

Prepared by: Attorney
Requested by: Administration
Introduced: July 22 2002
Adopted: July 22, 2002
Vote: Unanimous; Sullivan-Leonard and O'Neil absent

**CITY OF WASILLA
RESOLUTION SERIAL NO. 02-20**

A RESOLUTION OF THE WASILLA CITY COUNCIL AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH MATANUSKA TELEPHONE ASSOCIATION, INC. SETTLING CLAIMS RELATED TO THE PAYMENT OF TELEPHONE COOPERATIVE GROSS RECEIPTS TAX TO THE CITY.

WHEREAS, under AS 10.25.540 and 10.25.550, the state levies an annual tax of 2% of gross revenue on telephone cooperatives, including Matanuska Telephone Association, Inc. ("MTA"); and

WHEREAS, this tax is levied in lieu of other state and local taxes, and under AS 10.25.570, the proceeds of the tax, less the amount expended by the state in collecting the tax, are refunded to the City in the proportion that MTA's gross revenue was earned within the City; and

WHEREAS, the State Department of Revenue ("State") audited MTA's gross revenue tax returns for the years 1992 through 1997, found that MTA had underreported its gross revenue for those years, and assessed MTA additional tax for those years; and

WHEREAS, MTA requested an administrative hearing on the State's audit and assessment, the State invited municipalities within MTA's service area to intervene in the administrative proceeding, and the City, along with the Matanuska-Susitna Borough, the City of Palmer, and the Municipality of Anchorage, intervened; and

WHEREAS, while the State and the intervening municipalities assert that MTA owes additional tax for the years 1992 through 1997, while MTA asserts that it overpaid the tax for those years, and that it is entitled to a substantial refund; and

WHEREAS, representatives of the City, the State, the other intervening municipalities and MTA have negotiated an agreement ("Agreement"), which has been presented at this meeting, settling their claims for the 1992 through 1997 tax years that were subject to audit, and the 1998 through 2001 tax years for which MTA has filed tax

returns that have not been audited, as well as agreeing upon a method for determining what categories of MTA's revenue will be subject to tax in future tax years; and

WHEREAS, counsel for the City and the other intervening municipalities in the administrative proceeding, and the other intervening municipalities themselves, recommend approval of the Agreement.

NOW, THEREFORE, BE IT ENACTED:

* **Section 1.** The council finds that the Agreement is a reasonable compromise of the parties' claims concerning prior tax years, and provides certainty as to the method for computing MTA's gross revenue tax in future tax years, and therefore is in the best interest of the City.

* **Section 2.** The form and content of the Agreement hereby are in all respects authorized, approved and confirmed, and the Mayor hereby is authorized, empowered and directed to execute and deliver to the counterparties the Agreement on behalf of the City, in substantially the form and content now before this meeting but with such changes, modifications, additions and deletions therein as shall to her seem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of approval of any and all changes, modifications, additions or deletions therein from the form and content of said document now before this meeting, and from and after the execution and delivery of said document, the Mayor hereby is authorized, empowered and directed to do all acts and things and to execute all documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

* **Section 3. Effective date.** This resolution shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on July 22, 2002.

ATTEST:



KRISTIE SMITHERS, CMC
City Clerk



SARAH PALIN, Mayor

[SEAL]