Presented by: The Manager
Introduced: 05/14/2018
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-33

An Ordinance Authorizing the Manager to Execute a Permit for Road Reconstruction in a State Right-of-Way with the Alaska Department of Transportation and Public Facilities for the Intersections of D Street and 3rd Street (Douglas Highway) adjacent to 915 and 916 3rd Street and H Street and 3rd Street adjacent to 1316 3rd Street in Downtown Douglas.

WHEREAS, the City and Borough of Juneau (CBJ), in connection with the FY 2018 Capital Improvement Program and routine maintenance of CBJ infrastructure is reconstructing the following street segments in downtown Douglas: D Street, between 2nd and 3rd Street (Douglas Highway), D Street, 3rd to 5th and H Street, between 2nd and 3rd, as shown on the attached Exhibit A map; and

WHEREAS, this project will need to reconstruct the road aprons and sidewalk approaches in the State of Alaska right-of-way (3rd Street); and

WHEREAS, the Alaska Department of Transportation and Public Facilities (ADOT&PF) is authorized by statute to regulate and control access to highways within the State; and

WHEREAS, in order to reconstruct the road aprons, the CBJ will need to secure a permit from ADOT&PF; and

WHEREAS, 17 AAC 10.020(c) requires ADOT&PF, in granting an approach road permit, to include in the permit the following indemnification language:

> a requirement that the permittee shall indemnify, defend, and hold harmless the state, or officers, agents, employees, and contractors of the state in any matters pertaining to the driveway or approach road, and that the permittee shall assume all liability or cost in connection with the driveway or approach road; and

WHEREAS, pursuant to CBJ Charter 9.13(a) and its prohibition against payment being made or an obligation being incurred without an appropriation, the CBJ is generally prohibited from agreeing to indemnify; and

WHEREAS, CBJ Charter 9.13(c) carves out an exception to that general prohibition:

> Notwithstanding Section 9.13(a) of this Charter, the assembly by ordinance may require payment of funds from appropriations of a later fiscal year or of more than one year for any contract, lease or note or bond obligation, or federal or state grant, or any other federal or state program that the municipality may not otherwise participate in.

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

Section 1. Classification. This ordinance is a non-code ordinance.

Section 2. Pursuant to CBJ Charter 9.13(c), the Manager is authorized to execute the approach road permit required by the State and agree, on behalf of the CBJ, to indemnify the State to the extent required by law.

Section 3. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this 4th day of June, 2018.

Kendell D. Koelsch

Kendell D. Koelsch, Mayor

Attest:

Laurie J. Sica

Laurie J. Sica, Municipal Clerk