Postponed Indefinitely 2-14-06 Sub

Submitted by:

Assembly Member Ossiander

For reading:

November 8, 2005

ANCHORAGE, ALASKA AO NO. 2005-147(S)

AN ORDINANCE REPEALING ANCHORAGE MUNICIPAL CODE SECTION 15.35.100 AND PROVIDING FOR A NEW ANCHORAGE MUNICIPAL CODE SECTION 15.35.100 WHICH CHANGES THE OPEN BURNING REQUIREMENTS AND REMOVING THE SPECIFIC DATES OF PERMISSIBLE BURNING FOR A REVISED SYSTEM WHICH CONSIDERS CURRENT FIRE DANGER AND AIR QUALITY.

### THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Anchorage Municipal Code Chapter 15.35 is hereby amended by enacting a new section 15.35.100 to read as follows:

### 15.35.100 Stationary source emissions – Open burning.

- A. Within the boundaries of the municipality, it shall be unlawful for a person who owns or controls the subject property to start, cause, ignite, permit or allow any open burning on property without a written permit from the Fire Chief.
- B. A permit shall not be required for the following:
  - 1. Religious, <u>recreational</u> and ceremonial fires provided such fires are no larger than two feet in diameter and one foot in height and contained within a suitably fabricated concrete, masonry, metal or other fire resistant apparatus.
  - 2. Cooking fires contained in a suitably fabricated charcoal or gas grill.
  - 3. Camp fires in officially designated fire pits in federal, state and municipal parklands.
  - 4. Open burning for the purpose of training in the use of fire extinguishers and like fire control methods, provided such fires do not exceed 30 inches in diameter.

- 5. The Fire Chief or the Director of the Department of Health and Human Services may suspend any or all open burning including the activities listed in this section in periods of extreme fire danger or poor ambient air quality.
- C. The Fire Chief, with the concurrence of the Director of the Department of Health and Human Services, may issue written permits for open burning for the disposal of small quantities of [LEAVES,] brush and other vegetative yard debris, for cooking, religious and ceremonial fires larger than those allowed without a permit, [AND] for recreational bonfires under appropriate and safe conditions, and for slash pile burns to mitigate wildfire hazard. Written permits will be issued only after consideration of the following:
  - 1. Ambient air quality, meteorological conditions, and the achievement and maintenance of federal, state, or municipal air quality standards;
  - 2. Fire safety, including the suitability of the site for open burning, setback from adjacent structures, moisture index, the size and nature of the fire, wind speed, **weather conditions** and the availability and proximity of water and/or other fire suppression materials;
  - 3. The need to abate the danger of future wild fires from disease or pest-killed trees, or build-up of other vegetation prone to ignition;
  - 4. Lot size, dwelling density and the proximity of the fire to adjacent dwellings, schools and businesses;
  - 5. The method and type of material to be burned and the potential quantity of smoke emitted.
- D. At least one copy of the permit must be posted at least 24 hours prior to commencing burning.
  - 1. The permit shall be posted in a manner reasonably calculated to give actual notice to persons living or doing business on properties within 100 feet of the fire.
  - 2. The permit shall remain posted at all times when burning is occurring.
- E... The Fire Chief, in concurrence with the Director of the Department of Health and Human Services, shall establish and publish guidelines describing the criteria,

conditions, and permit application requirements and procedures under which written permits will be issued.

- 1. Permits shall be valid for no more than 90 days after issuance.
- 2. The Fire Chief <u>shall</u> [WILL ATTEMPT TO ACCURATELY] assess daily <u>fire weather and seasonal</u> climatic conditions and [TO] use data gathered from several areas within the municipality if feasible. The Chief may then restrict or permit [THE ISSUANCE OF PERMITS] <u>burning</u> by geographic area. Such restrictions may also occur to efficiently utilize fire inspection and response personnel.
- 3. The Fire Chief may deny an application for a written permit if it is determined that the issuance of the permit would pose a fire danger, public nuisance, or result in degradation of air quality.
- 4. The Fire Chief may revoke a permit upon violation of the permit conditions or if fire safety or air quality considerations warrant the revocation of the permit.
- 5. Burning of construction materials, lumber, tires, garbage and other non-vegetative material is prohibited under this section.
- 6. The Fire Chief and the Director of the Department of Health and Human Services may establish an appropriate fee schedule for the costs incurred with the application and issuance of permits authorized under G, H and I of this section.
- 7. The Director of the Department of Health and Human Services may impose conditions on a permit to limit or prohibit the burning of leaves, grass and other types of vegetative materials likely to result in excessive smoke.
- F. Fire departments, fire marshals, and fire district personnel may conduct firetraining exercises at established fire training facilities and on structures provided the following requirements are met:
  - 1. Prior written approval is obtained from the Director of the Department of Health and Human Services or from the Department of Environmental Conservation;
  - 2. Unless waived by the Director of the Department of Health and Human Services, the public shall be notified through the news media or other

means approved by the Director of the Department of Health and Human Services, at least three (3) days in advance of the activity;

- 3. Before conducting fire training on structures, the fire department, fire marshal, or fire district personnel shall:
  - a. Remove stored chemicals such as, but not limited to, fertilizers, pesticides, paints, glues, sealers, tars, solvents, household cleaners, photographic reagents, and batteries;
  - b. Remove composition roofing, asphalt shingles and asphalt siding materials, plastic piping with a diameter of four inches or more, linoleum, floor tile and carpet; **and**
  - c. Submit reports certifying that tests for asbestos and lead containing materials have been conducted and these materials are absent or have been removed from the structure in compliance with federal, state and municipal requirements.
- G. The Fire Chief, with the concurrence of the Director of the Department of Health and Human Services, may issue written permits for the operation of commercial air curtain incinerators for the disposal of trees, brush, and other vegetative matter consistent with the other provisions of this section.
- H. The Fire Chief, with the concurrence of the Director of the Department of Health and Human Services, may issue written permits for the disposal by burning of hazardous materials and dangerous structures provided that no alternate means of disposal is reasonably available.
- I. The Fire Chief, with the concurrence of the Director of the Department of Health and Human Services, may issue written permits for large-scale open burning associated with land clearing operations, only after adequate public notice and after a public hearing has been provided by the Director of the Department of Health and Human Services. This requirement does not apply to prescribed fires for the purpose of wild fire fuel reduction.
  - 1. The Director of the Department of Health and Human Services shall provide public notice of such hearing not less than 30 days prior to the hearing in a newspaper of general circulation.
  - 2. The Director of the Department of Health and Human Services in concurrence with the Fire Chief shall accept or reject the permit application within five days after the conclusion of the public hearing.

- J. The person(s) who owns or controls the property on which open burning occurs shall be responsible for the open burning and any damage resulting from the burning. [IT SHALL BE A REBUTTABLE PRESUMPTION THAT THE PERSON WHO OWNS OR CONTROLS THE PROPERTY ON WHICH OPEN BURNING OCCURS HAS CAUSED OR ALLOWED SAID OPEN BURING.]I
- K. In addition to other legal action and remedies provided in this chapter and other related provisions of the Anchorage Municipal Code, the Fire Chief, <u>the Director of Health and Human Services</u>, or <u>respective</u> departments may seek any or all of the following remedies:
  - 1. Issue warnings or citations for violations including but not limited to:
    - a. Burning when burning is restricted or suspended by the Fire Chief or the Director of Health and Human Services.
    - b. Burning without a permit when a valid permit is required.
    - c. Burning in an unsafe manner or out of compliance with the guidelines stated in a burn permit.
    - d. Burning in a manner causing excessive odor or smoke.
  - 2. Enjoin or abate a violation of this chapter.
  - 3. Recover the costs of abatement.
  - 4. Recover damages suffered because of the violation.
  - 5. Recover a fine as set forth in Section 14.60.030, or if no fine is set forth in Section 14.60.030, a fine of not less than \$70.00 for each day in violation, including for days a violation of this subsection continues or is not fully abated after an enforcement order is issued.
  - 5. Assess up to double the amount of fine, penalty, costs and damages for a second or subsequent offense committed within one year of service of an enforcement order, even if the offense occurs on a different property parcel. For purposes of this subsection a second or subsequent offense must be categorized the same as the original offense, as identified in this subsection.
- Section 2. Anchorage Municipal Code Section 15.35.100 is hereby repealed as follows:
  - 15.35.100 [STATIONARY SOURCE EMISSIONS--OPEN BURNING.]

- [A. WITHIN THE BOUNDARIES OF THE MUNICIPALITY NO PERSON SHALL CAUSE, SUFFER, PERMIT OR ALLOW ANY OPEN BURNING EXCEPT THE FOLLOWING UNLESS OTHERWISE PROHIBITED BY LAW:]
  - [1. OPEN BURNING FOR PLEASURE, RELIGIOUS, CEREMONIAL, COOKING OR LIKE SOCIAL PURPOSES AND OPEN BURNING FROM FLARES, TORCHES, WASTE GAS BURNERS, INCENSE BURNERS AND INSECT POTS IS ALLOWED.]
  - [2. OPEN BURNING AUTHORIZED BY THE FIRE CHIEF FOR THE DISPOSAL OF DANGEROUS MATERIALS IS ALLOWED, PROVIDED NO ALTERNATE MEANS OF DISPOSAL IS REASONABLY AVAILABLE.]
  - [3. OPEN BURNING AUTHORIZED BY THE FIRE CHIEF FOR INSTRUCTION IN THE METHOD OF FIGHTING FIRES OR TESTING FIRE RESISTIVE MATERIALS AND FIRE PROTECTION EQUIPMENT IS ALLOWED PROVIDED THAT THESE OUTDOOR FIRES HAVE PRIOR WRITTEN APPROVAL FROM THE DIRECTOR, AND, UNLESS WAIVED BY THE DEPARTMENT, THE PUBLIC SHALL BE NOTIFIED THROUGH THE NEWS MEDIA OF THE TIME, PLACE AND PURPOSE OF THE EXERCISE AT LEAST THREE DAYS IN ADVANCE OF THE ACTIVITY. PRIOR WRITTEN APPROVAL FROM THE DIRECTOR AND PUBLIC NOTICE SHALL NOT BE REQUIRED WHEN SUCH OUTDOOR FIRES DO NOT EXCEED 30 INCHES IN DIAMETER.]
  - [4. OPEN BURNING FOR THE DISPOSAL OF TREES AND BRUSH ON PROPERTY BEING DEVELOPED FOR COMMERCIAL OR RESIDENTIAL PURPOSES OR ON PROPERTY WHERE THE TREES AND BRUSH WERE GROWN IS ALLOWED PROVIDED THAT:]
    - [a. OPEN BURNING SHALL BE ALLOWED ONLY OUTSIDE THE ANCHORAGE BOWL AREA AND ONLY DURING THE PERIODS FROM APRIL 1 THROUGH MAY 31 AND AUGUST 15 THROUGH OCTOBER 31;]
    - [b. THE PERSON RESPONSIBLE FOR SUCH OPEN BURNING SHALL OBTAIN A WRITTEN PERMIT FOR SUCH FIRE FROM THE FIRE CHIEF AND UPON TERMS AND CONDITIONS SPECIFICALLY APPROVED BY THE DIRECTOR AND SHALL COMPLY WITH ALL THE LAWS

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AND REGULATIONS OF THE DIRECTOR, THE FIRE CHIEF AND ALL OTHER GOVERNMENTAL AGENCIES REGARDING SUCH FIRES;]

- [c. TIRES OR HEAVY PETROLEUM PRODUCTS MAY NOT BE USED TO START OR MAINTAIN OPEN BURNING.]
- [5. OPEN BURNING FOR THE DISPOSAL OF HOUSEHOLD REFUSE IS ALLOWED IN THE AREAS OF THE MUNICIPALITY WHERE MUNICIPAL OR ALASKA PUBLIC UTILITIES COMMISSION SANCTIONED REFUSE COLLECTION SERVICE IS NOT AVAILABLE.]
- THE BURNING OF COMBUSTIBLE CONSTRUCTION DEBRIS, 6. BRUSH AND OTHER VEGETATIVE MATTER ALLOWED IN A COMMERCIAL AIR CURTAIN COMBUSTION **SYSTEM** PROPERLY **OPERATED** AND **MAINTAINED** ACCORDING TO THE MANUFACTURER'S SPECIFICATIONS, PROVIDED THAT THE DEVICE HAS BEEN REGISTERED WITH THE DIRECTOR, THAT THE OPERATOR OBTAINS WRITTEN APPROVAL FROM THE DIRECTOR PRIOR TO OPERATION, AND THAT THE OPERATION OF THE DEVICE COMPLIES WITH ALL RULES AND REGULATIONS OF THE DIRECTOR, THE FIRE CHIEF AND ALL OTHER GOVERNMENTAL AGENCIES REGARDING **SUCH EQUIPMENT.**]
- [7. OPEN BURNING FOR THE DISPOSAL OF SMALL QUANTITIES OF GRASS, LEAVES, WEEDS AND OTHER ORGANIC DEBRIS ACCUMULATED DURING WINTER MONTHS MAY BE ALLOWED WITHOUT AN OPEN BURNING PERMIT THROUGHOUT THE MUNICIPALITY DURING A TEN-DAY PERIOD IN THE SPRING AUTHORIZED BY THE MAYOR UPON APPROPRIATE TERMS AND CONDITIONS THAT TAKE INTO CONSIDERATION THOSE FACTORS DESCRIBED IN SUBSECTION A.10. OF THIS SECTION.]
- OPEN BURNING FOR THE DISPOSAL OF SMALL QUANTITIES OF [8. GRASS, LEAVES, BRUSH, WEEDS AND OTHER ORGANIC DEBRIS MAY BE ALLOWED WITHOUT AN OPEN BURNING THE **AREA EAST** OF THE **BRAGAW** PERMIT INROAD/ELMORE/ABBOT LOOP ALIGNMENT AND SOUTH OF TUDOR ROAD UP TO 24 DAYS BETWEEN MAY 1 AND JUNE 14 AND UP TO 14 DAYS BETWEEN AUGUST 15 AND OCTOBER 15, WHEN AUTHORIZED BY THE MAYOR AND UPON APPROPRIATE

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TERMS AND CONDITIONS THAT TAKE INTO CONSIDERATION THOSE FACTORS DESCRIBED IN SUBSECTION A.10. OF THIS SECTION.]

- [9. THE FIRE CHIEF, WITH THE APPROVAL OF THE AIR POLLUTION CONTROL OFFICER OR DEPARTMENT, MAY ISSUE OPEN BURNING PERMITS FOR THE DISPOSAL OF SMALL QUANTITIES OF GRASS, LEAVES, BRUSH, WEEDS AND OTHER ORGANIC DEBRIS AT SUCH TIMES AND PLACES AND UPON SUCH TERMS AND CONDITIONS AS THE FIRE CHIEF AND DIRECTOR DEEM APPROPRIATE IN CONSIDERATION OF AND CONSISTENT WITH THOSE FACTORS DESCRIBED IN SUBSECTION A.10. OF THIS SECTION.]
- THE FIRE CHIEF, WITH THE APPROVAL OF THE AIR POLLUTION Γ10. CONTROL OFFICER OR THE DEPARTMENT MAY ISSUE OPEN BURNING PERMITS ALLOWED BY THIS SECTION UPON APPROPRIATE TERMS AND CONDITIONS THAT TAKE INTO CONSIDERATION THE **AMBIENT AIR** QUALITY. ACHIEVEMENT AND MAINTENANCE OF FEDERAL, STATE OR **MUNICIPAL AMBIENT** AIR QUALITY STANDARDS, METEOROLOGICAL CONDITIONS, THE SUITABILITY OF AIR POLLUTION CONTROL DEVICES FOR LARGE QUANTITIES OF MEANS OF REDUCING FIRE HAZARDS, SUITABILITY OF DISPOSAL BY OTHER AVAILABLE MEANS, THE AMOUNT AND NATURE OF WASTE TO BE BURNED, THE PROXIMITY OF THE BURN SITE TO DEVELOPED AREAS AND THE POPULATION DENSITY OF THE SURROUNDING AREA.]
- [B. THE DIRECTOR SHALL PUBLISH THE DATES DURING WHICH OPEN BURNING WILL BE ALLOWED ALONG WITH APPROPRIATE TERMS AND CONDITIONS TO BE FOLLOWED WHILE BURNING.]
- [C. THE DIRECTOR MAY SUSPEND OR PROHIBIT OPEN BURNING AT ANY TIME BASED ON AIR QUALITY CONSIDERATIONS, OR, UPON CONSULTATION WITH THE FIRE CHIEF, FOR FIRE SAFETY REASONS.]
- [D. THE FIRE CHIEF, IN CONSULTATION WITH THE AIR POLLUTION CONTROL OFFICER, AND UPON APPROPRIATE TERMS AND CONDITIONS THAT TAKE INTO CONSIDERATION THOSE FACTORS DESCRIBED IN SUBSECTION A.10 OF THIS SECTION, MAY ISSUE WRITTEN PERMITS FOR THE DESTRUCTION OF TIMBER INFESTED

	AO 2004-147 Page 9	(S)
1 2 3		WITH SPRUCE BARK BEETLE DURING PERIODS OUTSIDE OF THE OPEN BURN PERIODS DESIGNATED IN THIS SECTION.]
4 5 6	Œ.	THE FIRE CHIEF SHALL ESTABLISH GUIDELINES AND MAY ESTABLISH AN APPROPRIATE FEE SCHEDULE FOR THE ISSUANCE OF WRITTEN PERMITS AUTHORIZED UNDER THIS SECTION.]
7 8 9 10 11	F.	IT SHALL BE A REBUTTABLE PRESUMPTION THAT THE PERSON WHO OWNS OR CONTROLS THE PROPERTY ON WHICH OPEN BURNING OCCURS HAS CAUSED OR ALLOWED SAID OPEN BURNING.]
12 13	Section 3.	This ordinance is effective immediately upon passage and approval.
14		approven.
15	PASSED AN	ID APPROVED by the Anchorage Assembly this day of, 2005.
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19	And Andrews of the Control of the Co	
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## Municipality of Anchorage MUNICIPAL CLERK'S OFFICE

### Agenda Document Control Sheet A0 2004-147(S)

REVERSE SIDE FOR FURTHER INFORMATION) SUBJECT OF AGENDA DOCUMENT SUBSTITUTE VERSION - OPEN BURNING REQU	JIRE- DATE PREPARED	DATE PREPARED 11/02/05					
MENTS							
	Inc	dicate Documents Attached					
	XAC	AR AM AM					
DEPARTMENT NAME		DIRECTOR'S NAME					
[ ·	Anna Faircl	Anna Fairclough, Chair					
Assembly THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY	HIS/HER PHONE	HIS/HER PHONE NUMBER					
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Office of Management and Budget							
Police							
Port of Anchorage							
Public Works							
Solid Waste Services							
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Executive Manager							
Community Planning & Development							
Finance, Chief Fiscal Officer							
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Other							
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# MUNICIPALITY OF ANCHORAGE ASSEMBLY INFORMATION MEMORANDUM

**No.** AIM 90-2005

Meeting Date: November 8, 2005

From:

Assemblymember Ossiander

Subject:

Summary of Economic Effects for AO 2005-147(S), an ordinance of the Anchorage Municipal Assembly Repealing AMC 15.35.100 and providing for a new Anchorage Municipal Code Section 15.35.100 which changes the open burning requirements and removing the specific dates of permissible burning for a revised system which

considers current fire danger and air quality

Attached to this memo is the Summary of Economic Effects for AO 2005-147(S), regarding fire department and public health affects and enforcement. The amendment is necessary due to information provided by the Municipal Department of Health & Human Services that will have an economic effect.

Prepared By: Guadalupe Marroquin, Election Coordinator Reviewed By: Barbara E. Gruenstein, Municipal Clerk

Submitted By: Assemblymember Ossiander

## MUNICIPALITY OF ANCHORAGE AMENDED Summary of Economic Effects -- General Government

AN ORDINANCE REPEALING ANCHORAGE MUNICIPAL CODE SECTION 15.35.100 AND PROVIDING FOR A NEW ANCHORAGE MUNICIPAL CODE SECTION 15.35.100 WHICH CHANGES THE OPEN BURNING REQUIREMENTS AND REMOVING THE SPECIFIC DATES OF PERMISSIBLE BURNING FOR A REVISED SYSTEM WHICH CONSIDERS CURRENT FIRE DANGER AND AIR QUALITY.

AO Number: 2005-147(S)

Sponsor:

Preparing Agency: Others Impacted:

Title:

Assemblymember Ossiander Department of Assembly Anchorage Fire Department

CHANGES IN EXPENDITURES AND REVENUES:				(In Thousands of Dollars)							
	FY06		FY07		FY08		FY09		FY10		
Operating Expenditures 1000 Personal Services 2000 Non-Labor 3900 Contributions 4000 Debt Service	\$	14,000 17,000	\$	12,000	\$	12,000	\$	12,000	\$	12,000	
TOTAL DIRECT COSTS:	\$	31,000	\$	12,000	\$	12,000	\$	12,000	\$	12,000	
Add: 6000 Charges from Others Less: 7000 Charges to Others											
FUNCTION COST:	\$	31,000	\$	12,000	\$	12,000	\$	12,000	\$	12,000	
REVENUES:	\$	36,200	\$	36,200	\$	36,200	\$	36,200	\$	36,200	
CAPITAL:											
POSITIONS: FT/PT and Temp	<del>, , , , , , , , , , , , , , , , , , , </del>										

#### **PUBLIC SECTOR ECONOMIC EFFECTS:**

The intent of this ordinance is to simplify and clarify the burn permitting process for the public and allow the fire and health departments to make data based decisions based on air quality and fire danger. However, the Department of Public Health also anticipates the following EXPENSES: 1) ONE TIME EXPENSE: Installation of the on-line burn permit software: \$15,000; 2) ONE TIME EXPENSE: AFD Staff involved in its implementation: \$4,000; 3) CONTINUING EXPENSE: Maintenance of the software system will be needed on an annual basis: \$2,000; 4) CONTINUING EXPENSE: Indirect expenses are the cost of maintaining the burn hotline with a human, updating the wildfire website, and general administration surrounding the burn permit system (annual): \$10,000 Inspections of burn sites where required: \$50 per site at 20 sites(annual)=\$1,000; 5) REVENUE: Approximate revenue from burn permit fee's, \$36, 200. based on 2004 burn permits. 670 permits @ \$50.00 each for year long permit, 108 permits @ \$25.00 for 6 month, mostly recreational type permits, \$2,700.00

### PRIVATE SECTOR ECONOMIC EFFECTS:

The Anchorage Fire Department is not able to provide a fiscal impact, at this point in time. They anticipate a fee schedule, but cannot identify any dollar amount at this time.

Prepared by: Guadalupe Marroquin, Election Coordinator Telephone: 343-4376
Reviewed by: Barbara E. Gruenstein, Municipal Clerk Telephone: 343-4312

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### Municipality of Anchorage MUNICIPAL CLERK'S OFFICE

### **Agenda Document Control Sheet**

AIM <u>90</u> -2005

(SEE REVERSE SIDE FOR FURTHER INFORMATION) DATE PREPARED SUBJECT OF AGENDA DOCUMENT 11/4/05 SEE FOR AO 2005-147(S) - OPEN BURNING 1 REQUIREMENTS Indicate Documents Attached X AIM AM AO AR DIRECTOR'S NAME DEPARTMENT NAME Anna Fairclough, Chair 2 Assembly HIS/HER PHONE NUMBER THE PERSON THE DOCUMENT WAS ACTUALLY PREPARED BY 343-4376 Lupe Marroquin 3 DATE **INITIALS COORDINATED WITH AND REVIEWED BY** 4 Mayor Municipal Clerk **Municipal Attorney Employee Relations** Municipal Manager Cultural & Recreational Services Health & Human Services Merrill Field Airport Municipal Light & Power Office of Management and Budget Police Port of Anchorage Public Works Solid Waste Services Transit Water & Wastewater Utility **Executive Manager** Community Planning & Development Finance, Chief Fiscal Officer Heritage Land Bank Management Information Services Property & Facility Management Purchasing Other 5 Special Instructions/Comments ADDENDUM - NEW PUBLIC HEARINGS- 14.K.4. REF. AO 2005-147(\$) PUBLIC HEARING DATE REQUESTED ASSEMBLY HEARING DATE REQUESTED 11/8/05 7 11/8/05 6