Presented by: The Manager
Introduced: 02/12/2007
Drafted by: J.W. Hartle

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2393

A Resolution Authorizing the Manager to Convey a No-Build Easement on a Portion of Lot 2B, RSH II Subdivision, Immediately North of the Juneau Costco Warehouse.

WHEREAS, the City and Borough of Juneau owns Lot 2B, RSH II Subdivision, a large parcel of land located in the Lemon Creek area; and

WHEREAS, Lot 2B, RSH II Subdivision is zoned Industrial, and used for resource extraction; and

WHEREAS, Juneau Costco Warehouse owns Tract C, SSG IV Subdivision; and

WHEREAS, Juneau Costco Warehouse is considering an addition to the structure and is seeking a no-build easement on City and Borough land in order to provide for clearance requirements of the Building Code; 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 easement were solicited from Public Works, Engineering, and Community Development departments, and there were no objections to granting an easement; and

WHEREAS, the Planning Commission and the Assembly Lands Committee reviewed this proposed easement and recommended approval at their meetings on December 12, 2006, and November 27, 2006, 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 no-build easement across a portion of Lot 2B, RSH II Subdivision to Juneau Costco Warehouse or the successor in interest, owner of Tract C, SSG IV Subdivision, as generally shown in Exhibit A, subject to the terms and conditions set forth herein.

Section 2. Terms and Conditions.

(a) Term. The easement shall be perpetual, except as provided herein. The easement shall be revoked only upon release by the Building Official of the City and Borough of Juneau indicating that the easement is no longer necessary to meet code requirements, or as provided in section (h), below.

(b) Use. Use of the easement shall be for the sole purpose of providing structural clearance requirements of the Building Code.

(c) Non-Exclusivity. The easement shall be non-exclusive. The City and Borough may grant other overlapping easements.

(d) Easement. Prior to issuance of the easement, the applicant shall provide a survey of the easement approved by the City and Borough Chief Regulatory Engineer.

(e) Permits. The grantee shall obtain all authorizations and permits necessary to build the structural addition to Juneau Costco Warehouse.

(f) Construction and Maintenance. The grantee is responsible for construction and maintenance of any improvements.

(g) Purchase Price. Purchase price of the easement shall be fair market value.

(h) Revocation.

(1) Structural Addition Not Built. The Manager may revoke the easement if the applicant or successor in interest has not constructed the proposed addition within two years from the date of issuance of the easement. The Manager may extend the time for good cause.

(2) Non-Use. The easement shall be revoked if the easement holder does not use the no-build easement for a period of two years.

(i) Rights Retained. The City and Borough reserves the right to use portions of the no-build easement area for purposes that do not conflict with Building Code requirements for Juneau Costco Warehouse.

(j) As-Built Survey. Grantee shall provide City and Borough with an as-built survey of the no-build easement and structural addition, once constructed.

(k) Grantee shall agree to indemnify, defend, and hold harmless the City and Borough and its agents and employees from any and all claims arising in any way from Grantee's possession or use of the easement.

(l) Other Terms and Conditions. The Manager may include other terms and conditions he deems in the public interest.

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

Adopted this 12th day of February, 2007.

Bruce Botelho, Mayor

Attest:

Laurie J. Sica, Clerk