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**CITY OF HOMER  
HOMER, ALASKA**

City Manager

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**ORDINANCE 11-38**

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA, AMENDING THE FY 2011 OPERATING BUDGET BY APPROPRIATING \$70,000 FROM THE WATER AND SEWER RESERVE ACCOUNT TO PAY THE AMOUNT AGREED UPON TO SETTLE THE EMINENT DOMAIN ACTION, *CITY OF HOMER v. 4.014 ACRES, MORE OR LESS, OF LAND, AND NANCY J. HILLSTRAND.*

WHEREAS, In January 2008 the City of Homer initiated an eminent domain action, styled *City of Homer v. 4.014 Acres, More or Less, of Land, and Nancy J. Hillstrand*, to acquire a site for the City's new water treatment plant; and

WHEREAS, In order to control access to the site of the new water treatment plant, the City in October 2008 constructed a fence across a section line easement known as Carter Drive, that provided legal access to property owned by Ms. Hillstrand; and

WHEREAS, In July 2011, the City constructed a new road from Skyline Drive north of the City's old water treatment plant site to connect Carter Drive to Skyline Drive; and

WHEREAS, In addition to seeking compensation from the City for the taking of the new water treatment plant site in the eminent domain action, Ms. Hillstrand asserted that she was entitled to compensation for the temporary closure of the access to her property via Carter Drive, a claim that the City disputed; and

WHEREAS, Because of the cost and uncertainty involved in continuing to litigate Ms. Hillstrand's claim for temporary deprivation of access to her property, the Council finds that it is in the best interest of the City to compromise that claim with Ms. Hillstrand; and

WHEREAS, Ms. Hillstrand has accepted the amount that the City had deposited with the Superior Court as compensation for the taking of the new water treatment plant site, and the City and Ms. Hillstrand now have agreed upon an amount to compromise her claim for compensation for the temporary closure of access to her property via Carter Drive, which will dispose of all of Ms. Hillstrand's remaining claims in the eminent domain action.

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NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

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Section 1. The FY 2011 Operating Budget is hereby amended by appropriating \$70,000 from the Water and Sewer Reserve Account for the purpose of paying the amount agreed upon to settle the eminent domain action, *City of Homer v. 4.014 Acres, More or Less, of Land, and Nancy J. Hillstrand*, as follows:

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48 Expenditure:

49	<u>Account No.</u>	<u>Description</u>	<u>Amount</u>
50	256-378	Settlement of <i>City of Homer v.</i>	\$70,000.00
51		<i>4.014 Acres, More or Less, of</i>	
52		<i>Land, and Nancy J. Hillstrand</i>	

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55 Section 2. This is a budget amendment ordinance is not permanent in nature, and shall  
56 not be codified.

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58 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 26<sup>th</sup> day of  
59 September, 2011.

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61 CITY OF HOMER

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65 JAMES C. HORNADAY, MAYOR

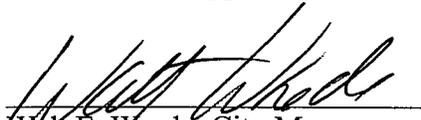
66  
67 ATTEST:

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71 JO JOHNSON, CMC, CITY CLERK

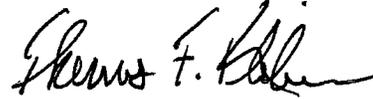
72  
73 YES: 5  
74 NO: 1  
75 ABSTAIN: 0  
76 ABSENT: 0

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78 First Reading: 9/12/11  
79 Public Hearing: 9/20/11  
80 Second Reading: 9/20/11  
81 Effective Date: 9/27/11

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83 Reviewed and approved as to form:

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87 Walt E. Wrede, City Manager

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89 Date: 9/28/11  
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Thomas F. Klinkner, City Attorney

Date: 10-5-11