


**SUBJECT:** AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY APPROVING THE LAND SALE AND VALUE ADJUSTMENT OF BOROUGH-OWNED PROPERTY OFFERED IN THE 2020 COMPETITIVE SEALED BID LAND SALE, IDENTIFIED AS PARCEL 20-03 (TAX ID 15N03W10C001), IN ACCORDANCE WITH THE SALE BROCHURE POLICIES AND REMEDIES IF A PROPERTY IS PROVEN TO HAVE LESS ACREAGE THAN THE BOROUGH ASSESSMENT (MSB007595).

**AGENDA OF: December 15, 2020**

**ASSEMBLY ACTION:**

**MANAGER RECOMMENDATION:** Introduce and set for public hearing.

**APPROVED BY GEORGE HAYS, ACTING BOROUGH MANAGER:** 

Route To:	Department/Individual	Initials	Remarks
	Originator	WSC	
	Community Development Director	EP	
	Finance Director	CF	
	Borough Attorney	KS	
	Borough Clerk	SM 12/7/20	KBJ

**ATTACHMENT(S):** Fiscal Note: YES ☒ NO ☐  
 Vicinity Map (1 pp)  
 Best Interest Finding (3 pp)  
 Ordinance Serial No. 21-002 (3 pp)

**SUMMARY STATEMENT:**

MSB Land & Resource Management is under contract with Knik Arm Services, LLC to sell Borough-owned land identified as Parcel 20-03 (Tax ID 15N03W10C001) offered through the 2020 Competitive Sealed Bid Land Sale. The land sale brochure affords that in the event the re-calculated size of the parcel reduces the acreage by more than fifteen percent (15%) the MSB will accept a request from the Purchaser for monetary adjustment on a pro-rata basis (\$ per acre or square foot as applicable) which must be approved by the borough before closing can take place. Through a new Record of Survey, the property was found to be approximately 5-acres smaller

than the Borough assessment.

The subject parcel is land locked and was nominated by adjacent property owner Mark Graber, sole proprietor of Knik Arm Services, LLC, for potential inclusion in future lands sales offered by the Borough. The property was approved to be sold by the Borough Planning Commission and adopted Assembly Ordinance Serial No. 20-058. Mr. Graber submitted the only bid for the property and thereby became the "successful bidder." His bid for the property was for \$81,800 which is the 2020 assessed value advertised in the land sale brochure.

The sale brochure contains language, as a decades-old policy, stating the Borough makes no warranties either expressed or implied regarding actual size of the parcel and it is the responsibility of the Purchaser (applicant) to confirm the actual acreage and parcel boundaries to their own satisfaction. If the Purchaser believes the assessed acreage is not correct, the Purchaser must notify the Borough and prove the actual acreage is at least 15% smaller than the assessed acreage. Specific procedural steps outlined in the brochure were followed by Mr. Graber whereupon he notified the Borough in writing as required and obtained a new survey at his sole expense which showed the parcel was reduced from the assessed 19.31 acres down to 14.31 acres, due in part to bluff erosion and changes in the high water mark along Knik Arm over the past 39 years while in Borough ownership. This difference of 5 acres constitutes a 25% reduction in parcel size.

Based upon the advertised assessed value of \$81,800 and acreage of 19.31 acres, staff determined the reduction of 5 acres of the land, without any other adjustments, would be \$60,577.

**RECOMMENDATION OF ADMINISTRATION:**

Based on the new survey which found the property to contain only 14.31 acres, staff is seeking Matanuska-Susitna Borough Assembly approval to sell the property identified in the 2020 Competitive Sealed Bid Land Sale as Parcel 20-03 (TAX ID 15N03W10C001) for the value adjusted amount of \$60,577 in accordance with the sale brochure policies and remedies.

# MATANUSKA-SUSITNA BOROUGH FISCAL NOTE

Agenda Date: December 15, 2020

SUBJECT: An ordinance of the Matanuska-Susitna Borough Assembly approving the land sale and value adjustment of Borough-owned property offered in the 2020 Competitive Sealed Bid Land Sale, identified as Parcel 20-03 (tax id 15N03W10C001), in accordance with the sale brochure policies and remedies if a property is proven to have less acreage than the Borough assessment (MSB007595).

ORIGINATOR: N. Cameron/Land Management

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>YES</u> NO
AMOUNT REQUESTED <u>\$60,577</u>	FUNDING SOURCE <u>Land Sales</u>
FROM ACCOUNT #	PROJECT
TO ACCOUNT: <u>203.000.000 3xx,xxx</u>	PROJECT #
VERIFIED BY: <u>Hunt Whitland</u>	CERTIFIED BY:
DATE: <u>12/2/2020</u>	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL						
---------	--	--	--	--	--	--

REVENUE		<u>60.5</u>				
---------	--	-------------	--	--	--	--

FUNDING:

(Thousands of Dollars)

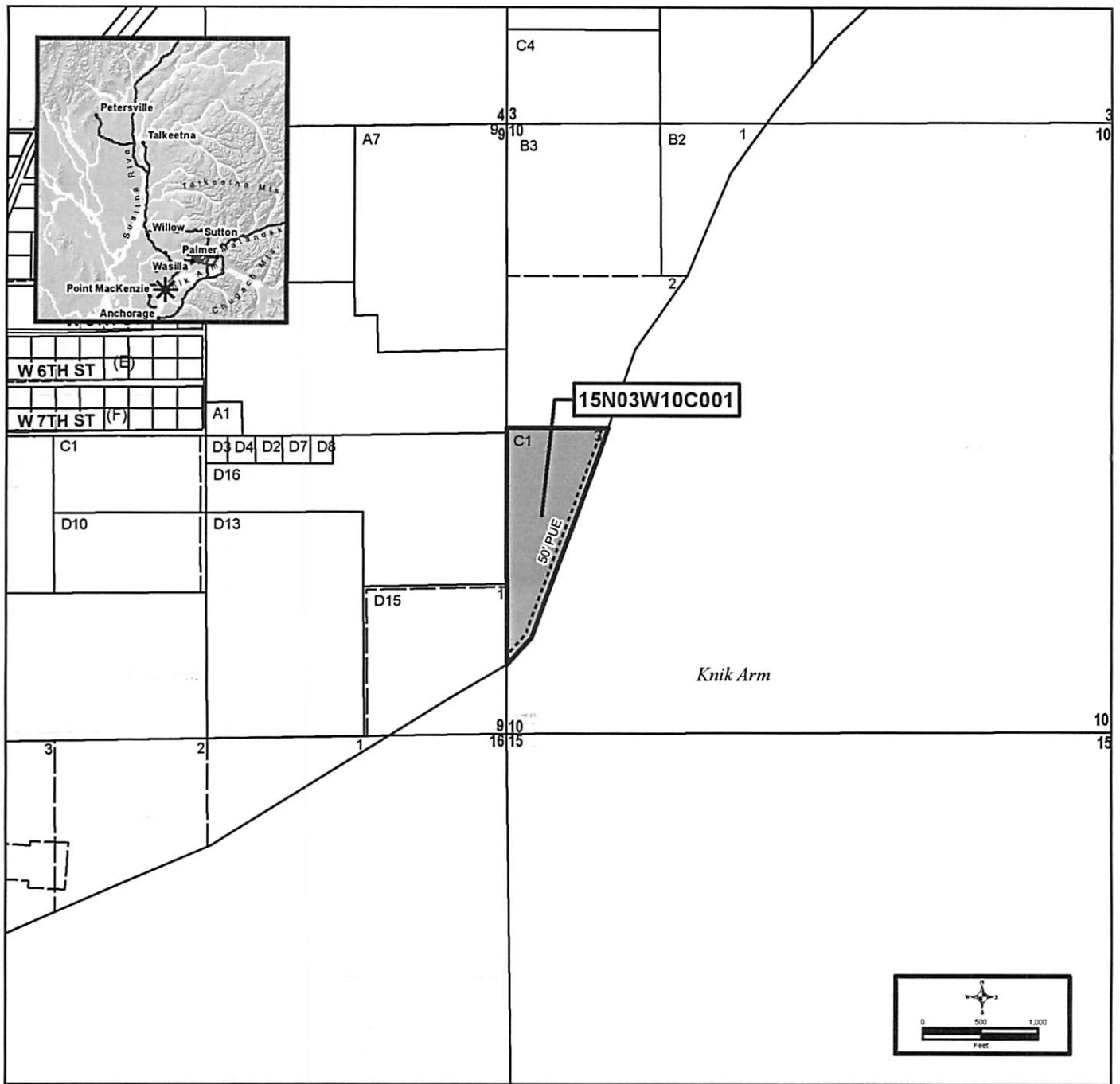
General Fund						
State/Federal Funds						
Other		<u>60.5</u>				
TOTAL		<u>60.5</u>				

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PREPARED BY: \_\_\_\_\_ PHONE: \_\_\_\_\_  
 DEPARTMENT: \_\_\_\_\_ DATE: \_\_\_\_\_  
 APPROVED BY: Chapman Hunt DATE: 12/2/2020



**BID PARCEL No. 20-03**

**ACREAGE (APPROX):** 19.31

**MSB MAP No.:** GB09

**MINIMUM BID:** \$81,800

**MSB TAX ID:** 15N03W10C001

**SUBD / TRS:** T15N, R3W, Sec. 10, S.M.

**ADDITIONAL CONDITIONS OF SALE:** Reservation of a 50' wide public access easement along the cliff's edge running parallel to the Knik Arm.

**COMMENTS:** Access Type D, no legal public access overland. Property drops approximately 50 feet to Knik Arm and is subject to a 50 foot public easement along high water mark of Knik Arm, and to valid existing trails, roads and easements. Heavily treed, gentle rolling hills. Located in the Knik Sled Dog & Recreation Special Use District.

*1M 21-002  
OR 21-002*

**BEST INTEREST FINDING**  
For the  
Disposition of Borough-owned Land

**I. Summary of Proposed Action**

MSB Land & Resource Management is under contract with Knik Arm Services, LLC to sell Borough-owned land identified as Parcel 20-03 (Tax ID 15N03W10C001) offered through the 2020 Competitive Sealed Bid Land Sale. The land sale brochure affords that in the event the recalculated size of the parcel reduces the acreage by more than fifteen percent (15%) the MSB will accept a request from the Purchaser for monetary adjustment on a pro-rata basis (\$ per acre or square foot as applicable) which must be approved by the borough before closing can take place. Through a new Record of Survey, the property was found to be approximately 5-acres smaller than the Borough assessment.

**II. Property Site Factors**

A. Location: The subject parcel is located in Point McKenzie along the Knik Arm bluff south of Port McKenzie. There is no legally dedicated upland access to the parcel. Access to this property and similar properties is typically from the Knik Arm via boat and a climb up the steep cliffs.

B. Legal Description: Government Lot 3, Section 10, Township 15 North, Range 3 West, Seward Meridian, Palmer Recording District, Third Judicial District, State of Alaska.  
(Tax ID# 15N03W10C001)

C. Land Status: The borough received the property through State of Alaska Patent No. 5538 under Municipal Entitlement. There was no survey done at the time of Patent nor was staff able to find any survey, either federal or state, to identify the mean high water mark of the Knik Arm at the time of conveyance. The Borough has owned the property since September 23, 1981. It has never been offered for sale prior to the 2020 Competitive Sealed Bid due in part because of lack of reasonable access. The Borough Assembly approved inclusion of the parcel in the 2020 sale under Ordinance Serial No. 20-058.

D. Restrictions: None.

E. Current Land Use: None. Property is vacant.

F. Surrounding Land Use: Recreational.

G. Resources: Heavily treed and gravel resource is unknown.

H. Value: \$77,900. This updated value includes the already applied negative 20% adjustment on the original 19.31 acres for the approximated area located on the mud flats, plus a \$20,000 positive adjustment for the bluff view.



### III. Analysis & Discussion

The subject parcel is land locked and was nominated by Mark Graber, sole proprietor of Knik Arm Services, LLC, for potential inclusion in future lands sales offered by the Borough. Per adopted Land Management Policy & Procedures and Borough code, the property underwent inter-department review and public notice without objection, and was approved to be sold by the Borough Planning Commission and adopted Assembly Ordinance Serial No. 20-058.

Mr. Graber owns the adjacent property and through the land nomination, understood the competitive process would allow anyone to bid on it with no guarantee his bid would be the “winning” bid. Mr. Graber submitted the only bid for the property; he was a qualified applicant in accordance with MSB 23.10.090; and therefore, was considered the successful bidder. Mr. Graber submitted a cash bid for the property at the 2020 assessed value as advertised in the land sale brochure.

The land sale brochure for decades has contained language, as a policy, stating the Borough makes no warranties either expressed or implied regarding actual size of the parcel and it is the responsibility of the Purchaser (applicant) to confirm the actual acreage and parcel boundaries to their own satisfaction. The procedural steps outlined in the brochure are as follows:

- 1) the Purchaser must notify the Borough in writing within ten days before the transaction closing date of disputing the Borough’s approximate acreage figure with the belief the size adjustment will reduce the acreage by more than 15%,
- 2) Borough staff reviews the claim to determine if the information offered by the Purchaser supports the claim for adjustment, and if so supported,
- 3) the Purchaser can obtain and pay for a Record of Survey stamped by an Alaska registered land surveyor meeting Alaska Statue requirements and submit the survey to the Borough for review and acceptance,
- 4) in the event the re-calculated size reduces the acreage by 15% or more, the Borough will accept a request from the Purchaser for monetary adjustment on a pro-rata basis (\$ per acre or square foot as applicable) which must be approved by the Borough before closing can take place.

A new survey was obtained and showed the parcel was reduced from 19.31 to 14.31 acres due to bluff erosion along Knik Arm, constituting a 25% reduction in parcel size.

The Borough assessor reviewed the survey and imparted that the 2020 assessed value of \$81,800 based on 19.31 acres included a 20% reduction for the mud flats already and a \$20,000 adjustment for the view shed. The per/acre price as calculated using the pre-survey 2020 assessed acreage of 19.31 acres under which Mr. Graber submitted his bid packet had a per/acre value of \$4,236.147. If this value is used to calculate the new acreage of 14.31, the land value now becomes \$60,577. The new assessed value of \$77,900 verses the original land value of \$60,577 breaks down as follows:

\$77,900 (includes -20% adjustment for loss of land and + \$20,000 for view shed)  
- \$60,577 (adjusted value based on original selling price of \$81,800 for land only)

\$17,323 (constitutes difference between both *land only* values and view shed adjustment)

In accordance with MSB 23.10.060 fair market value is determined by the tax assessment roll. While there is no dispute regarding the assessed value, the brochure takes into account *land only* the land when adjusting the pro-rata \$/acre price. In alignment with the intent and requirements of the brochure the pro-rata adjustment should be based solely on the land and not include the “view” adjustment.

VI. Authority  
MSB 23.10.230

VII. Preliminary Recommendation

The Community Development Department recommends the Matanuska-Susitna Borough Assembly approve conveyance of Government Lot 3, Section 10, Township 15 North, Range 3 West, S.M., AK. for \$60,577 as the adjusted prorate (\$ price/acre) of 14.31 acres based on the new survey and language outlined in the land sale brochure.