

**CITY OF WASILLA  
RESOLUTION SERIAL NO. 02-39**

A RESOLUTION OF THE WASILLA CITY COUNCIL AUTHORIZING THE CITY OF WASILLA TO EXERCISE THE POWERS OF EMINENT DOMAIN AND DECLARATION OF TAKING TO ACQUIRE FOR ROAD, PARK AND RECREATION, AIRPORT AND RELATED PURPOSES CERTAIN INTERESTS IN THE SOUTHEAST ONE-QUARTER (SE1/4) OF SECTION 7, TOWNSHIP 17 NORTH, RANGE 1 WEST, SEWARD MERIDIAN; THAT PORTION OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER (SE1/4NE1/4) OF SECTION 7, TOWNSHIP 17 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, LYING SOUTH OF THE SOUTHERLY RIGHT OF WAY OF THE GEORGE PARKS HIGHWAY; THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER (NW1/4SW1/4) OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 1 WEST, SEWARD MERIDIAN; AND THAT PORTION OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER (SW1/4NW1/4) OF SECTION 8, TOWNSHIP 17 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, LYING SOUTH OF THE SOUTHERLY RIGHT OF WAY OF THE GEORGE PARKS HIGHWAY; ALL LOCATED IN THE PALMER RECORDING DISTRICT, THIRD JUDICIAL DISTRICT, STATE OF ALASKA.

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WHEREAS, AS 29.35.030 authorizes the City of Wasilla (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, Wasilla Municipal Code 1.08.030 provides that the exercise of the power of eminent domain or declaration of taking shall be by resolution of the council; and

WHEREAS, as a first class city, the City exercises the power to construct and maintain roads and airports within its boundaries, and by delegation from the Matanuska-Susitna Borough exercises park and recreation powers within its boundaries; and

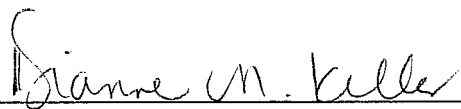
WHEREAS, the City has identified in the Decisional Document attached to this resolution as Exhibit A certain interests in the real property described above that the City requires as the site for a multipurpose sports complex, and as easements and right-of-way for the construction of a road to provide access from the Parks Highway to the multipurpose sports complex and the Wasilla Municipal Airport (the "Projects"); and

WHEREAS, the City has attempted unsuccessfully to negotiate the acquisition of the interests in real property that are required for the Projects; 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 by necessity for a project located in a manner that is most compatible with the greatest public good and the least private injury; and

NOW THEREFORE BE IT RESOLVED by the Wasilla City Council that, pursuant to AS 29.35.030 and WMC 1.08.030, 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 immediately 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.

ADOPTED by the Wasilla City Council on December 9, 2002

  
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DIANNE M. KELLER, Mayor

ATTEST:

  
\_\_\_\_\_  
KRISTIE L. SMITHERS, CMC  
City Clerk

[SEAL]

## EXHIBIT A

### DECISIONAL DOCUMENT

City of Wasilla

South Mack Drive Extension, Multi-Use Sports Complex,  
Reserve for Airport Expansion, and Wetland/Open Space Preserve

#### I. PURPOSE

This document states the reasoning for the decision of the City of Wasilla (the "City") to acquire property for this project. This document summarizes the relevant details of the project. It also identifies studies that developed the various alternatives that led to the selection of the current location and design of the project. This document also summarizes the City's consideration of public benefits and private injuries and addresses the necessity for acquiring the interests in real property described herein by eminent domain. In addition, this document shows that the City has located the project in a manner compatible with the greatest public good and the least private injury.

#### II. PROJECT SUMMARY

##### South Mack Drive

The first part of this project consists of two new roads. The first road, to be called South Mack Drive, initially will extend south from the existing intersection of Church Street and the Parks Highway to the southern boundary of the site for the Multi-Use Sports Complex. The initial purpose of South Mack Drive will be to provide access to the Wasilla Municipal Airport and the City's Multi-Use Sports Complex. In the future, South Mack Drive will be extended further south to connect with the existing Mack Road north of Knik Goose Bay Road. This connection will provide direct access from the Knik area to the Parks Highway on the west side of Wasilla. The second road, to be called Airport Boulevard, will extend northwest from South Mack Drive to the boundary of the Wasilla Municipal Airport, where it will connect with an airport access road that is to be constructed under the Wasilla Airport Master Plan.

The South Mack Drive part of the project includes the following elements:

- The acquisition of a 200 foot right of way for South Mack Drive, to accommodate a four-lane arterial roadway, pedestrian trails and sidewalks, and water and sewer utility extensions.
- The acquisition of a 100-foot right of way for Airport Boulevard, to accommodate a two-lane roadway, with space for future expansion.

- The acquisition of sight line easement areas surrounding the Alaska Railroad crossing for South Mack Drive, as required under the terms of the crossing permit issued by the Alaska Railroad Corporation to the City.
- Initial construction of a two-lane paved roadway, with pedestrian trails or sidewalks, from the Parks Highway to the southern boundary of the Multi-Use Sports Complex Site, with a cul-de-sac at the southern terminus of the roadway. Water and sewer lines will be extended along the roadway to serve the Multi-Use Sports Complex and other adjacent properties.

### **Multi-Use Sports Complex**

The second part of this project consists of a new complex of indoor and outdoor sports and recreational facilities, including an indoor arena, outdoor ball fields, and a trailhead and trails connecting to the existing and projected trail system in western Wasilla.

The Multi-Use Sports Complex part of the project includes the following elements:

- Construction of an approximately 96,000 square foot arena building for indoor sports and community events, including an ice rink, sports courts, running track, meeting rooms, concessions and support facilities.
- Construction of outdoor football, soccer and baseball fields.
- Construction of internal vehicular circulation roads, and parking spaces for approximately 750 vehicles.
- Construction of a trailhead area, trails for internal pedestrian circulation, and trail connections to the existing and projected trail system in western Wasilla.

### **Reserve for Airport Expansion**

The third part of this project consists of creating an area north and west of South Mack Drive that will be reserved for future expansion of the Wasilla Municipal Airport and associated support facilities, and the future development of a commuter rail terminal.

### **Wetland/Open Space Preserve**

The fourth part of this project consists of creating a wetland/open space preserve east of South Mack Drive, to preserve the open space, habitat and recreational values in this area; to buffer residential development to the east from Wasilla

Municipal Airport development; and to provide a location for parts of the projected trail system in western Wasilla.

### **III. PROJECT HISTORY**

#### **Airport Master Plan**

In August 2002, a consultant for the City completed a master plan for the Wasilla Municipal Airport, covering a 20-year planning period (2002 to 2022). As a result of the consultant's technical evaluation and a process of public participation that followed National Environmental Policy Act (NEPA) requirements, the City selected a preferred alternative from a field of 10 possible alternatives for airport development.

The consultant for the master plan found that the existing access road for the airport was inadequate. That road consists of a narrow two-lane paved roadway with no shoulders, and is in poor condition. The road intersects the Parks Highway to the west of the airport, and also serves as the primary access for a residential subdivision. Airport traffic from Wasilla must backtrack approximately 1.5 miles to get to the airport via this access road.

The Airport Master Plan calls for the construction of a new primary airport access road from Church Road south to improve access and efficiency, and to improve safety by separating the primary airport access from residential subdivisions. The South Mack Drive and Airport Boulevard right of way alignments that the City has adopted for the present project conform to the location of the new primary airport access road proposed in the Airport Master Plan.

The Airport Master Plan consultant developed preliminary design criteria for the primary access road, including the following elements that have been incorporated in the design for South Mack Drive:

- Align the right of way to provide for a future connection with South Mack Road north of Knik Goose Bay Road. This connection will allow traffic from the Knik Goose Bay area having a destination to the north of Wasilla to gain access to the northbound Parks Highway without going through the Wasilla business district. This connection also is called for in the Streets and Highways Transportation Plan element of the City's 1996 Comprehensive Plan.
- Provide sufficient right of way to accommodate construction to a major arterial standard, with four traffic lanes and separated pedestrian trail or sidewalk facilities. A 200 foot right of way width was considered sufficient for this purpose, plus allowing space for future expansion.

- Consistent with the future major arterial function of South Mack Drive, align the right of way so that curves in the road will accommodate a minimum design speed of 50 miles per hour.

### **Multi-Use Sports Complex**

The development of a multi-use sports facility in Wasilla has been discussed and analyzed for the past 20 years. Many surveys have been conducted that indicate a high level of support for this type of facility in Wasilla. In connection with the current effort to develop a multi-use sports facility, the City compiled a large number of statements of support from potential facility users and community groups. The City also has desired to improve its trail system, and to provide a permanent, developed location for the restart of the Iditarod sled dog race.

On January 22, 2001, the Wasilla City Council formally endorsed an effort by the City Administration to present a proposal for a multi-use sports facility to the City's voters. In April 2001, former Mayor Sarah Palin appointed a Steering Committee of local residents to investigate and recommend to the City Council a proposal for a multi-use sports facility. The City retained a consultant to advise the Steering Committee in its deliberations. During 2001, the Steering Committee held several public meetings to gather community input on the proposal. In November 2001, the Steering Committee recommended to the City Council the construction of a sports facility that would accommodate an ice rink with spectator seating, floor space for soccer, basketball and volleyball, and space for trade shows and meetings. On December 10, 2001, the City Council unanimously adopted Ordinance Serial No. 01-55(AM) submitting to the City's voters a proposition to issue \$14.7 million in general obligation bonds to finance a multi-use sports complex, and a 0.5% increase in the rate of the City's sales tax to pay debt service on the bonds. The City's voters approved this proposition at a special election held on March 5, 2002.

To select a site for the multi-use sports facility, the Steering Committee began by visiting 12 potential sites selected for consideration by the City Planner. Based on its review of these sites, the Steering Committee developed several site selection criteria:

- Use public lands to minimize property acquisition cost
- Minimize utility extension costs
- Adequate access to major roads
- Good soils capable of supporting a large structure
- Minimize negative effects on residential areas
- Sufficient land area to accommodate the indoor and outdoor facilities that are planned for the complex, parking, and anticipated future expansions

A subcommittee was formed to identify potential sites that met these criteria. The subcommittee studied a detailed analysis of the three sites that appeared to best meet the criteria:

- The current project site (referred to as “South Church Road”)
- Bumpus Park, and existing City recreation area
- “Storm Water” Property, between Lake Lucille and Knik Goose Bay Road

With the assistance of City staff, the subcommittee compared the features of each of these sites under the criteria described above, and concluded that the “South Church Road” site was the best location for the project. A principal factor in the subcommittee’s recommendation was that the “South Church Road” site not only accommodated the requirements of the project, but also offered the potential for synergy with other City development efforts and public facilities. This site was near the Parks Highway and the Alaska Railroad, providing the best transportation access. It was located adjacent to the route of the Iditarod and Iron Dog race routes, allowing the site also to serve as a starting area for those events. The extension of roads and utilities to serve the site also would provide service to lands adjacent to the Wasilla Municipal Airport, and provide the improved Airport access that was called for in the Airport Master Plan. The Steering Committee adopted the subcommittee’s recommendation, which in turn was accepted by the Wasilla City Council.

### **Reserve for Airport Expansion**

The Wasilla Airport Master Plan identified an area north and west of South Mack Drive as a location for airport-related businesses and a commuter rail terminal. This area also could be made available for future airport expansion and airport support functions.

### **Wetland/Open Space Preserve**

The map for the preferred alternative in the Wasilla Airport Master Plan designated an area east of South Mack Drive as a wetland preserve. The City’s interest in receiving title to this area for wetland and open space preservation also was a significant factor in the negotiation of the agreement between the City and The Nature Conservancy (“TNC”) for the City’s acquisition of TNC property. This agreement is discussed in greater detail below. In addition, the preservation of this area in its natural state will provide a buffer between the Wasilla Municipal Airport and residential areas to the east, and provide a location for future development of a trail network in western Wasilla.

### **Summary of Public Involvement**

The following is a summary of occasions provided for public input on the project.

January 2001

Wasilla City Council Meeting

May 2001	Public Meeting on Airport Master Plan
May 2001	Meeting of Steering Committee
August 2001	Public Meeting on Airport Master Plan
September 2001	Meeting of Steering Committee
October 2001	Public Meeting on Airport Master Plan
November 2001	Wasilla Planning Commission Meeting
November 2001	Public Meeting on Airport Master Plan
November 2001	Wasilla City Council Meeting
December 2001	Wasilla City Council Meeting
February 2002	Wasilla City Council Meeting
March 2002	Election on Bond Issue and Sales Tax Increase
May 2002	Public Meeting on Airport Master Plan

Overall, public response to the project has been favorable. The need for the project has been widely recognized by residents of the City and the Matanuska-Susitna Borough. Opposition came from individuals who were concerned about the cost of the project.

### **City Purchase of Part of Project Site**

In 1998, The Nature Conservancy ("TNC"), a District of Columbia nonprofit corporation, and the City began negotiating a sale by TNC to the City of two tracts of land, known as tract D-2 and B1A, located generally east of the Wasilla Municipal Airport and south of the intersection of the Parks Highway and Church Road. At the same time, another part of the TNC organization was negotiating a sale of tracts D-2 and B1A, as well as other TNC property in Wasilla, to Gary Lundgren ("Lundgren"). After learning of the pending sale to Lundgren, the City brought an action for specific performance of the contract by TNC to sell tracts D-2 and B1-3 to the City. This action was removed to the U.S. District Court for the District of Alaska, as Case No. A99-591. On July 21, 2000, the District Court granted summary judgment to the City on its specific performance claim, and pursuant to a subsequent court order, TNC conveyed tract D-2 to the City by special warranty deed dated September 4, 2001, and recorded on September 10, 2001.

On July 30, 2002, the District Court granted Lundgren's motion for relief from the summary judgment in favor of the City, and directed that the action proceed to trial. Thus, the specific performance litigation continues to be pending, and remains a cloud on the City's title to tract D-2. The City and Lundgren maintain competing claims in the litigation to tract B1A.

Tract D-2 includes all of the area that is to be the site for the Multi-Use Sports Complex, the rights of way for South Mack Drive and Airport Boulevard, parts of the sight line easement area adjacent to the Alaska Railroad crossing for South Mack Drive, and the areas north and west of South Mack Drive that are designated for airport-related uses and a commuter rail terminal. Tract B1A



includes the area that is to be a wetland/open space preserve, and part of the sight line easement area adjacent to the Alaska Railroad crossing for South Mack Drive.

#### IV. SPECIFIC PROPERTY INFORMATION

##### A. Parcel Identification

Parcel Number	Owner	Acquisition Area
1	City of Wasilla	59.96 Acres
2	City of Wasilla	16.75 Acres
3	City of Wasilla	2.18 Acres
4	Gary Lundgren	0.80 Acres
5	Gary Lundgren	0.03 Acres
6	Gary Lundgren	1.10 Acres
7	City of Wasilla	18.54 Acres
8	City of Wasilla	54.90 Acres
9	Gary Lundgren	35.73 Acres

The plat attached as Exhibit A shows the location of each of the subject parcels.

##### B. Description of Interests to Be Acquired

###### Parcel 1

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered fee interest in an approximately 59.96 acre parcel. The parcel currently is undeveloped. Most of the parcel is heavily wooded. There is road access to the parcel by means of the South Mack Drive pioneer road, constructed by the City during the summer of 2002. No utilities presently serve this parcel. The City paid TNC \$146,500 for Parcels 1, 2, 7 and 8 in 2001. The City estimates the value of the interest to be acquired at \$10.

###### Parcel 2

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered fee interest in an approximately 16.75 acre

parcel, which is to be the right of way for South Mack Drive and Airport Boulevard. The parcel currently contains part of the South Mack Drive pioneer road, constructed by the City during the summer of 2002. Otherwise, the parcel is undeveloped. No utilities presently serve this parcel. The City paid TNC \$146,500 for Parcels 1, 2, 7 and 8 in 2001. The City estimates the value of the interest to be acquired at \$10.

#### Parcel 3

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered railroad crossing sight easement in an approximately 2.18 acre parcel. The parcel currently is undeveloped. No utilities presently serve this parcel. The City also seeks to obtain an unencumbered interest in Parcel 8, which underlies the easement sought as Parcel 3. The City paid TNC \$146,500 for Parcels 1, 2, 7 and 8 in 2001. The City estimates the value of the interest to be acquired at \$10.

#### Parcel 4

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered railroad crossing sight easement in an approximately 0.80 acre parcel. The parcel currently is undeveloped, and consists of undevelopable wetlands. No utilities presently serve this parcel. The City also seeks to obtain an unencumbered fee interest in Parcel 9, which underlies the easement sought as Parcel 4. The City agreed to pay TNC \$21,750 for Parcel 9 in 1999. The City estimates the value of the interest to be acquired at \$10.

#### Parcel 5

This is an acquisition of a railroad crossing sight easement in an approximately 0.03 acre parcel. The parcel currently is undeveloped. No utilities presently serve this parcel. The City estimates the value of the interest to be acquired at \$338.

#### Parcel 6

This is an acquisition of a railroad crossing sight easement in an approximately 1.10 acre parcel. The parcel currently is undeveloped. No utilities presently serve this parcel. The City estimates the value of the interest to be acquired at \$6,067.

#### Parcel 7

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered fee interest in an approximately 18.54 acre parcel. The parcel currently is undeveloped. Most of the parcel is heavily wooded. There is road access to the parcel by means of the South Mack Drive pioneer road, constructed by the City during the summer of 2002. No utilities presently serve this parcel. The City paid TNC \$146,500 for Parcels 1, 2, 7 and 8 in 2001. The City estimates the value of the interest to be acquired at \$10.

#### Parcel 8

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered fee interest in an approximately 54.90 acre parcel. The parcel currently is undeveloped. Most of the parcel is heavily wooded. There is road access to the parcel by means of the South Mack Drive pioneer road, constructed by the City during the summer of 2002. No utilities presently serve this parcel. The City paid TNC \$146,500 for Parcels 1, 2, 7 and 8 in 2001. The City estimates the value of the interest to be acquired at \$10.

#### Parcel 9

This is an acquisition of the contingent interest in the parcel alleged by Gary Lundgren and The Nature Conservancy in the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. This litigation is discussed under "PROJECT HISTORY – City Purchase of Part of Project Site," above. The City seeks to obtain an unencumbered fee interest in an approximately 35.73 acre parcel. The parcel currently is undeveloped, and consists of undevelopable wetlands. No utilities presently serve this parcel. The City agreed to pay TNC

\$21,750 for Parcel 9 in 1999. The City estimates the value of the interest to be acquired at \$21,760.

### C. Summary of Landowner's Concerns

The City negotiated a contract with TNC in 1999 to purchase Parcels 1, 2, 7 and 8 for \$145,000, and Parcel 9 for 21,750. Those parcels, as discussed above, are subject of the litigation styled *City of Wasilla vs. The Nature Conservancy and Gary Lundgren*, Case No. A99-591 in the U.S. District Court for the District of Alaska. TNC has conveyed Parcels 1, 2, 7 and 8 to the City, and has conveyed Parcel 9 to Mr. Lundgren. Mr. Lundgren has rejected all of the City's offers to compromise the litigation. Based on the results of these compromise efforts, the City has considered it to be futile to make a separate offer of compensation to Mr. Lundgren for the interests that it has determined to take by eminent domain, and so the City has not made such an offer.

### D. Consideration of Landowner's Concerns

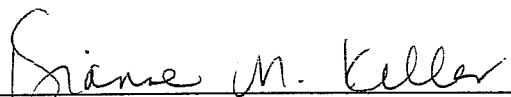
The City believes that it is entitled to fee ownership of Parcels 1, 2, 7 and 8, and to the sight easement to be located on Parcel 8 (Parcel 3) in exchange for the consideration that it negotiated with TNC in 1999 and paid in 2001, and that only nominal compensation is due Mr. Lundgren for any interest in these parcels.

The City believes that it is entitled to fee ownership of Parcel 9, and to the sight easement to be located thereon (Parcel 4) in exchange for the consideration that it negotiated with TNC in 1999, and that only nominal compensation is due Mr. Lundgren for any interest in these parcels.

The City seeks only a railroad crossing sight easement over Parcels 5 and 6. The City's Alaska Railroad crossing permit requires that the area subject to the sight easement shall be maintained free of vegetation and other obstructions to vision. Much of the easement areas are within setbacks that presently are required under the City's zoning ordinance. Thus the loss of developable land area that will result from these takings is minimal.

### V. CONCLUSION

I Dianne M. Keller, Mayor of the City of Wasilla, hereby conclude that the project located in a manner that is most compatible with the greatest public good and the least private injury. This decision is based on the reasons set forth above.

  
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Dianne M. Keller, Mayor, City of Wasilla

DATE 12/9/02

EXHIBIT A

