adjacent Parcels to Buyer.
- c. Following the conveyance of the real property that is the site of the old Wrangell Medical Center, as described in the Agreement, Buyer may exercise an option to purchase any of the Six Adjacent Parcels prior to completion of the demolition, removal, and disposal work as described in Section 23. If Buyer exercises this option, the purchase price each lot shall be \$60,000. Seller will refund the purchase price for any of the Six Adjacent Lots purchased pursuant to this option within 30 days after issuing a written notice that the demolition, removal, and disposal discussed in Section 23 is complete.
- d. The Parties agree that this Amendment satisfies the requirement for a "mutually agreeable understanding" regarding the Six Adjacent Parcels discussed in Section 4(a)(ii) of the Agreement.

Further Amendments

Except as expressly modified herein, the provisions of the Agreement shall remain in full force and effect. In case of any conflict between the Agreement and this Amendment, the provisions of this Amendment control. Neither the Agreement nor this Amendment may be further amended excepts as provided in the Agreement. This

Amendment, together with the non-conflicting provisions of the Agreement, constitutes the entire agreement between the Parties, superseding all previous and contemporaneous written and oral understandings, between the Parties with respect to this matter.

Execution in Counterparts

This Amendment may be executed in counterparts, each of which shall be an original, but such counterparts shall together constitute one and the same Amendment.

The Parties, intending to be legally bound, have executed this Amendment as of the effective date.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement effective as of the date first set forth above.

SELLER: **CITY & BOROUGH OF WRANGELL**

By: Mason Villarma
Its: Borough Manager

By: Patricia Gilbert
Its: Mayor

BUYER: **WRANGELL HERITAGE HOUSE DEVELOPMENT, LLC**

By: Arthur Wayne Johnson
Its: Member

Chapter 16.12

DISPOSITION OF PUBLIC LANDS AND TIDELANDS

Sections:

- 16.12.010** Applicability of provisions.
- 16.12.012** Disposition of real property for economic development purposes.
- 16.12.015** Disposal of public lands for public use.
- 16.12.020** Commencement of proceedings.
- 16.12.030** Sale of tidelands.
- 16.12.040** Sale of real property or tidelands.
- 16.12.050** Landlocked tidelands.
- 16.12.060** Restriction on sale of tidelands and sufficiency of proof.
- 16.12.070** Preference rights of upland owners and tidelands lessees.
- 16.12.075** Additional requirements.
- 16.12.080** Exchange or trade of borough real property or tidelands.
- 16.12.090** Effective date of resolution.
- 16.12.100** *Repealed.*
- 16.12.105** Over-the-counter sales.
- 16.12.115** Ratification of prior conveyances.
- 16.12.120** Construction as condition of sale – Generally.
- 16.12.130** Construction as condition of sale – Term during which construction must begin.
- 16.12.140** Construction as condition of sale – Construction completion terms.

16.12.150 Construction as condition of sale – Construction completion terms for industrial development.

16.12.160 Construction as condition of sale – Extension of construction period.

16.12.170 Construction as condition of sale – Default provision.

16.12.180 Construction as condition of sale – Inspection and report authority – Appeals.

16.12.010 Applicability of provisions.

The provisions of this chapter shall constitute the formal procedure for the lease, sale, or other disposition of real property for interest in real property or tideland owned by the borough. Nothing herein shall preclude the assembly from waiving all of the provisions of this chapter, when in the judgment of the assembly the public interest so requires, so as to dispose of public lands by lease, exchange, trade, sale, or other disposition of said public lands when the value of said property, lease, or interest is \$1,000,000 or less (as determined by a qualified appraiser or the borough assessor) and is accomplished by resolution after public notice published 14 days prior to passage of the resolution. [Ord. 677 § 4, 2000; Ord. 645 § 5, 1998; Ord. 588 § 4, 1993; Ord. 429 § 4, 1982; Ord. 275 § 5, 1972; prior code § 45.20.010.]

16.12.012 Disposition of real property for economic development purposes.

A. In the exercise of the borough's economic development powers, the assembly may determine, in its sole discretion, that it is in the best interest of the borough to dispose of borough-owned real property, including tidelands, or any interest therein, which interest has a value of \$1,000,000 or less (as determined by the borough assessor or a qualified appraiser), without requests for proposals or sealed bid procedures and at less than fair market value.

B. In determining the best interests of the borough under this section, the assembly may consider any relevant factors, which may include:

1. The desirability of the economic development project;
2. The actual or potential economic benefits to the borough, its economy and other businesses within the borough;
3. The contribution of the proponent to the economic development project in terms of money, labor, innovation, expertise, experience and otherwise;

4. The business needs of the proponent of the project in terms of integration into existing facilities and operations, stability in business planning, business commitments, and marketing;
5. Actual or potential local employment due to the economic development project;
6. Actual and potential enhancement of tax and other revenues to the borough related to the project; and
7. Existing and reasonably foreseeable land use patterns and ownership.

C. Prior to disposal under subsection (A) of this section, the assembly shall hold a public hearing. The borough clerk shall publish notice of the public hearing in a newspaper of general circulation in the borough at least 14 days prior to the hearing. The notice shall include the date, time and place of the hearing, and general or legal description of the real property or interest, and the proposed disposition and its purpose.

D. Following the hearing, and with comments/recommendations from the port commission, the planning and zoning commission, and the economic development committee, the assembly may authorize disposition of the real property or interest therein by resolution.

E. Where the acquisition of the real property or any interest therein or the construction of a permanent improvement has been approved by the voters at an election, the disposition of such property, interest or improvement under this section by sale, trade or lease for a term exceeding five years shall be made only by authority of an ordinance ratified by a majority of the qualified voters of the borough who vote upon the question. For purposes of this subsection, the term of any such lease shall include the terms of all options to extend or renew the lease. The requirements of this subsection do not apply where the voter approval involved was in the form of authorizing the issuance of bonds to finance the acquisition of the real property or any interest therein or the construction of a permanent improvement. [Ord. 781 §§ 1, 2, 2006; Ord. 756 § 1, 2004.]

16.12.015 Disposal of public lands for public use.

A. When the borough assembly determines it is in the best interests of the public to dispose of real property, or any interest therein, owned by the borough, including tidelands, which interest has a value of \$1,000,000 or less, to the state or U.S. government for public use, the disposal may be made without sealed bid procedures and at less than fair market value.

B. Prior to disposal under subsection (A) of this section, the assembly shall hold a public hearing. The borough clerk shall publish notice of the hearing in a newspaper of general circulation in the borough

at least 10 days prior to the hearing. The notice shall include the date, time, and place of the hearing and a description of the real property, stating in full the proposed public use. Item a.

C. Following the hearing, the assembly may authorize disposal of the real property by resolution, which shall include any special terms and conditions the assembly may require for the disposal. Upon adoption of the resolution, the borough attorney shall prepare a deed or other appropriate instrument of conveyance. [Ord. 677 § 4, 2000; Ord. 645 § 5, 1998; Ord. 588 § 5, 1993; Ord. 410 § 5, 1981; prior code § 45.20.015.]

16.12.020 Commencement of proceedings.

Proceedings commencing disposition of real property, including tidelands, to other than the state or U.S. government, as provided in WMC [16.12.015](#), shall be initiated by the borough clerk or by the assembly or a assembly member upon motion at a meeting, or by an interested third party upon written application or request submitted to the borough clerk seven days prior to the assembly meeting. Such motion, application, or request must identify the property by general or legal description, state the interest to be disposed (sale, lease, or other) and state the reason and purpose of the proposed disposition. [Ord. 677 § 4, 2000; Ord. 410 § 6, 1981; Ord. 275 § 5, 1972; prior code § 45.20.020.]

16.12.030 Sale of tidelands.

A. The policy of outright disposal by sale of tide and submerged lands is not favored; the orderly development of the borough with due consideration toward ocean resource harvesting, municipal revenue and public recreation would indicate a strong preference toward tidelands leasing. However, when it is in the public interest, the assembly may, by resolution, authorize the sale of tracts of tide and submerged lands in the manner provided for the sale of other real property owned by the borough. Tidelands, which may be sold pursuant to this section, as that term is used herein, refers only to those tide and submerged lands conveyed by the state of Alaska to the then-City of Wrangell pursuant to AS [38.05.820](#).

B. All sales of tide and submerged lands shall be public sales and shall be governed by the provisions of this chapter, insofar as applicable. [Ord. 833 § 42, 2009; Ord. 677 § 4, 2000; Ord. 645 § 5, 1998; Ord. 618 § 4, 1996; Ord. 588 § 6, 1993; Ord. 410 § 7, 1981; Ord. 275 § 5, 1971; prior code § 45.20.030.]

16.12.040 Sale of real property or tidelands.

A. Disposition of Borough-Owned Real Property and Borough-Owned Tidelands. When an application is filed for the purchase of borough-owned real property or borough-owned tidelands or any interest therein, the following steps shall take place:

1. The person wishing to purchase the borough-owned real property or borough-owned tide shall submit a request in writing, to the borough clerk. The borough clerk shall submit the application to the planning and zoning commission and if borough-owned tidelands, to the port commission for comments in favor or against the sale at their next commission meeting.

The request shall state the purpose and proposed use of the requested borough-owned property or tidelands in detail including but not limited to maps and complete written narrative.

A nonrefundable application fee shall be paid to the borough at the time the application is submitted. The fee shall be listed on the approved fee and rate schedule.

The assembly shall, by resolution, establish fees and rates for the encroachment permit fees. A public hearing shall be required on the resolution that establishes such fees and rates.

2. After the report(s) have been received by the borough clerk from the planning and zoning commission or the port commission (if borough-owned tidelands), the borough clerk shall place the request for purchase on an upcoming regular borough assembly agenda, as a public hearing item, for the assembly to approve moving forward with the sale. All property owners within 300 feet shall be notified by mail regarding the public hearing.

3. If the assembly approves moving forward with the sale, the clerk shall notify the applicant of the costs associated with the sale which include but are not limited to the survey (if required), appraisal, all public notices, and recording fees.

4. Once the applicant agrees to the costs associated with the sale, the clerk shall cause an appraisal of the interest to be disposed of to be made by a licensed appraiser, who shall submit a report, which will include his or her estimate of the market value of the interest.

5. If the borough-owned property or borough-owned tidelands require a survey, the applicant shall be responsible for obtaining that survey. If a survey is required, the appraisal shall take place after the survey. Both the survey and the appraisal costs shall be the responsibility of the applicant.

6. Once the appraisal report has submitted, if the subject interest has a value of \$1,000,000 or less, the borough clerk will cause a notice of the proposed land or tidelands sale to be published for three consecutive weeks before final action of the borough assembly to approve or reject the sale, by resolution. The publication shall be published in the newspaper at least three times, with the final publication at least one week prior to the final action on the application. The notice shall identify the applicant and the location of the proposed sale. The notice shall state that anyone

wishing to protest the sale must file a written protest with the borough clerk not later than a identified in the notice. Such protest shall be in writing and shall state all reasons for the protest. Failure to timely protest as required by this subsection shall constitute a waiver of any right to purchase or use the location and shall waive any right to contest the awarding of the sale.

7. No sooner than one week after the date set for receipt of protests, the borough manager shall submit to the borough assembly a report and recommendation on each timely protest received by the borough. Following the required public notice period for the sale of land or tidelands, the assembly shall approve or reject the sale by resolution. Any protests received and the final report from the borough manager shall be included in the agenda item for the assembly, along with the appraisal report.

B. Terms. Upon final approval by the borough assembly by resolution, payment in full must be paid within 20 days in the form of a certified or cashier's check, cash or by electronic funds transfer (EFT). Payment due includes the appraised fair market value plus the survey cost, assessment, all public notices, and recording fees.

C. Fund Disposition. All funds received from tidelands sales shall be deposited into the City and Borough of Wrangell's permanent fund. [[Ord. 1053](#) § 4, 2024; [Ord. 1028](#) § 2, 2022.]

16.12.050 Landlocked tidelands.

Those portions of borough-owned tidelands which have been filled and are now landlocked with no access to navigable waters shall be treated as all other uplands owned by the borough and disposed of in the manner provided in Chapter [16.12](#) WMC for borough-owned real property. [Ord. 677 § 4, 2000.]

16.12.060 Restriction on sale of tidelands and sufficiency of proof.

No sale of tidelands shall occur except upon public hearing as per WMC [16.12.040](#)(A)(2). At the public hearing, the applicant must clearly demonstrate the benefits of sale of the subject tidelands tract that could not be realized by the borough through leasing; a determination by the assembly adverse to the applicant may not be appealed unless clearly erroneous. An applicant for purchase of tidelands must conclusively demonstrate the outright sale of the nominated tidelands tract, as contrasted with the lease of such tract, is in the borough's best interest. The borough reserves the right to refuse sale of any tidelands tracts, regardless of sufficiency of proof. [[Ord. 1028](#) § 3, 2022; Ord. 677 § 4, 2000.]

16.12.070 Preference rights of upland owners and tidelands lessees.

A. Uplands owner abutting tide and submerged lands for which a sale application is submitted, whether submitted by the uplands owner or a third party, shall be entitled to a preference right in the

form of the right to meet or exceed the highest bid or offer tendered by another person for the purchase of abutting tide or submerged lands. No additional notice other than that already required by this title shall be required of the applicant. Furthermore, failure to exercise this preference right at or before the time of sale shall result in the forfeiture of said preference right.

B. The lessees of an existing and current tidelands lease shall be entitled to a preference right in the form of the right to meet or exceed the highest bid or offer tendered by another person for the purchase of the tidelands leased by said lessee. The tidelands lessees' preference shall be superior to that preference granted to uplands owners in subsection (A) of this section. No additional notice, other than that already required by this title, shall be required of the applicant. Furthermore, failure to exercise this preference at or before the time of sale shall result in the forfeiture of said preference right. [Ord. 677 § 4, 2000.]

16.12.075 Additional requirements.

The borough assembly may provide such additional and necessary requirements as they find necessary to carry out the specific and unique terms of each such sale and as may from time to time be necessary and not inconsistent with this chapter. [Ord. 677 § 4, 2000.]

16.12.080 Exchange or trade of borough real property or tidelands.

Notwithstanding any other requirement of this chapter, except the requirements provided for public notice in WMC [16.12.015](#), exchanges or trades of borough-owned real property or tidelands or interests therein shall be governed solely by this subsection and in compliance with the borough charter, the borough assembly may, by resolution and without public bidding, exchange any borough-owned real property or tidelands or interest therein, provided that:

A. The value of the borough-owned real property, or interest therein, and the value of the real property, or tidelands, or interest therein, to be exchanged have been determined by either an appraisal prepared by a qualified appraiser obtained by the borough within the preceding 12 months, or by review of the then current property assessment records of the borough.

B. The value of the borough-owned real property, or tidelands or interest therein, is equal to the value of the real property, tidelands or interest therein, to be exchanged; or, if the value of the borough-owned real property, tidelands or interest therein is different from the value of the real property, or tidelands or interest therein, to be exchanged, the difference is made up in money.

C. The borough assembly determines by resolution that the borough-owned property or tidelands or interest therein is no longer needed for municipal purposes and that the exchange of properties or tidelands or interests therein is in the public interest. [Ord. 677 § 4, 2000.]

16.12.090 Effective date of resolution.

A resolution providing for the disposition of property shall become effective upon adoption by the assembly. The borough attorney shall prepare a deed or other appropriate instrument of conveyance to be executed by the mayor and clerk, subject to any deed of trust securing installment payments of the purchase price and other obligations to the borough. [Ord. 750 § 4, 2004; Ord. 677 § 4, 2000; Ord. 618 § 5, 1996; Ord. 410 § 8, 1981; Ord. 312 § 5, 1974; prior code § 45.20.050.]

16.12.100 Ratification by election – Procedure.

Repealed by Ord. 800. [Ord. 746 § 5, 2004; Ord. 677 § 4, 2000; Ord. 645 § 5, 1998; Ord. 588 § 7, 1993; Ord. 410 § 9, 1981; prior code § 45.20.060.]

16.12.105 Over-the-counter sales.

A. Lots or parcels of land offered for sale pursuant to WMC [16.12.030](#) for which no responsive bids are received may, upon resolution of the assembly, be offered for over-the-counter sale upon such terms and conditions as provided in WMC [16.12.040](#)(C) and (D).

B. The resolution shall specify the date and hour on which over-the-counter sales shall commence and an expiration date.

C. Such lots shall be offered by the borough clerk over the counter at City Hall on a first-come, first-served basis and be sold for the minimum bid value (appraised valuation).

D. The purchases shall be ratified by a resolution of the assembly, and conveyed as provided for in WMC [16.12.090](#). [Ord. 750 § 4, 2004; Ord. 677 § 4, 2000; Ord. 618 § 6, 1996; Ord. 337 § 5, 1975; prior code § 45.20.080.]

16.12.115 Ratification of prior conveyances.

Previous installment sales of borough property made before April 1, 2004, where the property was conveyed by a deed subject to a deed of trust securing payment of the purchase price are hereby ratified and approved. [Ord. 750 § 4, 2004.]

16.12.120 Construction as condition of sale – Generally.

The assembly or its agents may require the construction of certain improvements within a specified period of time as a condition to the conveyance of any borough-owned real property by sale or other disposition. Whenever the contract of sale and/or instrument of conveyance recites “construction” or “construction conditions” or similar language, or if the notice of sale pertaining or relating to the subject property recites the aforementioned terminology or similar language pertaining to construction requirements, all of the provisions of this section and WMC [16.12.090](#) through [16.12.130](#) shall be

applicable thereto and become incorporated by reference in the transaction as if fully set forth. [C Item a.]
677 § 4, 2000; Ord. 618 § 8, 1996; Ord. 281 § 5, 1973; prior code § 45.20.070(a).]

16.12.130 Construction as condition of sale – Term during which construction must begin.

Real property sold or otherwise disposed of by the borough with the stipulation that construction shall be undertaken or otherwise subject to construction requirements or construction as a condition subsequent to vesting shall mean that construction shall occur within two years from the date of sale. The date of sale for the purposes of this section shall mean the effective date of the resolution authorizing the conveyance of the subject property, lease agreement, or other agreement evidencing the conveyance. [Ord. 677 § 4, 2000; Ord. 618 § 9, 1996; Ord. 281 § 5, 1973; prior code § 45.20.070(b).]

16.12.140 Construction as condition of sale – Construction completion terms.

A. “Construction,” within the meaning of WMC [16.12.080](#) through [16.12.130](#), shall require 80 percent completion of a residential or commercial structure. “Eighty percent completed” is intended to imply greater progress than mere substantial completion.

B. Standards for minimum acceptable completion shall include the following in compliance with WMC Title [18](#).

1. Earthwork site preparation;
2. Foundation completion;
3. Structural completion of the building, including all exterior walls and the completed roof;
4. Installation and connection of electrical, water and sewer utilities;
5. Installation of all plumbing, including internal fixtures;
6. Installation of all electrical wiring completed through the point of installing boxes and connections thereto from the primary power source; and
7. Installation of all insulation materials.

C. Completion shall not require installation of the following:

1. Finished flooring;
2. Dry wall, sheet rock, or other interior wall board or ceiling material;

3. Installation of internal lighting fixtures, switches, outlets and box covers;
4. Interior walls or partitions not containing plumbing or electrical wiring;
5. Paint;
6. Drain gutters; or
7. Finished landscaping. [Ord. 677 § 4, 2000; Ord. 281 § 5, 1973; prior code § 45.20.070(c).]

16.12.150 Construction as condition of sale – Construction completion terms for industrial development.

A. “Construction,” within the meaning of WMC [16.12.080](#) through [16.12.130](#), for industrial development shall require development consistent with WMC Title [20](#), and shall be substantially complete within two years after the date of sale.

B. Within 60 days after the date of sale, purchaser of the subject property shall present a written development plan to the planning and zoning commission for approval. At a minimum, the development plan shall include a description of the construction planned and a time schedule for its completion. The commission shall forward the plan, with its recommendations, to the borough assembly for approval within 30 days after receipt from the purchaser. If the plan is not approved by the assembly, the assembly shall prepare and deliver a written statement to the purchaser explaining their reasons for disapproving the plan. The purchaser shall be required to submit a revised plan to the assembly within 30 days. If the revised plan is not approved by the assembly, the sale shall be considered in default.

C. After approval of the purchaser’s development plan by the borough assembly, the purchaser shall have the remainder of the two-year period after date of sale to make the improvements indicated by the approved plan.

D. Notwithstanding any other provisions of this section, an enclosed building will be required as part of any development plan submitted by the purchaser for approval. The building and all other development features shall comply with WMC Titles [15](#) and [18](#). [Ord. 677 § 4, 2000; Ord. 515 § 4, 1987.]

16.12.160 Construction as condition of sale – Extension of construction period.

A. Upon the written request of the purchaser, the borough assembly may extend the time for construction completion for good cause shown by the purchaser. The purchaser shall submit written evidence of good cause to the assembly. The purchaser may request an extension on or before 30

days before the construction completion date. The assembly shall prepare a written decision with Item a. days of the purchaser's request for extension, and a copy of such decision shall be provided to the purchaser.

B. Extensions of time for construction completion of industrial development will be granted if the borough has prevented compliance by not meeting those elements of the development plan required to be performed by the borough.

C. In the event of assignment or subsequent conveyance by the initial purchaser or lessee, the original completion requirements shall remain in effect and be binding upon the subsequent grantee or lessee. [Ord. 677 § 4, 2000; Ord. 515 § 5, 1987.]

16.12.170 Construction as condition of sale – Default provision.

In the event of the acquiring party's failure to strictly comply with the completion requirements set forth in this chapter, the following default provisions shall apply:

A. In the event there has been no foundation or site of preparation work, the contract shall terminate and the real property or interest therein shall revert to the borough. The borough may require that the defaulting party or parties execute a quitclaim deed to the borough conveying all of their interest in the subject property to the borough. The borough shall refund to the defaulting party or parties the amounts paid toward the purchase of the subject property except the greater of 25 percent of the total purchase price of \$500.00, whichever is greater, which shall be retained by the borough as liquidated damages. In the event of a lease, the borough shall retain all sums paid to the date of default as liquidated damages.

B. In the event of default after completion of substantial earthwork and site preparation but before installation of a foundation, the contract shall terminate and the real property shall revert to the borough. The borough may require the defaulting party or parties to execute a quitclaim deed conveying all of their interest in the subject property to the borough. The borough shall refund 25 percent of the total purchase price to the defaulting party or parties and retain all other amounts paid to that date as liquidated damages. In the event of default under a lease, the borough shall retain all rental amounts theretofore paid the borough as liquidated damages.

C. In the event of default after the foundation is substantially complete, whether the foundation is of piling, poured concrete or other recognized and acceptable foundation material, the defaulting party shall have the option of removing the foundation and restoring the lot to its original condition within 30 days and relinquishing all of his right, title, and interest therein by quitclaim conveyance to the borough and be refunded 50 percent of the total purchase price, or to retain the real property and pay the

borough liquidated damages for breach of conditions in the amount of the original lot purchase price within 30 days after default; and, in the event of failure to timely make such remittance, the real property and all improvements thereon shall revert to the borough which shall also retain all amounts theretofore paid for the purchase of said property as liquidated damages. A lessee in default shall have the option of terminating the lease and relinquishing the real property and all improvements thereon to the borough and forfeiting all rental payments theretofore paid as liquidated damages, or may retain the property and continue the lease and pay the borough the amount of \$2,000 in liquidated damages within 30 days after the default. [Ord. 677 § 4, 2000; Ord. 515 § 6, 1987; Ord. 281 § 5, 1973; prior code § 45.20.070(e).]

Item a.

16.12.180 Construction as condition of sale – Inspection and report authority – Appeals.

A. The borough building inspector shall have the duty of inspecting all properties subject to the construction conditions. The inspection will be made on or before the date constituting expiration of the term for construction completion, except that the purchaser may request earlier inspection. The building inspector shall inspect within 30 days of written request by the purchaser.

B. The purpose of the inspection is to determine whether or not there has been compliance with the construction requirements according to the standards contained in this chapter.

C. The building inspector shall report his findings to the planning and zoning commission. The commission shall immediately review the findings and prepare a written report of their compliance determination and submit it promptly to the borough manager who shall take whatever action is appropriate in the circumstances. The commission shall also mail or otherwise forward a copy of the report to the purchaser or lessee of the subject property.

D. An aggrieved party wishing to challenge or controvert the determination of the planning and zoning commission may appeal to the borough assembly by giving and delivering written notice of appeal to the borough manager or borough clerk within five days after receipt of notice of the commission's determination. Thereafter, the assembly shall conduct a hearing on the appeal at a special or regular meeting of the assembly within 10 days after receipt of notice of appeal. The assembly may enter its findings at the hearing or may take the matter under advisement and thereafter collectively inspect the subject property, disregarding any work on the building occurring between their inspection and that of the planning and zoning commission, and shall enter its decision within two days after the hearing without necessity for formal reconvention at special or regular meeting. [Ord. 677 § 4, 2000; Ord. 515 § 7, 1987.]

The Wrangell Municipal Code is current through Ordinance 1056, passed May 28, 2024.

Disclaimer: The Borough Clerk's Office has the official version of the Wrangell Municipal Code. Users should Item a. contact the Borough Clerk's Office for ordinances passed subsequent to the ordinance cited above. Click [here](#) to view all approved ordinances.

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