

**PURCHASE AND SALE AGREEMENT**  
**BETWEEN CITY AND BOROUGH OF SITKA, ALASKA,**  
**AND PATRICK BARKER, JR.**

This PURCHASE AND SALE AGREEMENT ("Agreement"), by and between the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, whose mailing address is 100 Lincoln Street, Sitka, Alaska 99835 ("Seller"); and, PATRICK BARKER, JR., whose mailing address is 603 Sawmill Creek Road, Sitka, Alaska 99835 ("Purchaser") (collectively referred to as the "Parties");

WHEREAS, Seller owns that certain real property located at 4600 Sawmill Creek Road in Sitka, Alaska, more particularly described as follows:

Lot 23, Block 4, Sawmill Cove Park Resubdivision No. 1, according to the plat thereof, filed November 20, 2008, as Plat No. 2008-27, Sitka Recording District, First Judicial District, State of Alaska.

Together with all improvements thereon and appurtenances thereto ("Property");

WHEREAS, the Property is part of the Gary Paxton Industrial Park ("GPIP"), designated by ordinance and codified in the Sitka General Code ("SGC") and therein, at Chapter 2.38, authorizes the GPIP Board of Directors to sell the Property subject to the approval by the Assembly of Seller; and

WHEREAS, the GPIP Board of Directors has reached an Agreement with Purchaser for sale of the Property, the Agreement will be submitted to the Assembly for approval, and Purchaser desires to complete the transaction if approved by the Assembly;

ACCORDINGLY, FOR VALUABLE CONSIDERATION, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. Purchase and Sale of Real Property; Purchase Price. Seller shall sell the Property to Purchaser, and Purchaser shall purchase the Property from Seller, for a purchase price of TWENTY THOUSAND AND 10/100 DOLLARS (\$20,000.10), payable at closing:

2. Due Diligence.

(a) Purchaser and its employees, consultants, contractors and agents shall have reasonable access to the Property for the purpose of conducting due diligence investigations, and actions necessary or appropriate to complete its due diligencereview.

3. Environmental Acknowledgements; Indemnification.

(a) Purchaser acknowledges it has had an opportunity to review Seller's files related to the Property. Seller does not intend to test for hazardous or contaminate substances.

(b) "Environmental Event," "Hazardous Substances" and "Release" are defined for the purposes of this Agreement as follows:

(i) "Environmental Event" is defined as, without limitation, any assertion or claim made against Seller or Purchaser by any government agency or third party, alleging the Release of Hazardous Substances or environmental contamination of any kind on or in connection with the Property or other affected property in the vicinity ("Affected Property"), as well as the personal injury or property loss to persons caused by:

(a) the presence of Hazardous Substances in, on or under the Property or Affected Property, or the migration thereof to adjacent properties; or

(b) the exposure to lead-based paint on the Property; or

(c) the removal, handling, use, disposition, or other activity causing contact of any kind with asbestos on the Property.

(ii) "Hazardous Substance" shall include pollutants or substances defined as "hazardous waste," "hazardous substances," "hazardous materials," "pollutants," "contaminants," or "toxic substances" which are or become regulated under any federal, state or local statute, ordinance, rule, regulation or other law now or hereafter in effect pertaining to environmental protection, contamination or cleanup, including the Comprehensive Environmental Response and Liability Act of 1980 (CERCLA), 42 U.S.C. Section 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (PL 99-499); the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 *et seq.*; the Toxic Substance Control Act, 15 U.S.C. Section 2601 *et seq.*; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 *et seq.*; substances controlled by the laws of the State of Alaska as hazardous substances, petroleum products, waste or materials, including those defined in AS 46.03.826(5) and AS 46.03.900(9); asbestos containing materials; any petroleum products or derivatives; and in the rules and regulations adopted and guidelines promulgated pursuant to such provisions.

(iii) "Release" shall mean releasing, spilling, leaking, pumping, pouring, flooding, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping, whether directly onto the Property or flowing onto the Property from offsite sources.

(c) Purchaser shall defend, protect, hold harmless, and indemnify Seller from and against any and all losses, claims, damages, penalties, fines, investigations, assertions, liens, demands, and causes of action of every kind and character arising from an Environmental Event. Purchaser's obligations to defend and indemnify shall include, without limitation, the obligation to undertake all remediation, and to undertake the defense of any and all costs of removal action, remedial action, other "response costs" as that term is defined under applicable federal state and local law, reasonable attorney's fees, penalties, fines, damages, interest, and administrative/court costs incurred by Seller in response to and defense of such, regardless of the basis of liability alleged by or against any party, including strict liability under AS 46.03.822 or federal law. In the event Seller is required to undertake any actions to remedy any Release of Hazardous Substances, lead-based paint or asbestos on the Property or Affected Property, then Purchaser shall promptly reimburse and indemnify Seller for all costs and expenses incurred in doing so, including without limitation its legal fees, costs to consultants and contractors, civil penalties, and other costs, together with interest thereon, incurred as a result of the remediation of or response to any action, proceeding or other claim related to the Property or Affected Property.



4. No Warranties. Purchaser agrees that, except as expressly contained in this Agreement, no representations or warranties by or on behalf of Seller, express or implied, are or have been made to Purchaser as to the condition of the Property or improvements situated thereon, any restrictions related to development or use thereof, the applicability of any government requirements pertaining thereto, including but not limited to environmental requirements, the presence or absence of Hazardous Substances, presence of ground water, the suitability or fitness thereof for any purpose, the Property's compliance with federal, state and municipal laws, or any matter or thing affecting or related to the Property (including improvements), and Purchaser accepts the same **AS IS WITH ALL FAULTS**. Seller has agreed to sell the property on the terms specified herein in reliance upon the foregoing limitations of Seller's liabilities and would not have entered this Agreement without such limitations. Purchaser has been advised to investigate and determine regulations, restrictions and potential defects which would affect the use of the Property. Costs to remedy defects, to obtain site plan approvals, permits and variances and to replat shall be borne by Purchaser. **The Property is sold AS IS, WHERE IS.**

The Property contains a "Restricted Landslide Area", as defined and subject to SGC, Chapter 20.01, because the Property was damaged by a previous landslide. Purchaser shall observe and comply with SGC, Chapter 20.01.

**PURCHASER SHALL OBSERVE AND COMPLY WITH ALL FEDERAL, STATE, AND LOCAL LAWS, ORDINANCES AND REGULATIONS, INCLUDING PERMITS.**

Utility and access easements if any shall not be obstructed. Purchaser shall be responsible for all maintenance of road, parking area, drainage systems and hard scape on the Property and within all easement areas excluding the GPIP sign. Purchaser shall own and be responsible to maintain and operate all sewer grinder pumps and associated apparatus servicing this Property. All piping and utility infrastructure, including the large concrete pit on the North side of the building, is old mill infrastructure and is no longer in service and will become the ownership and responsibility of Purchaser.

5. Closing. Closing of this purchase and sale transaction ("Closing") shall be at City Hall in Sitka, Alaska no later than May 17, 2019. Closing shall be upon terms and conditions as follows:

(a) Purchaser shall:

(i) Pay the purchase price to Seller; and

(ii) Pay all closing costs, including for appraisal of the Property (if desired by Purchaser). Purchaser shall be responsible for any sales commissions, consulting fees or additional services.

(b) Seller shall:

(i) Pay survey, platting, and recording costs for the easement created prior to closing; and

(ii) Deliver a quit claim deed for the Property to Purchaser, SUBJECT TO all assessments, easements, covenants, conditions and restrictions of record at closing.

6. Closing Costs. Purchaser shall assume any pending or future taxes and assessments. All closing costs, including costs of title insurance (if desired by Purchaser), escrow fees, deed preparation, and recording fees shall be paid by Purchaser. Each party shall pay its own legal fees.

7. Possession. Seller shall deliver possession of the Property to Purchaser as of the date of Closing.

8. Risk of Loss. Risk of loss due to fire, earthquake, acts of God, or other calamity shall rest on Seller until Closing. In any such event, either Seller or Purchaser may, at their option, rescind this Agreement by notice to the other party.

9. Default and Remedies. In the event that this transaction is not consummated by reason of Purchaser's or Seller's default, both Parties' sole remedy shall be termination of this Agreement.

10. Notices. All notices required under the terms of the Agreement or by law shall be in writing and sent by certified mail, return receipt requested, or facsimile to the appropriate party or Parties at the following address or addresses and facsimile numbers, unless changed by the party to be notified in writing:

Seller:  
City and Borough of Sitka, Alaska  
Municipal Administrator  
100 Lincoln Street  
Sitka, Alaska 99835

Purchaser:  
Patrick Barker, Jr.  
603 Sawmill Creek Road  
Sitka, Alaska 99835

Notice is complete, if mailed, upon deposit, postage prepaid, in the United States mail.

11. Costs and Attorney's Fees. If Purchaser or Seller brings any action for any relief against the other, declaratory or otherwise, arising out of this Agreement, the losing party shall be responsible for the costs of the prevailing party and reasonable attorney's fees in such action, as determined by the court.

12. No Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other party, which consent shall not be unreasonably withheld.

13. Time of the Essence. TIME IS OF THE ESSENCE for performance by the Parties under this Agreement.

14. Governing Law and Venue. This Agreement shall be governed under the laws of the State of Alaska. Exclusive jurisdiction and venue for any action pertaining to this Agreement shall be in the State of Alaska Superior Court in the First Judicial District at Sitka, Alaska.

15. Entire Agreement; Modification. This Agreement, together with any attachments and other documents referenced herein, sets forth the entire agreement and understanding of the parties with respect of the transactions contemplated under this Agreement, and supersedes all prior agreements,



arrangements, understandings and negotiations. No modification of this Agreement shall be effective unless in writing and signed by authorized representatives of Seller and Purchaser.

16. Counterparts and Facsimile Signatures. This Agreement may be executed in counterparts, each of which shall constitute an original, and all of which together shall be deemed a single document. Signatures on this Agreement forwarded by facsimile or electronic mail are intended to be the equivalent of original signatures, with the original executed Agreement thereafter to be provided promptly to the other party.

17. Successors. All of the covenants, agreements, terms and conditions contained in this Agreement shall apply to and are binding upon Purchaser and Seller, and their respective successors and permitted assigns.

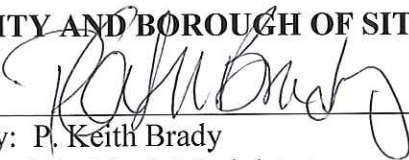
18. Assembly Approval. This Agreement is subject to the approval by the Assembly pursuant to SGC 2.38.080.A.7. This Agreement, together with any modifications, changes, or amendments to this Agreement, cannot be enforced against the Seller unless the Assembly has approved this Agreement and any modifications, changes, or amendments to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates listed below.

**[SIGNATURES AND ACKNOWLEDGEMENTS ON NEXT PAGE]**

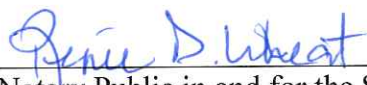
8/3/19  
Date

**CITY AND BOROUGH OF SITKA, ALASKA**

  
By: P. Keith Brady  
Its: Municipal Administrator

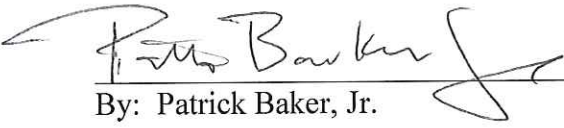
STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this 3<sup>rd</sup> day of May, 2019, by P. Keith Brady, Municipal Administrator of the CITY AND BOROUGH OF SITKA, ALASKA, an Alaska home rule municipality, on behalf of the municipality.

  
Notary Public in and for the State of Alaska  
My commission expires: 5-15-23

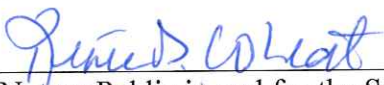
**PURCHASER**

8/3/19  
Date

  
By: Patrick Barker, Jr.

STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this 3 day of May, 2019, by Patrick Barker, Jr.

  
Notary Public in and for the State of Alaska  
My commission expires: 5-15-23