

**CITY OF HOMER
HOMER, ALASKA**

City Manager/
Public Works Director/
City Attorney

RESOLUTION 10-30

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA, AUTHORIZING THE CITY OF HOMER TO EXERCISE THE POWERS OF EMINENT DOMAIN AND DECLARATION OF TAKING TO ACQUIRE FOR WATER AND SEWER IMPROVEMENTS IN THE PHASE II KACHEMAK DRIVE WATER AND SEWER LOCAL IMPROVEMENT DISTRICT CERTAIN INTERESTS IN REAL PROPERTY DESCRIBED AS A PORTION OF THE E1/2 SE1/4 OF SECTION 11; TRACT A, H. K. DAVIS SUBDIVISION; LOTS 3, 4 AND 13, H. K. DAVIS SUBDIVISION (AMENDED); AND LOTS 27-A, 27-D, 28-A, 28-D AND 29, THE N ½ OF GOVERNMENT LOT 30, GOVERNMENT LOT 30, THAT PORTION OF GOVERNMENT LOT 49 LYING WEST OF KACHEMAK DRIVE, AND GOVERNMENT LOT 51, SECTION 14; ALL LOCATED IN TOWNSHIP 6 SOUTH, RANGE 13 WEST, SEWARD MERIDIAN, HOMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.

WHEREAS, A majority of the property owners within the boundaries of the Phase II Kachemak Drive Water and Sewer Local Improvement District (the "LID") supported the project and signed the petition requesting the creation the LID; and

WHEREAS, In accordance with the provisions of the Homer City Code, the Council of the City of Homer (the "City") held public hearings and approved the creation of the LID, as being in the public interest; and

WHEREAS, The City has completed the design of the water and sewer improvements in the LID, and acquired all necessary federal, state and local environmental permits; and

WHEREAS, The design identified the need for easements across 45 private properties, for 31 of which the owners have signed necessary easement documents, and for 14 of which the owners have not signed after being offered fair market value; and

WHEREAS, AS 29.35.030 and HCC 18.06.010(b) authorize the City within its boundaries to exercise the powers of eminent domain and declaration of taking in the performance of a power or function of the City; and

WHEREAS, As a first class city, the City exercises the power to construct, operate and maintain water and sewer utilities within its boundaries; and

WHEREAS, The City has identified in the Decisional Document attached to this resolution as Exhibit A certain interests in the real property described above that the City

requires as easements for water and sewer utility improvements, and which are necessary to construct the improvements authorized in the LID; and

WHEREAS, As more particularly described in Exhibit A, the City has found that the acquisition by eminent domain and declaration of taking of the interests in real property described therein is necessary for a project located in a manner that is most compatible with the greatest public good and the least private injury.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to AS 29.35.030 and HCC 18.06.010(b), the City hereby exercises the powers of eminent domain and declaration of taking to acquire the interests in real property described in Exhibit A. The City shall file an appropriate eminent domain action and declaration of taking in the Superior Court for the State of Alaska, and deposit the estimated just compensation for the property interests taken into the registry of the court.

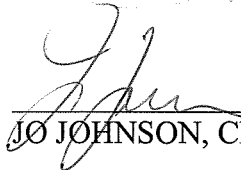
PASSED AND ADOPTED by the Homer City Council this 22nd day of March, 2010.

CITY OF HOMER



JAMES C. HORNADAY, MAYOR

ATTEST:



JO JOHNSON, CMC, CITY CLERK

Fiscal Note: HAWSP Acct. No. 215-831, \$40,000.00