

Presented by: The Manager  
Introduced: 08/10/2009  
Drafted by: J.W. Hartle

## RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2492

### **A Resolution Authorizing the Manager to Convey Two Easements in the Vicinity of Basin Road, One to Allow for an Encroachment by an Existing Building, the Other to Provide Access Across Portions of Lots 1, 2, and 8, Block 38, U.S. Survey 7, Juneau Alaska Townsite Survey.**

WHEREAS, Nenita Brown, Personal Representative of the Estate of Celestina Untalasco, is attempting to sell Lot 7, Block 38, U.S. Survey 7, Juneau Alaska Townsite Survey, ("Lot 7"), as part of the settlement of the Untalasco estate; and

WHEREAS, said property, located at 822 Basin Road, includes a two-story dwelling; and

WHEREAS, during the course of marketing Lot 7, it was discovered that parts of the two-story dwelling, including the entire back wall, and portions of the entryway and stairs, encroach on adjoining CBJ-owned property, described as Lots 1, 2, and 8, Block 38, U.S. Survey 7, Juneau Alaska Townsite Survey; and

WHEREAS, said encroachments cloud the title of Lot 7 and complicate Ms. Brown's ability to sell said property; and

WHEREAS, CBJ 53.09.300 authorizes the Manager to convey easements across CBJ land, upon approval of the Assembly by resolution; and

WHEREAS, comments on the proposed easements were solicited from the Public Works, Engineering, Parks and Recreation, Community Development, and Fire departments, resulting in no objections to the issuance of the easements; and

WHEREAS, the Assembly Lands Committee and the Planning Commission reviewed the proposed easements and recommended approval at their meetings July 6, 2009, and July 14, 2009, respectively.

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

**Section 1. Authorization.** The Manager is authorized to negotiate and convey a building easement and an access easement across fractions of Lots 1, 2, and 8, Block 38, U.S. Survey 7, Juneau Alaska Townsite Survey, as generally shown in Exhibits A and B, subject to the terms and conditions established herein.

**Section 2. Building Easement Terms and Conditions.**

(a) The purpose of the easement shall be for the maintenance and use of the existing residence, located on Lot 7, Block 38, Juneau Townsite Survey.

(b) The easement shall be exclusive.

(c) The owner of Lot 7 shall be responsible for the maintenance of all improvements within the easement and shall maintain improvements in good repair.

(d) The easement shall be for the duration of the Lot 7 residence, but shall automatically terminate upon determination by the CBJ Building Official that the residence had been destroyed or damaged in excess of 75 percent of the cost of replacement.

(e) The easement may be terminated if the easement is used for unauthorized purposes.

(f) The applicant shall provide, for the CBJ's review and approval, an as-built survey of the easement.

(g) The cost of the easement shall be fair market value as determined by appraisal, such appraisal being subject to review and approval by the CBJ. The applicant shall be responsible for obtaining an appraisal from an appraiser acceptable to the CBJ.

(h) The easement shall be issued notwithstanding CBJ 53.09.300(g) and (i): 53.09.300(g) pertaining to prohibitions against improvements and changes within the easement without prior approval of the Manager; and 53.09.300(i) providing Assembly authority, by resolution, to require the easement holder to relocate improvements.

(i) The person to whom the easement is granted shall indemnify, defend, and hold harmless the CBJ and its agents and employees regarding any and all claims of any type which arise relating in any way to any use of this easement.

(j) The easement shall be subject to other terms and conditions as the Manager deems in the public interest.

**Section 3. Access Easement Terms and Conditions.**

(a) The purpose of the easement shall be for the sole purpose of providing access, as needed, to maintain the existing residence, located on Lot 7, Block 38, Juneau Townsite Survey.

(b) The easement shall be non-exclusive. The CBJ may grant other, over-lapping easements and shall reserve, for itself and the public, access and use as it deems in the public interest.

(c) The easement shall be for the duration of the Lot 7 residence, but shall automatically terminate upon determination by the CBJ Building Official that the residence has been destroyed or damaged in excess of 75 percent of the cost of replacement.

(d) The easement may be terminated if the easement is used for unauthorized purposes.

(e) The applicant shall provide, for the CBJ's review and approval, an as-built survey of the easement.

(f) The cost of the easement shall be fair market value as determined by appraisal, such appraisal being subject to review and approval by the CBJ. The applicant shall be responsible for obtaining an appraisal from an appraiser acceptable to the CBJ.

(g) The easement shall be issued notwithstanding CBJ 53.09.300(g) and (i): 53.09.300(g) pertaining to prohibitions against improvements and changes within the easement without prior approval of the Manager; and 53.09.300(i) providing Assembly authority, by resolution, to require the easement holder to relocate improvements.

(h) The person to whom the easement is granted shall indemnify, defend, and hold harmless the CBJ and its agents and employees regarding any and all claims of any type which arise relating in any way to any use of this easement.

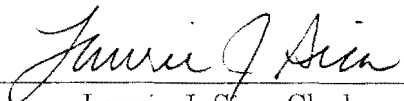
(i) The easement shall be subject to other terms and conditions as the Manager deems in the public interest.

**Section 4. Effective Date.** This resolution shall be effective immediately upon adoption.

Adopted this 10<sup>th</sup> day of August, 2009.

  
Bruce Botelho, Mayor

Attest:

  
Laurie J. Sica, Clerk