

**An Ordinance of the Haines Borough Assembly approving the conveyance by quitclaim deed of Tract B of Alaska Tideland Survey ("ATS") 1464 to the State of Alaska, Department of Transportation and Public Facilities ("ADOT&PF") for the Haines Ferry Terminal Improvements project (State Project #68433); amending Haines Borough Ordinance No. 12-07-299 to authorize the conveyance of Parcel 3 (Tract C of ATS 1464) to ADOT&PF by quitclaim deed rather than warranty deed; and approving a right of entry upon and the sale to DOT&PF of Parcel E-5, a perpetual easement containing 3,484.8 sq. ft., more or less, located in Tract A of ATS 1464 for ADOT&PF to establish, construct and maintain a retaining wall for the Lutak Dock.**

BE IT ENACTED BY THE HAINES BOROUGH ASSEMBLY:

Section 1. Classification. This ordinance is for the specific purpose of approving the conveyance by quitclaim deed of a specific parcel of land to ADOT&PF and to amend the terms of an earlier non-code ordinance (Ordinance No. 12-07-299) approving the conveyance of another specific parcel of land to ADOT&PF to change the form of that conveyance from a warranty deed to a quitclaim deed, and to approve a right of entry upon and the sale to ADOT&PF of an easement in another specific parcel of land, and shall not become a part of the Haines Borough Code.

Section 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held to be invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

Section 3. Effective Date. This ordinance is effective immediately upon adoption.

Section 4. Purpose. This ordinance authorizes the manager to conclude arrangements for the conveyance of the Borough's interest, if any, in Tract B of ATS 1464 to ADOT&PF by quitclaim deed in connection with consummating the sale of Parcel 3 (Tract C of ATS 1464), Parcel E-4 and Parcel TCE-4 to ADOT&PF for \$338,400 as authorized by Haines Borough Ordinance No. 12-07-299, but changes the form of the conveyance of Parcel 3 from warranty deed to quitclaim deed. Tracts B and C of ATS 1464 are both needed by ADOT&PF for the Haines Ferry Terminal Improvements project. As stated in the attached June 27, 2013 letter from ADOT&PF and the accompanying white paper on the history of ATS 1464 Tracts B and C, the parties have regarded the Borough as the owner of Tract C and ADOT&PF as the owner of Tract B, but the title documentation calls this into question and indicates the opposite may be true. This ordinance will allow the parties to correct the record title to conform to their perceptions of ownership and respective use of the two tracts, allow the transactions approved by Haines Borough Ordinance No. 12-07-299 to proceed, including ADOT&PF's payment of the \$338,400 for the property interests acquired, but change the form of the conveyance of Parcel 3 (Tract C of ATS 1464) to ADOT&PF from a warranty deed to a quitclaim deed, which is prudent given the confusion that exists as to the actual state of the title. The potentially expensive, time-consuming and uncertain alternative of quiet title litigation between the Haines Borough and ADOT&PF will be avoided, as will delays to the Haines Ferry Terminal Improvements project and possible loss of federal funding for the project that such litigation might cause. This ordinance will also approve the grant of a right of entry upon and the sale to ADOT&PF of Parcel E-5 as identified and described in the attached Parcel E-5 easement document, consisting of 3,484.8 sq. ft., more or less, located in Tract A of ATS 1464 for ADOT&PF to establish, construct and maintain a retaining wall for the Lutak Dock. The improvements to be constructed

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on Parcel E-5 consist of tieback supports that will be located approximately 10 feet below the dock surface.

Section 5. Authority. This ordinance is adopted under the authority granted the Assembly by HBC 14.20.100 to approve the sale of borough land by negotiation.

Section 6. Approval. The conveyance of Tract B of ATS 1464 by quitclaim deed to ADOT&PF in connection with the sale of Parcel 3 (Tract C of ATS 1464), Parcel E-4 and Parcel TCE-4 to ADOT&PF for \$338,400 as previously authorized by Haines Borough Ordinance No. 12-07-299 is hereby approved, provided that the form of the conveyance of Parcel 3 (Tract C of ATS 1464) is changed from warranty deed to quitclaim deed. A right of entry upon and the sale to ADOT&PF of Parcel E-5 is hereby approved on terms to be negotiated by the manager with ADOT&PF based on Parcel E-5's fair market value to be determined by agreement with ADOT&PF. The manager and mayor are hereby authorized to take all such steps as may be necessary to finalize and sign the conveyance documents on behalf of the Haines Borough, provided that in accordance with HBC 14.20.100(D), all costs such as but not limited to surveying, platting, appraisal, escrow, and recording fees associated with this negotiated sale shall be paid by ADOT&PF.

ADOPTED BY A DULY CONSTITUTED QUORUM OF THE HAINES BOROUGH ASSEMBLY THIS 27<sup>th</sup> DAY OF AUGUST, 2013.

ATTEST:

*Michelle Webb for Julie Cozzi*  
Julie Cozzi, MMC, Borough Clerk

Date Introduced: 07/23/13  
Date of First Public Hearing: 08/13/13  
Date of Second Public Hearing: 08/27/13 - Adopted

*Steph Scott*  
Stephanie Scott, Mayor

