

Requested by: Public Works
Adopted: August 25, 2008
Vote: Holler, Larson, Massie, Menard, Metiva, and Woodruff in favor

**CITY OF WASILLA
RESOLUTION SERIAL NO. 08-37**

A RESOLUTION OF THE WASILLA CITY COUNCIL AUTHORIZING THE PAYMENT OF \$318,270.09 FROM THE MULTI-USE SPORTS COMPLEX CIP FOR COSTS AND ATTORNEY'S FEES IN THE CASE OF CITY OF WASILLA VS. GARY LUNDGREN.


WHEREAS, the property owner in an eminent domain action is entitled to recover attorney fees and costs necessarily and reasonably incurred in defending the action; and

WHEREAS, on July 21, 2008 the court awarded Gary Lundgren costs and attorney's fees in the amount of 314,739.03, plus interest, in the City's eminent domain action to acquire the land for the Multi-Use Sports Complex; and

WHEREAS, the FY 2009 budget provides funds to pay the court's award of costs and attorney's fees in the Multi-Use Sports Complex eminent domain action.


NOW THEREFORE BE IT RESOLVED, by the Wasilla City Council, that the amount of \$318,270.09 is authorized to be paid from funds appropriated in the Multi-Use Sports Complex CIP, Land Acquisition Fund, 340, 4539-453.45-01 for the award of costs and attorney's fees in the case of City of Wasilla vs. Gary Lundgren.

ADOPTED by the Wasilla City Council on August 25, 2008.



DIANNE M. KELLER, Mayor

ATTEST:



KRISTIE SMITHERS, MMC
City Clerk

[SEAL]



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

RE: Resolution Serial No. 08-37: Authorizing The Payment Of Costs And Attorney's Fees In The Case Of The City Of Wasilla Vs. Gary Lundgren. .

Agenda of: August 25, 2008
Originator: Thomas Klinkner, City Attorney

Date: August 18, 2008

Route to:	Department	Signature/Date
X	Finance, MIS, Purchasing	<i>[Signature]</i> 8/18/08
X	Deputy Administrator, Planning, Economic Development, Human Resources	<i>[Signature]</i> 8-18-08
X	City Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR DIANNE M. KELLER: *Dianne M. Keller* 8/18/08

FISCAL IMPACT: yes\$ or no Funds Available yes no

Account name/number:

Attachments:

SUMMARY STATEMENT:

The attached resolution authorizes funds required to pay the court's award of costs and attorney's fees to Gary Lundgren in the Multiuse Sports Complex eminent domain case. As we have advised previously, the court rules governing eminent domain actions entitle Mr. Lundgren to recover attorney fees and costs necessarily and reasonably incurred in defending the eminent domain action. On July 21, 2008, the court awarded Mr. Lundgren costs and attorney's fees in the amount of 314,739.03.

The award of costs and attorney's fees bears interest at an annual rate of 10.5%. We recommend that the City appropriate funds to pay the award as soon as possible, to limit the accrual of interest on the award.

If the resolution is adopted at the August 25 Council meeting, we expect that a check for the award could be prepared and delivered to Mr. Lundgren no later than September 3, and we have calculated the interest to be included in the appropriation based on that expectation. Thus the \$318,270.09 amount of the appropriation consists of the cost and attorney's fee award of \$314,739.03, plus interest from July 21 to September 15 in the amount of \$3,531.06, rounded upward to the nearest whole dollar.

Some incidental expenses for document recording and other follow-up still may remain in this case, and there will be the cost of briefing and arguing Mr. Lundgren's appeal to the Alaska Supreme Court on the issue of the date of valuation. However, we expect this appropriation to provide for the last significant payment by the City in connection with this case.