

APPROVEDDate: 10-15-02

Prepared by:

Heritage Land Bank

For Reading:

September 24, 2002**ANCHORAGE, ALASKA****AO NO. 2002 - 150**

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AUTHORIZING THE HERITAGE LAND BANK (HLB) TO CORRECT THE LEGAL DESCRIPTION OF THE LEASE, APPROVED BY AO 2001-93, DISPOSING OF PORTIONS OF HLB PARCELS #3-038, 3-040, 3-041, 3-044, 3-045 AND 3-046, LOCATED SOUTH OF TUDOR ROAD AND EAST OF CAMPBELL AIRSTRIP ROAD IN ANCHORAGE, TO THE ALASKA BOTANICAL GARDENS.

WHEREAS, "It is the mission of the Heritage Land Bank to manage uncommitted municipal land ...to benefit the present and future citizens of Anchorage, promote orderly development, and achieve the goals of the comprehensive plan" (AMC 25.40.010); and

WHEREAS, Heritage Land Bank land may be leased non-competitively to a non-profit agency for less than its appraised fair market value if the municipal benefits are found by the Mayor and the Assembly to be in the best interest of the municipality (AMC 25.40.025.F); and

WHEREAS, the HLB Advisory Commission provided public notice of the proposed disposal by lease and held a public hearing on April 11, 2001 in accordance with AMC 25.40.030, approving HLBAC Resolution No. 2001-03 recommending to the Assembly disposal by long-term lease of 67.6 acres of Heritage Land Bank land to the Alaska Botanical Garden; and

WHEREAS, on May 22, 2001, the Assembly amended and approved AO No. 2001-93, authorizing the HLB to dispose of HLB Parcels 3-040, 3-041, 3-044, 3-045 and 3-046 in a long term lease of up to fifty-five years at less than fair market value to the Alaska Botanical Garden; and

WHEREAS, on March 13, 2002, the Heritage Land Bank Advisory Commission approved Resolution No. 2002-04 following required public notice and public hearing, recommending approval of the lease to ABG of 80.148 acres of land with a revised size and configuration of properties to be included in the lease; and

WHEREAS, it is the purpose of this ordinance to legally describe, refine and adjust the lease by adding portions of HLB Parcels 3-038 and 3-040, consisting of 12.548 acres, pursuant to recent calculations of the subject properties for inclusion in the long-term lease; and

Page 2

AO 2002-150

Alaska Botanical Gardens Lease Amendment

WHEREAS, the corrected calculation leaves unchanged the actual area and boundaries of HLB land occupied by the Alaska Botanical Garden.

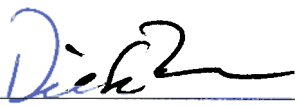
NOW THEREFORE THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1 The Heritage Land Bank is hereby authorized to amend the legal description of HLB Parcels #3-038, 3-040, 3-041, 3-044, 3-045 and 3-046 to be leased to the Alaska Botanical Garden (ABG), to include additional portions of HLB property as delineated in AM 857 -2002.

Section 2. All other terms and conditions contained in AO 2001-93 remain in effect as passed on May 22, 2001 and are not altered by this ordinance, except as contained herein.

Section 3. This ordinance will take effect immediately upon passage by the municipal Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 15th day of October, 2002.


Chairman of the Assembly

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2002- 150 Title: **Long Term Lease of HLB Parcels for Ak. Botanical Garden**
Sponsor: HLB
Preparing Agency: Heritage Land Bank
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES: (Thousands of Dollars)					
	FY02	FY03	FY04	FY05	FY06
Operating Expenditures					
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
TOTAL DIRECT COSTS:					
6000 IGCs					
FUNCTION COST:					
REVENUES:	Nominal				
CAPITAL:					
POSITIONS:					
PUBLIC SECTOR ECONOMIC EFFECTS:					

None. This AO corrects the legal description contained in AO 2001-93, passed May 22, 2001.

PRIVATE SECTOR ECONOMIC EFFECTS:

Capital improvements to be developed by non-profit organization on HLB property to enhance botanical gardens and facilities for public use and enjoyment, and as an asset to Anchorage community.

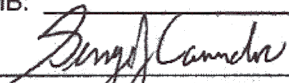
Prepared by: **Art Eash**

Telephone: 343-4807

Validated by OMB:

Date:

Approved by:


(Director, Preparing Agency)

Date: August 28, 2002



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 857 -2002

FROM Mayor

MEETING DATE: September 24, 2002

SUBJECT: AN ORDINANCE OF THE ANCHORAGE ASSEMBLY AUTHORIZING THE HERITAGE LAND BANK (HLB) TO CORRECT THE LEGAL DESCRIPTION OF THE LEASE, APPROVED BY AO 2001-93, DISPOSING OF PORTIONS OF HLB PARCELS NOS. 3-038, 3-040, 3-041, 3-044, 3-045 and 3-046, LOCATED SOUTH OF TUDOR ROAD AND EAST OF CAMPBELL AIRSTRIP ROAD IN ANCHORAGE, TO THE ALASKA BOTANICAL GARDENS.

Purpose. This ordinance would correct the legal description of the ordinance that allowed the Heritage Land Bank (HLB) to enter into a less than fair market value, long-term lease with the Alaska Botanical Garden of HLB Parcels #3-040, 3-041, 3-044, 3-045 and 3-046 (see Appendix A), to provide offices and public use facilities for the garden. Portions of HLB Parcel Nos. 3-038 and 3-040 are added to the parcels subject to the lease. Appendices A and B attached describe the land being added to the legal description. No change in the actual lines of occupation of HLB land by the Alaska Botanical Garden will result.

Public Process. The Heritage Land Bank conducted an agency review and received no objection from other municipal agencies for a long-term lease of the subject properties. The HLB posted a notice of public meeting on the site on February 7, 2002 and mailed to surrounding property owners and local community councils a notice of public hearing. A notice of public meeting was also advertised in the Alaska Journal of Commerce February 16th and 23rd, and March 9th, and in the Alaska Star on February 21st and 28th, and March 7th. The HLB Advisory Commission held the public meeting on March 13, 2002 and HLBAC Resolution 2002-04 was amended and approved (Appendix C).

Recommendation. It was determined by the HLB Advisory Commission on March 13, 2002 that the proposed correction of the legal description providing for a long-term lease with the Alaska Botanical Garden is necessary to correctly describe the land originally designated for lease by MOA. The HLB Advisory Commission recommends Assembly approval of the attached Assembly Ordinance to provide for that correction.

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6 Appendices:

7 Appendix A: Site Map

8 Appendix B: Revised legal description

9 Appendix C: HLB Advisory Commission Resolution 2002-04

10 Appendix D: AO No. 2001-93, passed May 22, 2001, and Summary of
11 Economic Effects
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13
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15 Concur:

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17 _____
18 Harry J. Kieling, Jr.
19 Municipal Manager
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26 Respectfully Submitted:

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28 _____
29 George Wuerch
30 Mayor
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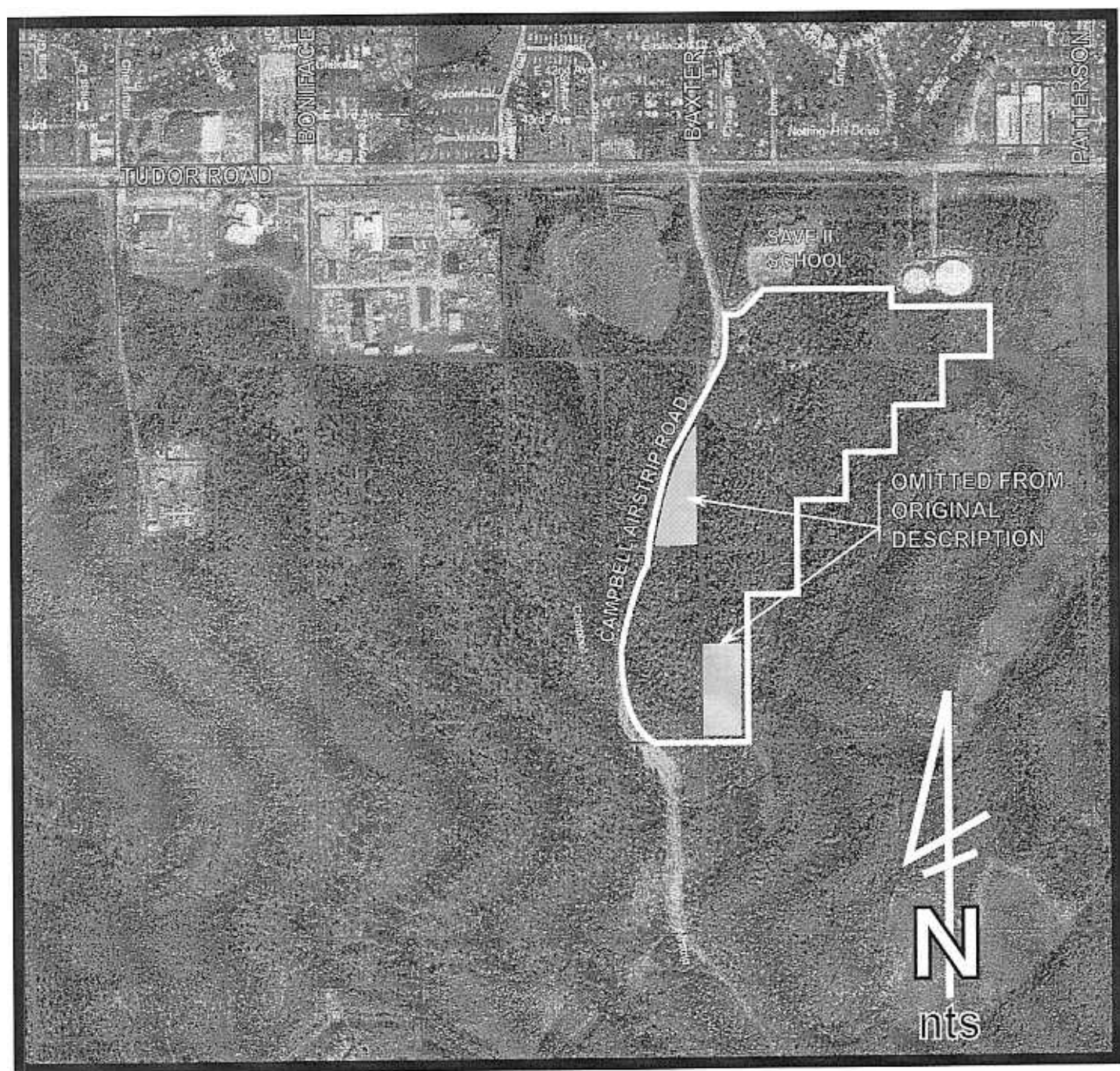
Concur:

George J. Canelos
Executive Director, Heritage Land Bank

Prepared by:

Arthur S. Eash
Land Management Officer

ALASKA BOTANICAL GARDEN



APPENDIX A

Appendix B

Alaska Botanical Gardens

THE PROPERTY IS GENERALLY LOCATED WITHIN SECTION 35, T12N, R3W S.M
AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

*That ptn. of HLB Parcel 3-038 lying East of Campbell Airstrip Road and described as:
E ½ E ½ SE ¼ SE ¼ SE ¼ NW ¼, Section 35, T13N, R3W, S.M.*

And

*That ptn. of HLB Parcel 3-040 lying East of Campbell Airstrip Road and generally
described as:
E ½ E ½ NE ¼ SW ¼, Section 35, T13N, R3W, S.M.*

And

*That ptn. of HLB Parcel 3-041 lying East of Campbell Airstrip Road and described as:
Tract B, Save II Subdivision, plat 90-67*

*All of HLB Parcel 3-044, described as:
S ½ SW ½ NE ¼ NE ¼, Section 35, T13N, R3W, S.M.*

And

*That ptn. of HLB Parcel 3-045 lying East of Campbell Airstrip Road and generally
described as:
All within Section 35, T13N, R3W, S.M.
NW ¼ NW ¼ SE ¼ NE ¼, Section 35 and
N ½ SW ¼, NE ¼, Section 35 and
SW ¼ SW ¼ NE ¼, Section 35 and
NW ¼ SE ¼ SW ¼ NE ¼, Section 35*

*All of newly reconfigured HLB 3-046, described as:
N ½ NW ¼ NW ¼ SE ¼, Section 35, T13N, R3W, S.M. and
SW ¼ NW ¼ NW ¼ SE ¼, Section 35, T13N, R3W, S.M. and
W ½ SW ¼ NW ¼ SE ¼, Section 35, T13N, R3W, S.M.*

TOTAL ACREAGE: 80.148 ACRES

3-11-02

Appendix C

HERITAGE LAND BANK ADVISORY COMMISSION RESOLUTION 2001-03

A RESOLUTION OF THE HERITAGE LAND BANK ADVISORY COMMISSION (HLBAC) RECOMMENDING THE APPROVAL OF A LONG-TERM, NON-COMPETITIVE, LESS THAN FAIR MARKET VALUE LEASE TO ALASKA BOTANICAL GARDEN, A NON-PROFIT CORPORATION, FOR APPROXIMATELY 67.6 ACRES OF HLB PARCELS 3-041, 3-044, 3-045 and 3-046 IN ANCHORAGE.

WHEREAS, the Heritage Land Bank (HLB) was established to... "manage uncommitted municipal land and the Heritage Land Bank Fund in a manner designed to benefit the present and future citizens of Anchorage, promote orderly development, and achieve the goals of the Comprehensive Plan" (AMC 25.40.010); and,

WHEREAS, land disposals under AMC 25.40.025.F include land sales, land exchanges, leases, and easements; and,

WHEREAS, HLB land may be leased non-competitively to a non-profit agency for less than its appraised fair market value if the municipal benefits are found by the Mayor and the Assembly to be in the best interest of the municipality; and,

WHEREAS, the Alaska Botanical Gardens Board of Directors approved on March 12, 2001 that they enter into negotiations with HLB and the Municipal Attorney's office for a long-term lease with a rental rate at less than appraised value; and

WHEREAS, the property is currently a botanical garden and is a use compatible with deed and other land use restrictions; and

WHEREAS, the HLB Advisory Commission provided public notice of the proposed lease and held a public hearing on April 11, 2001 in accordance with AMC 25.40.030.,

NOW, THEREFORE, THE HERITAGE LAND BANK ADVISORY COMMISSION RESOLVES TO RECOMMEND THE APPROVAL OF A LONG-TERM LEASE, SUBJECT TO THE FOLLOWING:

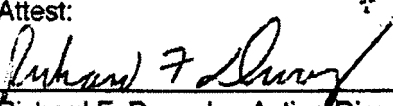
- Section 1.** Upon proof of non-profit status, a lease of up to fifty-five years is to be granted at a length to be negotiated with the Municipal Attorney's office, and with a negotiated rental rate based upon a percentage of the properties' appraised value.
- Section 2.** The Alaska Botanical Gardens shall be responsible for the continued and regular maintenance of the gardens for the public's enjoyment throughout the term of the lease, and make regular payments at negotiated rental and pay rates.
- Section 3.** The use of the parcel shall be subject to and conform to all applicable federal, state and local regulations, rules, and laws.

- Section 4. No hazardous or contaminated materials may be placed or stored on the site without prior written authorization from the HLB.
- Section 5. Subject parcels will be retained in the HLB inventory and under management authority of Cultural and Recreational Services.
- Section 6. HLB Staff Report No. 2001-03 is hereby adopted and incorporated by reference.
- Section 7. The final form and content of the lease it to be presented to the HLB Advisory Commission for approval.

PASSED AND APPROVED the 11th day of April 2001


Gayle Knepper, Chair
Heritage Land Bank Advisory Commission

Attest:


Richard F. Dworsky, Acting Director
Heritage Land Bank

CLERK'S OFFICE
AMENDED AND APPROVED
Date: 5-22-01

Appendix D

For Reading:

Assemblymember CLEMENTSON
Assembly Office
APRIL 24, 2001

ANCHORAGE, ALASKA AO NO. 2001 - 93

AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AUTHORIZING THE HERITAGE LAND BANK (HLB) TO DISPOSE OF HLB PARCELS #3-040, 3-041, 3-044, 3-045 AND 3-046, LOCATED SOUTH OF TUDOR ROAD AND EAST OF CAMPBELL AIRSTRIP ROAD IN ANCHORAGE, TO THE ALASKA BOTANICAL GARDENS, AN ALASKA NON-PROFIT CORPORATION, ON A SOLE SOURCE BASIS, FOR LESS THAN FAIR MARKET VALUE, BY FIFTY-FIVE YEAR LEASE.

WHEREAS, the Heritage Land Bank was established to "...manage uncommitted municipal land and the Heritage Land Bank Fund in a manner designed to benefit the present and future citizens of Anchorage, promote orderly development, and achieve the goals of the comprehensive plan" (AMC 25.40.010); and

WHEREAS, "Heritage Land Bank land may be leased non-competitively to a non-profit agency for less than its appraised fair market value if the municipal benefits which are projected to accrue are found by the mayor and the assembly to be in the best interest of the municipality." (AMC 25.40.025.F); and

WHEREAS, the subject property is currently under an MOA Land Use Permit with Alaska Botanical Garden for the purposes of providing the Anchorage community with a public botanical garden; and

WHEREAS, the HLB Advisory Commission provided public notice of the proposed disposal by lease and held a public hearing on April 11, 2001 in accordance with AMC 25.40.030; and

WHEREAS, the Heritage Land Bank Advisory Commission (HLBAC), by way of Resolution No. 2001-03, recommended approval for a long term lease of up to 55 years at less than fair market value for the subject property to the Alaska Botanical Garden; and

WHEREAS, the lease rate will be negotiated or agreed upon and the final terms of the lease will be submitted to the Heritage Land Bank Advisory Commission for approval.

NOW, THEREFORE, the Anchorage Assembly ordains:

Section 1. The Heritage Land Bank is hereby authorized to enter into a 55-year, less than fair market value lease of HLB Parcels #3-040, 3-041, 3-044, 3-045 and 3-046 with the Alaska Botanical Garden (ABG) on a sole source basis and for a nominal rental.

Section 2. The ABG shall be responsible for the continued and regular maintenance of the gardens for the public's enjoyment throughout the term of the lease, and make regular payments at negotiated rental and pay rates.

AM 263-2001

Clerk's Note:
The Assembly amended the attached Summary of Economic Effects also.

Section 3. The use of the parcel shall be subject to and conform to all applicable federal, state and local regulations, rules and laws.

Section 4. No hazardous or contaminated materials may be placed or stored on the site without prior written authorization from the HLB.

Section 5. Subject parcels will be retained in the HLB inventory and under management authority of MOA Cultural and Recreational Services.

Section 6. The final form and content of the lease is to be presented to the HLB Advisory Commission for approval.

Section 7. Before the end of the current calendar year, Lessee shall complete a survey of the leased parcels at its sole expense, to precisely delineate the boundaries of the property affected by this lease.

Section 8. The terms and conditions of the existing Land Use Permit between MOA and ABG shall remain in effect with respect to those portions of the Alaska Botanical Garden not affected by this lease.

Section 9. In the event of either: 1) default on lease payment obligations; or 2) failure to maintain subject properties in a manner consistent with the originally intended purpose of ABG, subject properties will revert to MOA, including all attached improvements thereon.

Section 10. This ordinance will take effect immediately upon passage and approval

PASSED AND APPROVED by the Anchorage Assembly this 22 day of May, 2001.


Chair

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2000- 93 Title: Long Term Lease of HLB Parcels for Ak. Botanical Garden
Sponsor: Cheryl Clementson
Preparing Agency: Assembly Office
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES: (Thousands of Dollars)

	FY01	FY02	FY03	FY04	FY05
Operating Expenditures					
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					

TOTAL DIRECT COSTS:

6000 IGCa

FUNCTION COST:

REVENUES: Nominal

CAPITAL:

POSITIONS

PUBLIC SECTOR ECONOMIC EFFECTS:

Revenues are to be negotiated for less than fair market value to Alaska Botanical Garden (ABG), as a non-profit organization. Current estimate is for \$1 per year for the first five years of the fifty-five year lease, with subsequent annual payments to MOA/HLB based upon up to 5% of the ABG after tax revenue.

PRIVATE SECTOR ECONOMIC EFFECTS:

Capital improvements to be developed by non-profit organization on HLB property to enhance botanical gardens and facilities for public use and enjoyment, and as an asset to Anchorage community.



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Work Flow History Report

A 2002-150

Workflow History

Workflow Name	Action Date	Action	User	Security Group	Content ID	Revis
HLB_SubWorkflow	8/28/02 3:48 PM	Approve	canelosgj	Public	000189	0
OMB_SubWorkflow	8/29/02 8:33 AM	Approve	rogersta	Public	000189	0
AllOrdinanceWorkflow	8/29/02 4:03 PM	Reject	wheelerda	Public	000189	0
HLB_SubWorkflow	9/9/02 2:06 PM	Approve	canelosgj	Public	000189	0
OMB_SubWorkflow	9/10/02 9:45 AM	Approve	frascaci	Public	000189	0
Legal_SubWorkflow	9/18/02 11:23 AM	Approve	wheelerda	Public	000189	0
MuniManager_SubWorkflow	9/20/02 10:11 AM	Approve	kielinghj	Public	000189	0
MuniMgrCoord_SubWorkflow	9/20/02 11:37 AM	Approve	bealejl	Public	000189	0

ADDENDUM -()INTRODUCTION

2002 SEP 20 PM 12:07