

CLERK'S OFFICE

APPROVED

Date: 5-14-02

Submitted by: Chairman of the Assembly at
the Request of the Mayor
Prepared by: Department of Law
For reading: April 23, 2002

ANCHORAGE, ALASKA
AO NO. 2002-74

AN ORDINANCE AUTHORIZING THE MUNICIPALITY OF ANCHORAGE TO WAIVE CLAIMS AGAINST AND INDEMNIFY, DEFEND AND HOLD HARMLESS THE STATE OF ALASKA, ITS OFFICERS, EMPLOYEES, AND CONTRACTORS FROM CLAIMS FOR PERSONAL INJURY, LOSS AND PROPERTY DAMAGE RESULTING FROM ANCHORAGE CITIZEN VOLUNTEERS PLANTING, BEAUTIFYING AND MAINTAINING BEDS OF FLOWERS AND DECORATIVE SHRUBS WITHIN STATE OF ALASKA ROAD RIGHTS-OF-WAY WITHIN THE MUNICIPALITY AND AUTHORIZING THE MUNICIPALITY TO MAKE APPLICATION TO THE STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION FOR RIGHTS-OF-WAY ENCROACMENT PERMITS FOR SUCH FLOWER PLANTING.

WHEREAS, citizen volunteers residing in the Municipality of Anchorage have each year for many years undertaken to beautify road rights-of-way within the Municipality of Anchorage, including State of Alaska road rights-of-way at no cost to the State; and

WHEREAS, those beautification efforts consist of planting and maintaining annual flower beds, shrubs and other landscaping; and

WHEREAS, there are established locations at which such beautification and landscaping is done; and

WHEREAS, the flowers and shrubbery are provided at no cost to the volunteers or the State of Alaska by the Municipality; and

WHEREAS, the volunteer beautification efforts greatly enhance the the road vistas within the Municipality, contribute significantly to the quality of life and business in Anchorage, and make the city a pleasant place to live, visit and conduct business; and

WHEREAS, the state of Alaska requires the volunteers to make application for a "Right-of-Way Encroachment Permit for Beautification" for State road rights-of-way wherein the State requires the applicant to waive claims against the State and to indemnify, defend and hold harmless the State for claims arising out of their beautification efforts; and

WHEREAS, the burden of waiver, indemnification and defense is onerous for citizen volunteers donating their time and efforts; now therefore,


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4 THE ANCHORAGE ASSEMBLY HEREBY ORDAINS:

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6 **Section 1.** The Municipality is hereby authorized, in its name, to make application to the State
7 of Alaska Department of Transportation for "Right of Way Encroachment Permits For
8 Beautification" for the purpose of landscaping and beautifying selected State of Alaska road rights-
9 of-way at no cost to the State of Alaska by Anchorage citizen volunteers.

10 **Section 2.** To implement the authorization of Section 1. of this ordinance, the Municipality is
11 further authorized, as required by the State of Alaska, to waive claims against and indemnify, defend
12 and hold harmless the State of Alaska, its officers, employees, and contractors from claims for
13 personal injury, loss and property damage resulting from Anchorage citizen volunteers planting,
14 beautifying and maintaining beds of flowers and decorative shrubs within State of Alaska road
15 rights-of-way within the municipality.

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17 **Section 3.** This ordinance shall become effective immediately upon passage and approval by the
18 Assembly.

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20 PASSED AND APPROVED by the Anchorage Assembly this 14th day of May, 2002.

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Chair of the Assembly

25 ATTEST:

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28 Municipal Clerk
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MUNICIPALITY OF ANCHORAGE

Summary of Economic Effects - General Government

AO Number: 2002- 74 Title: Indemnification of State of Alaska for Volunteer Beautification in State Road Rights-of-Way

Sponsor: Mayor

Preparing Agency: Department of Law

Others Affected: Cultural and Recreational Services Department

CHANGES IN EXPENDITURES AND REVENUES (Thousands of Dollars)

Operating Expenditures	FY	FY	FY	FY	FY
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
TOTAL DIRECT COSTS:					
ADD: 6000 Charge from Others					
LESS: 7000 Charge to Others					
FUNCTION COST:					
REVENUES:					
CAPITAL:					
POSITIONS: FT/PT and Temp.					

Public Sector Economic Effects:

The volunteer beautification effort saves the Municipality the labor costs of providing beautification of an estimated \$100,000 in road rights-of-way belonging to the State of Alaska. To the knowledge of the Municipality's Risk Division, there has never been a claim arising out of the volunteer beautification of State rights-of-way. Accordingly, the risk of loss is projected as minimal. The Municipality is self-insured and such claims, if established as valid, would be paid out of the Risk reserves pursuant to the proposed indemnity.

SUMMARY OF ECONOMIC EFFECTS

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Private Sector Economic Effects:

Individuals and private non-profit groups volunteering their services to beautify the State rights-of-way would be relieved of their obligation to purchase insurance or endure the risk of claims incurred during their volunteer activities to beautify the State rights-of-way.

If further explanation is necessary, a separate page may be attached.

Prepared by: William A. Greene Telephone: 343-4545
William A. Greene, Municipal Attorney

Validated by OMB: Meryl Frasca Date: 5/7/02

Approved by: Date: 5-7-02
William A. Greene, Municipal Attorney (Director, Preparing Agency)

Concurred by: James Posey Date: 5.7.02
James Posey, Cultural and Recreational Services Director, Affected Agency

Approved by: _____ Date: _____

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 442-2002

Meeting Date: May 14, 2002

From: Mayor

Subject: AO 2002-74; Indemnifying the State for Volunteer Beautification Within State Road Rights-of-Way.

The ordinance authorizes the Administration to make application for encroachment permits and to waive and indemnify and defend the State of Alaska for personal injury and property damage claims arising out of beautification of State rights-of-way within the Municipality.

For many years, citizen volunteers have donated their time and labor to plant flowers and shrubs donated by the Municipality in garden plots at intersections and within road rights-of-way within the Municipality to enhance the beauty and attractiveness of Alaska's largest city and primary tourist destination.

The State of Alaska Department of Transportation requires citizen volunteers to make application to the State of right-of-way encroachment permits and then waive any claims they may have and promise to indemnify and defend the claims others may have against the State of Alaska arising from their beautification efforts. This places an onerous burden on the individual citizen volunteer donating their time and effort to beautify road ways within Anchorage.

The Administration requests the Assembly pass this ordinance in order to alleviate the onerous burden on individual citizen volunteers and for the Municipality, as the applicant, to undertake the beautification of State road rights-of-way using volunteers and waiving and indemnifying the State against claims arising out of this activity.

Concur:


Harry Kiehl, Jr.
Municipal Manager

Respectfully submitted


George Wuerch
Mayor

Recommended by:


James Posey
Director, Department of Cultural
and Recreational Services

Prepared by


William A. Greene
Municipal Attorney

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Municipality of Anchorage
MUNICIPAL CLERK'S OFFICE
Agenda Document Control Sheet

AO 2002-74

(SEE REVERSE SIDE FOR FURTHER INFORMATION)

1	SUBJECT OF AGENDA DOCUMENT AO authorizing the Municipality to Waive Claims Against and Indemnify Volunteers Planting, Beautifying and Maintaining Beds of Flowers within State of Alaska Road Rights-of-Way within the Municipality.	DATE PREPARED 4/23/02
	DEPARTMENT NAME Department of Law	Indicate Documents Attached <input checked="" type="checkbox"/> AO <input type="checkbox"/> AR <input checked="" type="checkbox"/> AM <input type="checkbox"/> AIM DIRECTOR'S NAME William A. Greene
2	THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY William A. Greene	HIS/HER PHONE NUMBER 343-4545
4	COORDINATED WITH AND REVIEWED BY	INITIALS
<input checked="" type="checkbox"/>	Mayor	
	Heritage Land Bank	
	Merrill Field Airport	
	Municipal Light & Power	
	Port of Anchorage	
	Solid Waste Services	
	Water & Wastewater Utility	
<input checked="" type="checkbox"/>	Municipal Manager	
<input checked="" type="checkbox"/>	Cultural & Recreational Services	<i>am</i>
<input checked="" type="checkbox"/>	Employee Relations	<i>5/8</i>
<input checked="" type="checkbox"/>	Finance, Chief Fiscal Officer	<i>5.7.02</i>
	Fire	<i>5/7/02</i>
	Health & Human Services	
<input checked="" type="checkbox"/>	Office of Management and Budget	<i>CF</i>
	Management Information Services	<i>5/7/02</i>
	Police	
	Planning, Development & Public Works	
	Development Services	
	Facility Management	
	Planning	
	Project Management & Engineering	
	Street Maintenance	
	Traffic	
	Public Transportation Department	
	Purchasing	
<input checked="" type="checkbox"/>	Municipal Attorney	<i>5/7/02</i>
	Municipal Clerk	
	Other	
5	Special Instructions/Comments	
	<i>4/23/02 Laid on the Table</i>	
6	ASSEMBLY HEARING DATE REQUESTED <i>4/23/02</i>	PUBLIC HEARING DATE REQUESTED <i>5/14/02</i>

2002 MAY - 8 PM 4:00
 M.O.A.
 CLERK'S OFFICE