

Introduced by: City Manager Herron
Date: June 11, 2002
Public Hearing: June 25, 2002
Action: Adopted
Vote: 4 – 0

CITY OF BETHEL, ALASKA

ORDINANCE #02 – 20

AN ORDINANCE AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT FOR MODIFICATION OF THE AFTER-ACQUIRED TITLE AGREEMENT BETWEEN BETHEL NATIVE CORPORATION ("BNC") AND THE CITY OF BETHEL ("CITY") DATED NOVEMBER 19, 1982; AUTHORIZING THE CITY TO ENTER INTO A NON-EXCLUSIVE EASEMENT AGREEMENT WITH BNC FOR THE SOLE PURPOSE OF CONSTRUCTING, OPERATING AND MAINTAINING A PIPELINE SYSTEM TO TRANSPORT PETROLEUM AND PETROLEUM PRODUCTS FROM A TANK FARM LOCATED ON TRACT 2 OF THE BNC INDUSTRIAL PARK SUBDIVISION ("TANK FARM") TO AND FROM THE BETHEL PETROLEUM DOCK ("DOCK"); AND AUTHORIZING THE CITY TO ENTER INTO A FACILITIES USE AGREEMENT WITH CROWLEY MARINE SERVICES, INC. FOR USE OF THE DOCK IN CONNECTION WITH THE TANK FARM OPERATION

WHEREAS the City of Bethel ("City") is the owner of a surface interest in Tract 5D in US Survey No. 4000 (Plat No. 92-2); and

WHEREAS the City is the owner of the Bethel Petroleum Dock ("Dock") and;

WHEREAS the City and Bethel Native Corporation ("BNC") are parties to an agreement known as the After Acquired Title Agreement which was entered into in November 1982 to settle the City's claims under section 14(c)(3) of the Alaska Native Claims Settlement Act ("AATA"); and

WHEREAS BNC is leasing property in Tract 5C-2 of US Survey No. 4000 to Crowley Marine Services, Inc. ("Crowley") for construction of a bulk fuel tank farm ("Tank Farm"); and

WHEREAS to gain access to the Kuskokwim River for delivery of petroleum and petroleum products to and from the Tank Farm, BNC has requested a pipeline easement in the surface estate of Tract 5D from the City which shall be assigned to Crowley, and Crowley has requested permission to deliver fuel at the Dock; and

WHEREAS Crowley's parent company, Crowley Maritime Corporation, has agreed to guarantee all of the obligations and duties imposed on Crowley in the easement attached to this Ordinance as Attachment B and in the agreement to use the Dock attached to this Ordinance as Attachment C; and

WHEREAS as partial consideration for the easement, the City and BNC wish to enter into an agreement modifying certain terms of the AATA to facilitate development to meet community needs at the Bethel Port, the Dock, and in the surrounding vicinity; and

WHEREAS the City wishes to enter into the requested easement and dock use agreement to facilitate the development of a second bulk fuel tank farm in Bethel to meet the community's current and future fuel needs; and

WHEREAS the City believes that further development to meet community needs at the Bethel Port, Dock, and surrounding vicinity through modification of the AATA; and facilitating the development of a second bulk fuel tank farm through the easement and dock use agreement are in the public interest and of benefit to the general public of Bethel;

BE IT ORDAINED by the City Council of Bethel, Alaska that:

SECTION 1. Classification. This ordinance is not permanent in nature and shall not be placed in the Bethel Municipal Code.

SECTION 2. Chapter 4.08 of the Bethel Municipal Code shall not apply to execution of the documents referred to in Sections 4 and 5 of this Ordinance.

SECTION 3. The City Council hereby approves the Agreement For Modification To After-Acquired Title Agreement Between The City Of Bethel And Bethel Native Corporation, attached to this Ordinance as *ATTACHMENT A*, such approval to be effective for all actions of the City taken to negotiate it, and hereby authorizes the City Manager to enter into it.

SECTION 4. The City Council hereby approves the Easement Agreement, attached to this Ordinance as *ATTACHMENT B*, between the City and BNC, such approval to be effective for all actions of the City taken to negotiate it, and hereby authorizes the City Manager to enter into it.

SECTION 5. The City Council hereby approves the Facilities Use Agreement, attached to this Ordinance as *ATTACHMENT C*, between the City and Crowley, such approval to be effective for all actions of the City taken to negotiate it, and hereby authorizes the City Manager to enter into it.

SECTION 6. This ordinance shall become effective immediately upon adoption and shall have retroactive effect back to the first date that the City began to negotiate it.

PASSED AND APPROVED THIS 25th DAY OF JUNE 2002, by a vote of 4 in favor and 0 opposed.

ATTEST:


Janette Persinger, City Clerk


Stanley "Tundy" Rodgers, Mayor