

**CITY OF HOMER
HOMER, ALASKA**

City Manager/Port Director

ORDINANCE 21-42

AN ORDINANCE OF THE CITY COUNCIL OF HOMER, ALASKA AUTHORIZING THE CITY MANAGER TO EXPAND A NON-EXCLUSIVE PUBLIC UTILITY EASEMENT ON THE HOMER SPIT AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO AN AGREEMENT WITH ALASKA COMMUNICATIONS INTERNET, LLC (“ACS”) FOR PAYMENT TO THE CITY IN THE AMOUNT OF SEVENTY-FIVE THOUSAND DOLLARS (\$75,000) AS COMPENSATION FOR THE CITY’S EFFORTS IN EXPANDING THE EASEMENT AND FOR PAST USE OF CITY PROPERTY WITHOUT AUTHORIZATION BY ACS.

WHEREAS, “Real Property” is defined as any estate in land, easement, right-of-way, lease, future interest, building, fixture, or any other right, title or interest in land or buildings, per Homer City Code (HCC) 18.02.020; and

WHEREAS, A proposal to dispose of real property owned by the City may be initiated by the City Manager or the Council, or in response to a request received from any person, per HCC 18.12.020(a); and

WHEREAS, In April of 2019, ACS informed the City of a field survey error that resulted in a portion of fiber optic cable installed outside the existing non-exclusive public utility easement, identified as Lot 12-A, Homer Spit No. 2 Amended, Plat No. 92-50 and Lots 13, 14, 15, and 16 Homer Spit Amended, Plat No. 89-34 Homer Recording District, State of Alaska, without the pre-approval or permission of the City; and

WHEREAS, ACS requested an expansion to include a 10 to 20 foot strip outside of, and following in parallel with, the southernmost side of the existing non-exclusive public utility easement located across portions of Lots 12 – 16, along Homer Spit Road; and

WHEREAS, The land was appraised for Fifty Thousand and Three Hundred Dollars (\$50,300) on June 19, 2020; and

WHEREAS, The portion of the City property that is outside the current easement is property that would not otherwise be used for a permanent structure or in any way negatively impacted by the expansion of a public utility easement; and

WHEREAS, It is in the best interest of the City to expand the public easement as the

43 current easement has limited space due to existing installations and the slope of the harbor;
44 and

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46 WHEREAS, In recognition of the effort on behalf of the City to expand the public utility
47 easement and the prior use of the easement without City authorization, ACS will compensate
48 the City in the amount of \$75,000; and

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50 WHEREAS, Disposal of real property shall be authorized by ordinance per HCC 18.12.020
51 (b).

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53 NOW, THEREFORE, THE CITY OF HOMER ORDAINS:

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55 Section 1. The City Manager is hereby authorized to expand the public utility easement
56 on the Homer Spit for Lots 12 through 16 of Plat 89-15 as recorded at the Homer Recording
57 District.

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59 Section 2. The City Manager is authorized to negotiate and enter into an agreement
60 with ACS to provide payment to the City in the amount of \$75,000 for the expansion of the
61 easement and its past use of City property.

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63 Section 3. This ordinance is general and permanent in nature and shall not be codified.

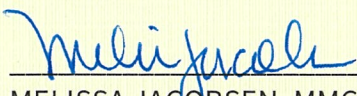
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65 ENACTED BY THE CITY COUNCIL OF HOMER, ALASKA, this 26th day of July, 2021.

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67 CITY OF HOMER

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69 _____

70 KEN CASTNER, MAYOR

71 ATTEST:

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73 _____
74 MELISSA JACOBSEN, MMC, CITY CLERK

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76 YES: 5

77 NO: 0

78 ABSTAIN: 0

79 ABSENT: 0

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81 First Reading: 6-28-21

82 Public Hearing: 7-26-21

83 Second Reading: 7-26-21

84 Effective Date: 7-27-21

