

Presented by: The Manager
Introduced: 04/02/2018
Drafted by: A. G. Mead

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2815

A Resolution Authorizing the Manager to Execute a Drainage Easement across City and Borough Property Located at 3252 and 3254 Hospital Drive with AK Preservation Spruce Limited Partnership for Sleepy Spruce Apartments.

WHEREAS, the Manager received an application from AK Preservation Spruce Limited Partnership requesting a drainage easement across a fraction of U.S. Survey 1075 (3252 and 3254 Hospital Drive) for the benefit of Lot 3, Block 2, Salmon Creek Subdivision, according to Plat No. 82-18, Records of the Juneau Recording District, First Judicial District, State of Alaska (1050 Salmon Creek Lane); and

WHEREAS, AK Preservation Spruce Limited Partnership owns and manages a multi-family apartment project from which storm water drainage flows through pipes and a ditch on to the City and Borough property; and

WHEREAS, the State of Alaska, Department of Health and Social Services leases the property from the City and Borough for the Johnson Youth Center; and

WHEREAS, a representative for the Department of Health and Social Services stated that there were no concerns with the City and Borough granting this drainage easement along the edge of the property; and

WHEREAS, the Planning Commission at its meeting on September 15, 2017, recommended that the Assembly grant the requested drainage easement on the fraction of U.S. Survey 1075 to the AK Preservation Spruce Limited Partnership; and

WHEREAS, the Lands Committee at its meeting on February 2, 2017, unanimously passed a motion of support to begin the review process for an easement across City and Borough property in order to allow AK Preservation Spruce Limited Partnership to continue to maintain proper drainage; and

WHEREAS, an appraisal was complete on September 5, 2017, which calculated the value of the property at \$15,200.00

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 execute a drainage easement substantially similar to the one described in Exhibit A. The easement shall be subject to the essential terms and conditions outlined in Section 2 of this resolution.

Section 2. Terms and Conditions.

- 1) The grant of the easement is solely for drainage purposes to benefit Lot 3, Block 2, Salmon Creek Subdivision, according to Plat No. 82-18 (currently Sleepy Spruce Apartments).
- 2) The drainage easement shall be perpetual. However, the drainage easement shall be revocable if it is used for purposes other than for drainage or if it is not used for drainage for a period of more than five years.
- 3) The easement is not exclusive, and the City and Borough reserves the right of public pedestrian access along the easement.
- 4) The owner of Lot 3, Block 2, Salmon Creek Subdivision, according to Plat No. 82-18 (currently AK Preservation Spruce Limited Partnership) is responsible for construction and maintenance of any improvements and obtaining all necessary authorizations and permits for construction and maintenance.
- 5) The owner of Lot 3, Block 2, Salmon Creek Subdivision, according to Plat No. 82-18, shall provide an as-built survey of the easement area upon completion of any drainage improvements.
- 6) The fair market value of the easement is \$15,200.00.
- 7) The Manager may include other terms and conditions deemed to be in the public interest.

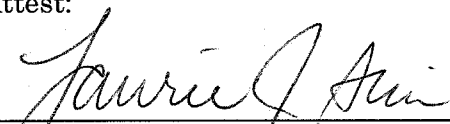
Section 3. Effective Date. This resolution shall be effective immediately after its adoption.

Adopted this 2nd day of April, 2018.



Kendell D. Koelsch, Mayor

Attest:



Laurie J. Sica, Municipal Clerk

Recorded in the Juneau Recording District.

When recorded please return to:

AK Preservation Spruce Limited Partnership
Attn: Greg Dunfield
520 Pike St Ste 1010
Seattle WA, 98101

Document Type: Easement Appurtenant
Grantor: City and Borough of Juneau
Grantee: AK Preservation Spruce Limited Partnership
Grantor's Legal Description: Fraction of USS 1075
Grantor's Parcel Number: 7B0901020070

Sleepy Spruce Drainage Easement

PART I. PARTIES. In exchange for \$15,200 and other valuable consideration, receipt of which is acknowledged by this instrument, the City and Borough of Juneau, Alaska a municipal corporation in the State of Alaska, hereinafter "Grantor" or "City" conveys a drainage easement to AK Preservation Spruce Limited Partnership "Grantee."

PART II. ADMINISTRATION. All communications about this easement shall be directed as follows, and any reliance on a communication with a person other than that listed below is at the party's own risk.

Grantor/City:
Attn: Lands and Resources Manager
City and Borough of Juneau
155 S. Seward Street
Juneau, Alaska 99801
Phone: (907) 586-5252; Fax: 907-586-5385

Grantee:
AK Preservation Spruce Limited Partnership
Attn: Greg Dunfield
520 Pike St Ste 1010
Seattle WA, 98101
Phone: 206-745-3699
Email: greg@gmddevelopment.com

PART III. DESCRIPTION. This easement is identified as the Sleepy Spruce Easement. The following appendices are attached and are considered a part of this agreement as well as anything incorporated by reference or attached to those appendices.

Appendix A: Easement Description & Additional Easement Provisions

PART IV. EXECUTION. The City and Grantee agree and sign below. This easement agreement is not effective until signed by the City.

Grantor: CITY & BOROUGH OF JUNEAU

Date: _____

By: _____

Duncan Rorie Watt
City & Borough Manager

Approved as to content, Lands & Resources
Approved as to form, Law Department

By: _____
By: _____

CITY ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss:
FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the ____ day of _____, 2018, before me, the undersigned, a Notary Public in and for the State of Alaska, duly commissioned and sworn, personally appeared **Duncan Rorie Watt** to me known to be the identical individual described in and who executed the foregoing instrument as the CITY and BOROUGH MANAGER of the CITY AND BOROUGH OF JUNEAU, ALASKA, a municipal corporation which executed the above and foregoing instrument; who on oath stated that he was duly authorized to execute said instrument on behalf of said corporation; who acknowledged to me that he signed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in the certificate first above written.

(Seal)

Notary Public for the State of Alaska
My Commission Expires:

**APPENDIX A: EASEMENT DESCRIPTION &
SPECIFIC EASEMENT PROVISIONS**

For the consideration herein, the parties agree to the following easement terms and conditions:

I. EASEMENT

Grantor hereby conveys, subject to existing rights, a non-exclusive drainage easement appurtenant across a fraction of U.S. Survey 1075 to Grantee for the benefit of Lot 3, Block 2, Salmon Creek Subdivision, according to Plat 82-18, Juneau Recording District, First Judicial District, State of Alaska. The easement is depicted in Attachment 1 and more particularly described as follows:

Beginning at the South most corner of Lot 3, Block 2, Salmon Creek Subdivision, Juneau Plat No. 82-18; thence along the southeast property line of said lot 3, N53° 23' 00" E 96.07; thence along a line perpendicular to the southeast property line of said lot 3, S36° 37' 00"E 18.00 feet; thence along a line parallel to the southeast property line of said lot 3, S53° 23'00" W 126.87 feet; thence N36° 37' 00" W 18.00 feet to the southeast property line of Lot 2, Block 2, Salmon Creek Subdivision; Juneau Plat No. 82-18; thence along the southeast property line of said Lot 2, N53° 23' 00" E 30.80 feet to the point of beginning and the terminus of this description.

II. AUTHORITY

This easement is entered into pursuant to the authority of the City and Borough of Juneau Code section 53.09.300 and Resolution No. 2815.

III. TERM

This easement shall be effective once signed by both parties. This easement runs with the land and is not transferable or severable from Lot 3, Block 2, Salmon Creek Subdivision, according to Plat 82-18, Juneau Recording District, First Judicial District, State of Alaska. However, the easement is revocable if the Grantee, or its successors and assigns, use the easement for purposes other than described in this instrument or if the Grantee, or its successors and assigns, abandons the easement for a period of more than five years. The City shall provide Grantee written notice of revocation 30 days prior.

IV. AUTHORIZED USE

The easement is for the sole purpose of constructing, using, and maintaining drainage from the Grantee' property located on Lot 3, Block 2, Salmon Creek Subdivision, according to Plat 82-18, through and across Grantor's property located on a fraction of U.S. Survey 1075, all in Juneau Recording District, First Judicial District, State of Alaska.

V. ADDITIONAL PROVISIONS

(a) **Non-Exclusivity.** This easement is not exclusive. The City may grant other overlapping easements or uses.

(b) Construction and Maintenance. Grantee is responsible for any and all drainage construction, reconstruction, use, maintenance, repairs, replacement, removal and similar drainage related tasks within the easement area.

(c) Pedestrian Access. The City reserves for the benefit of the public pedestrian access through, along, and across the easement.

(d) Permitting. The Grantee shall obtain all authorizations and permits required, if any.

(e) Survey. A survey is attached as Attachment 1. Upon making any changes or additions to such improvements, the Grantee shall provide the City with as-built drawings showing such changes or additions.

(f) Hold Harmless. Grantee agrees to defend, indemnify, and save City, its officers, employees, agents, volunteers, consultants, and insurers, with respect to any action, claim, or lawsuit arising out of or related to the construction, use, occupancy and/or maintenance of the easement. This agreement to defend, indemnify, and hold harmless is without limitation as to the amount of fees, and without limitation as to any damages resulting from settlement, judgment, or verdict, and includes the award of any attorneys fees even if in excess of the fees authorized by Alaska Civil Rule 82. The obligations of Grantee arise immediately upon notice to the City of any action, claim, or lawsuit. City shall notify Grantee in a timely manner of the need for defense or indemnification, but such notice is not a condition precedent to Grantee' obligations and may be waived where the Grantee has actual notice. This agreement applies, and is in full force and effect whenever and wherever any action, claim, or lawsuit is initiated, filed, or otherwise brought against City.

(i) Successors and Assigns. The benefit of this easement runs with the land, Lot 3, Block 2, Salmon Creek Subdivision, according to Plat 82-18 and is binding upon grantees, heirs, assigns, and successors-in-interests of Grantee. The easement is not transferable or assignable separately.

(j) Governing Law. The laws of the State of Alaska shall govern this agreement. The venue for any proceedings brought by either party to enforce the terms of this agreement shall be in the First Judicial District at Juneau, Alaska.

(k) Integration and Modification. This agreement, including all appendices, exhibits, and references, constitutes the entire agreement between parties. Any modification, amendment, or waiver of any provisions of this agreement shall not be effective, unless it is mutually agreed to in writing and signed by both parties.

--End of Sleepy Spruce Drainage Easement Agreement---

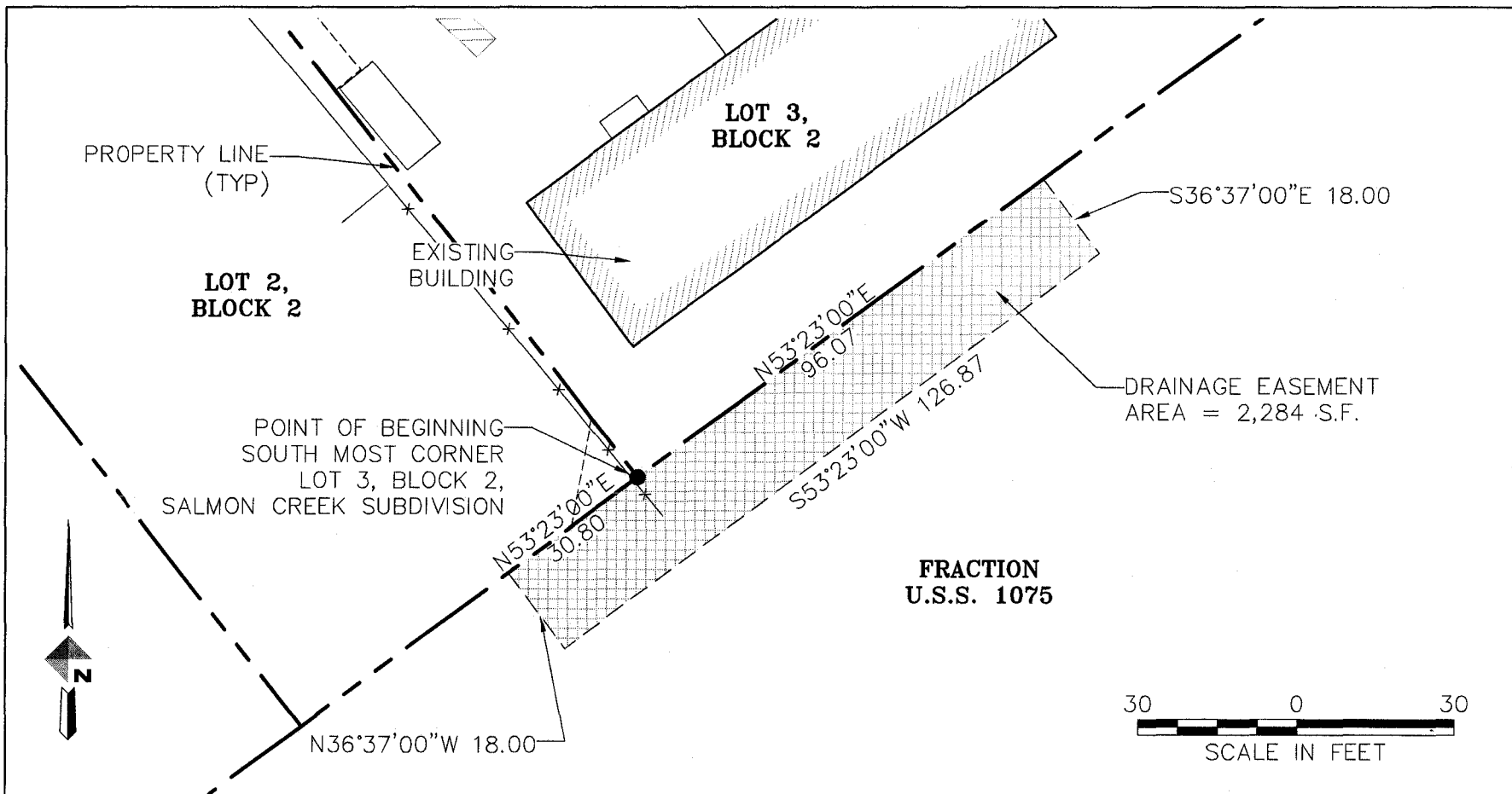


EXHIBIT 'A'

DRAINAGE EASEMENT

FRACTION U.S. SURVEY No. 1075

JUNEAU, ALASKA

DOWL AECL848

CIVIL ENGINEERING—LAND SURVEYING—CONSTRUCTION ADMINISTRATION

5368 COMMERCIAL BOULEVARD, JUNEAU ALASKA 907-780-3533

Attachment 1

SCALE: 1"=30'

DATE: JUNE 2017

PROJECT NO: 70755

SHEET NO: 1 OF 1