

Presented by: The Manger  
Introduced: 04/24/2006  
Drafted by: J.W. Hartle

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

**Serial No. 2350**

**A Resolution Authorizing the Manager to Convey a Driveway and Utility Easement Across a Fraction of Lots 2 & 3, U.S. Survey 3816, to serve Lot C, U.S. Survey 2492, on the Tip of Mendenhall Peninsula.**

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

WHEREAS, the City and Borough owns Lots 2 & 3, U.S. Survey 3816, a parcel of land located on the tip of Mendenhall Peninsula; and

WHEREAS, Pat Harris, of the Smuggler's Cove Pioneers Neighborhood Association, desires a driveway easement which would overlap the Smuggler Cove Association driveway for 600 feet, then traverse City and Borough land for 250 feet, and intersect a dedicated public right-of-way bordering Lots 1A, 2A, and 3, U.S. Survey 2492 for 200 feet (see Exhibit A & B); the new portion of the driveway would have a 14 foot driving surface; and

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

WHEREAS, the Planning Commission and the Assembly Lands Committee reviewed this proposed easement and recommended approval at their meetings of March 14, 2006, and March 20, 2006, respectively.

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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 driveway/utility easement, across a fraction of Lots 2 & 3, U.S. Survey 3816 to serve Lot C, U.S. Survey 2492, subject to the terms and conditions established herein.

**Section 2. Terms and Conditions.**

- (a) That the easement shall be revoked if the homeowner does not use the driveway for any period of five years.
- (b) That the easement shall be revoked if the homeowner's property is served by a dedicated, constructed City and Borough street.
- (c) That the City and Borough reserves the right to utilize portions of the driveway alignment for a dedicated City and Borough street.
- (d) That the easement shall be used to serve single family or duplex residences on the homeowner's properties. No commercial use is allowed.
- (e) Electric, telephone, water and sewer lines may be located in the easement corridor.
- (f) The easement shall not be exclusive. The City Manager is authorized to grant other overlapping easements.
- (g) The homeowner is responsible for construction and maintenance of any improvements.
- (h) The City and Borough reserves the right of public pedestrian access along the easement.
- (i) The homeowner may gate the driveway to control vehicular access.
- (j) The homeowner shall provide the Lands Manager with an as-built survey of the driveway once it is constructed.
- (k) The driveway may be relocated to a new location upon direction of the Assembly in accordance with CBJ 53.09.300(i).
- (l) The homeowners shall obtain all authorizations and permits necessary to construct the driveway.

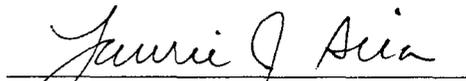
- (m) The cost of the easement shall be at fair market value as determined by appraisal.
- (n) The grantee and her heirs and assigns shall indemnify, defend, and hold harmless the City and Borough from any and all claims in any way arising from construction on, or use of, the easement.

**Section 3. Effective Date.** This resolution shall be effective immediately upon adoption.

Adopted this 24<sup>th</sup> day of April, 2006.

  
Bruce Botelho, Mayor

Attest:

  
Laurie J. Sica, Clerk