

Submitted by: Chair of the Assembly at the
Request of the Mayor

Prepared by: Heritage Land Bank

For Reading: September 26, 2006

CITY'S OFFICE

APPROVED

Date: 10-10-06

ANCHORAGE, ALASKA

No. AO 2006-136

1 AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AUTHORIZING
2 DISPOSAL FROM THE HERITAGE LAND BANK INVENTORY FOR PUBLIC SALE BY
3 COMPETITIVE SEALED BID OF THE MUNICIPAL INTEREST IN HLB PARCEL #3-
4 015, LEGALLY DESCRIBED AS TRACT F2, PENLAND PARK SUBDIVISION,
5 LOCATED AT DEBARR AVENUE AND BRAGAW STREET IN ANCHORAGE, FOR AT
6 LEAST FAIR MARKET VALUE.

7
8 **WHEREAS**, the Heritage Land Bank was established to "...manage uncommitted municipal
9 land and the Heritage Land Bank Fund in a manner designed to benefit the present and future
10 citizens of Anchorage, promote orderly development, and achieve the goals of the
11 comprehensive plan"; and

12
13 **WHEREAS**, the HLB, at "the direction of the Mayor and Assembly, may convey HLB land
14 or interests not needed for specific public facilities or purposes. Each disposal shall be in the
15 municipal interest and based at or above fair market appraised value or for other equivalent
16 municipal values or objectives" (AMC 25.40.010E); and

17
18 **WHEREAS**, the subject property is an approximately 1.0-acre tract of land located at DeBarr
19 Avenue and Bragaw Street, zoned B1A (Local and Neighborhood Business District) improved
20 with a restaurant; and is subject to a below-market ground lease expiring in 2059, lessor's
21 interest for which is held by the Municipality; and

22
23 **WHEREAS**, the subject property was reviewed by other municipal departments in April,
24 2006 and as a result the municipal interest in the parcel was declared surplus to municipal
25 need; and

26
27 **WHEREAS**, on May 25, 2006, the Heritage Land Bank Advisory Commission approved
28 HLBAC Resolution 2006-10, recommending Assembly approval for the competitive bid sale
29 of the municipal interest in HLB Parcel #3-015; and

30
31 **WHEREAS**, a September, 2006 appraisal of the leased fee interest of the subject property
32 estimates the market value at \$613,000, providing a basis for a minimum bid to which will be
33 added the costs of the appraisal, title insurance and escrow fees,
34

NOW THEREFORE THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. The Heritage Land Bank is hereby authorized to sell via sealed competitive bid the Municipality's interest in HLB Parcel #3-015 to the highest qualified bidder, with minimum bid of at least fair market value.

Section 2. This ordinance shall be effective immediately upon passage.

PASSED AND APPROVED by the Anchorage Assembly this ____ day of _____, 2006.



Chair of the Assembly

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects - General Government

AO Number: 2006- 136 Title: AN ORDINANCE AUTHORIZING DISPOSAL FROM THE HERITAGE LAND BANK INVENTORY FOR PUBLIC SALE BY SEALED BID OF THE MUNICIPAL INTEREST IN HLB PARCEL #3-015 FOR AT LEAST FAIR MARKET VALUE.

Sponsor: Heritage Land Bank
Preparing Agency: Heritage Land Bank
Others Affected:

CHANGES IN EXPENDITURES AND REVENUES:		(Thousands of Dollars)			
	FY06	FY07	FY08	FY09	FY10
Operating Expenditures					
1000 Personal Services					
2000 Supplies					
3000 Other Services					
4000 Debt Service					
5000 Capital Outlay					
TOTAL DIRECT COSTS: \$0.00 All transaction costs are the responsibility of purchaser or will be recovered by proceeds of sale flowing to MOA					
6000 IGCs	0	0	0	0	
FUNCTION COST:	0	0	0	0	
REVENUES:	613	0	0	0	
CAPITAL:	0	0	0	0	
POSITIONS: FT/PT and Temp.	0	0	0	0	

PUBLIC SECTOR ECONOMIC EFFECTS:

Proceeds shall be at or above Fair Market Value of \$613,000, plus reimbursed costs.

PRIVATE SECTOR ECONOMIC EFFECTS:

Assessed land value will be placed onto tax rolls following sale to private sector. Current lease revenue is roughly equivalent to anticipated tax revenue of the parcel.

Prepared by: Robin E. Ward

Telephone: 343-4337

Validated by OMB: _____

Date: _____

Approved by: _____
(Director, Preparing Agency)

Date: _____



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 670 -2006

Meeting Date: September 26, 2006

From: MAYOR

Subject: AN ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AUTHORIZING DISPOSAL FROM THE HERITAGE LAND BANK INVENTORY FOR PUBLIC SALE BY COMPETITIVE SEALED BID OF THE MUNICIPAL INTEREST IN HLB PARCEL #3-015, LEGALLY DESCRIBED AS TRACT F2, PENLAND PARK SUBDIVISION, LOCATED AT DEBARR AVENUE AND BRAGAW STREET IN ANCHORAGE, FOR AT LEAST FAIR MARKET VALUE.

The subject parcel is approximately 43,653 square feet in size, is located on the northwest corner of DeBarr Road and Bragaw, and is legally described as Tract F-2, Penland Park Subdivision, recorded in Plat No. 75-83 (see map, Appendix A). An application to purchase the municipal interest in the subject property was requested earlier this year on behalf of the current leaseholder.

The MOA acquired the subject parcel from the State of Alaska together with other property in 1979, subject to a 99-year lease that has been amended and hypothecated numerous times. A restaurant with a capacity of 140 has operated on the parcel under various names since the 1970s. Currently, the parcel is the site of the Birch Tree Restaurant, whose owner is also the current leaseholder and applicant.

The most recent lease amendment ("Restatement of Ground Lease", July, 2004, attached as Appendix B) revised rent calculations in an effort to bring the revenues flowing to MOA closer to market rate. For tax purposes, the parcel is assessed by MOA on a basis reflecting the small (leased fee) value retained in MOA ownership, which closely approximates the rate for full fee ownership. Thus a sale will not substantially increase the tax revenue stream to MOA.

An Estimated Market Value appraisal was completed on September 1, 2006, by Black-Smith Bethard and Carlson, LLC, of the subject's leased fee interest. The value was estimated at \$613,000 (see Executive Summary, Appendix C). The minimum bid in the proposed sale will equal the leased fee market value plus cost of appraisal, title insurance and escrow fees.

HLB Advisory Commission Resolution 2006-10, approved May 25, 2006, recommended the sale (see Appendix D).

Despite a recent lease amendment, HLB receives below-market lease revenues from this parcel, in the annual amount of \$18,000 for 2006. The municipality would receive slightly higher annual tax revenues pursuant to a sale of the land, as the sale of the leased fee interest

1 will have virtually no effect on the Municipal Assessor's calculation of the value of the
2 property.
3

4
5 THE ADMINISTRATION RECOMMENDS ADOPTION OF THE ATTACHED
6 ORDINANCE OF THE MUNICIPALITY OF ANCHORAGE AUTHORIZING DISPOSAL
7 FROM THE HERITAGE LAND BANK INVENTORY FOR PUBLIC SALE BY
8 COMPETITIVE SEALED BID OF THE MUNICIPAL INTEREST IN HLB PARCEL #3-
9 015, LEGALLY DESCRIBED AS TRACT F2, PENLAND PARK SUBDIVISION, FOR AT
10 LEAST FAIR MARKET VALUE.
11

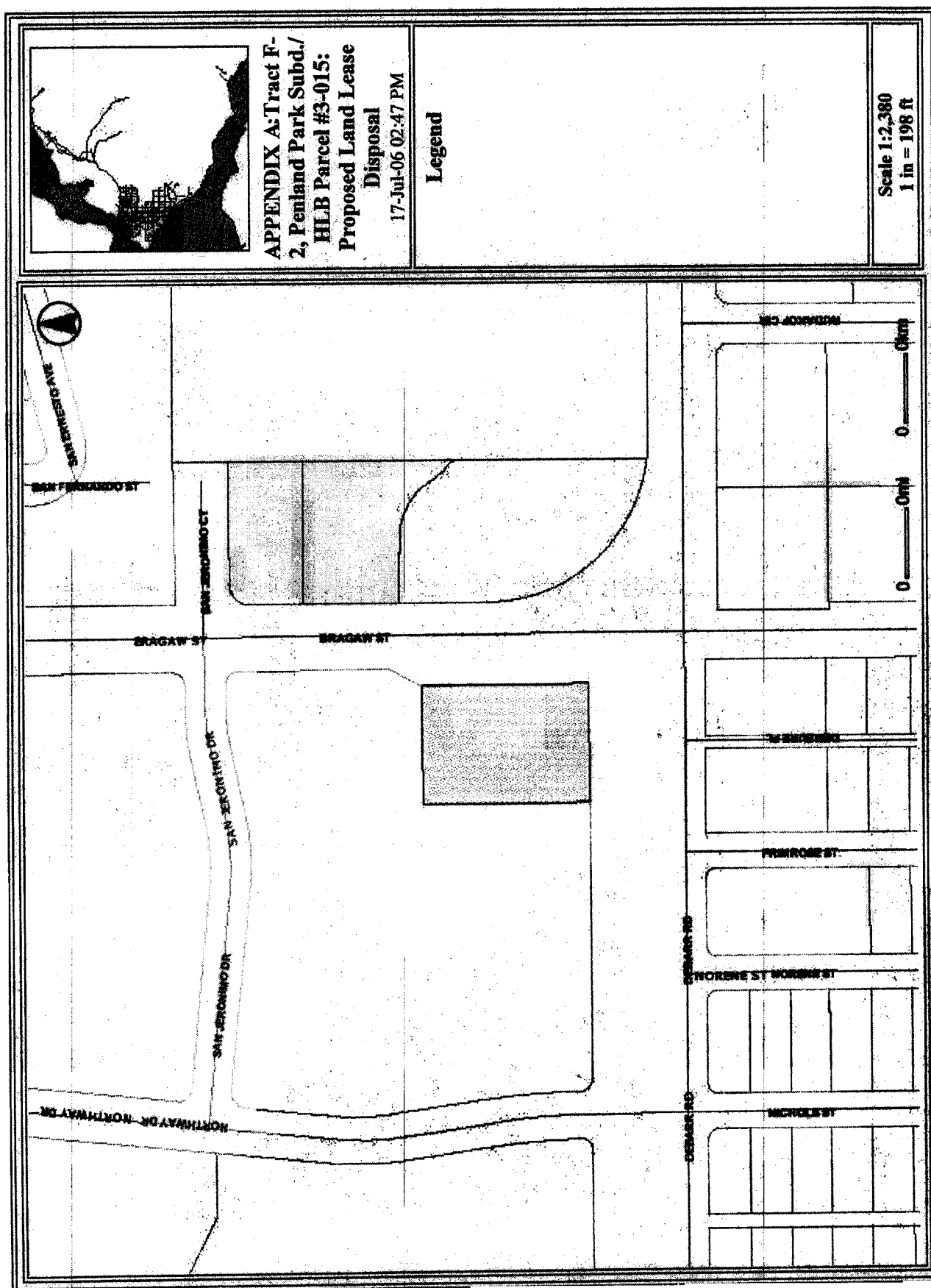
12 Prepared By: Robin E. Ward, Heritage Land Bank and Real Estate Services Director

13 Concur: Mary Jane Michael, Community and Economic Development Director

14 Concur: Denis C. LeBlanc, Municipal Manager

15 Respectfully submitted: Mark Begich, Mayor
16

Appendix A



Appendix B

004051729-0

Return to:
Municipality of Anchorage
Heritage Land Bank
Attn: Dept. Director
P.O. Box 196650
Anchorage, AK 99519-6650

Recording Dist: 301 - Anchorage
7/13/2004 10:23 AM Pages: 1 of 2

A
L
A
S
K
A



MEMORANDUM OF RESTATED OF GROUND LEASES

[Municipality of Anchorage – Kenny H. Lee]

CC
X2

THIS MEMORANDUM OF RESTATED STATE OF ALASKA GROUND LEASES ADL 50708 and 67780, gives notice of those certain State of Alaska Ground Leases No. 50708 and 67780, transferred to the Municipality of Anchorage by Patent 4245 dated June 14, 1979, which have been restated as one comprehensive lease (hereinafter "**Restated Ground Lease**"), superseding all prior Leases and amendments thereto, as amended and entered into on the 12th of July, 2004, between the **Municipality of Anchorage, Lessor**, P.O. Box 196650, Anchorage, AK 99519-6650, and **Kenny H. Lee, Lessee**, 1241 Muldoon Road, Anchorage, AK 99504.

The term of the **Restated Ground Lease** continues through the 30th day of June, 2059, plus a renewal option for one additional period of Eleven (11) years to the 30th day of June, 2070, unless otherwise extended, commencing July 12, 2004, and constitutes a leasehold interest in and on real property more particularly described as follows:

Tract F-2 of PENLAND PARK SUBDIVISION, according to the official plat thereof, filed under Plat No. 75-69, records of the Anchorage Recording District, Third Judicial District, State of Alaska.

Said real property is commonly known as Phillips International Inn, 3801 DeBarr Road, Anchorage, Alaska.

This Memorandum of Restated Ground Lease in no way modifies the terms and conditions of the **Restated Ground Lease**. The Restated Ground Lease is available for inspection at the Municipality of Anchorage, Department of Heritage Land Bank.

LESSOR:
MUNICIPALITY OF ANCHORAGE

LESSEE:



Denis C. LeBlanc Date
Municipal Manager



Kenny H. Lee, Owner Date

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY, that on the 12th day of July, 2004, before the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared Denis C. LeBlanc, personally known to me to be the Municipal Manager of the Municipality of Anchorage and he acknowledged to me that he is authorized to sign and seal the same freely and voluntarily on behalf of the Municipality of Anchorage for the uses and purposes therein mentioned.

WITNESS my hand and official seal.

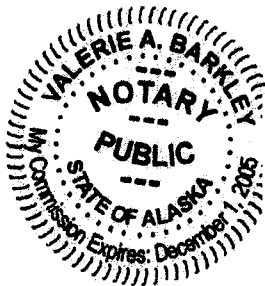


Valerie A. Barkley
NOTARY PUBLIC in and for Alaska
My commission expires: 12/1/05

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY, that on the 12th day of July, 2004, before the undersigned Notary Public in and for Alaska, duly commissioned and sworn as such, personally appeared Kenny H. Lee, personally known to me to be the same person whose name is subscribed to the above and foregoing instrument and he acknowledged to me that he signed and sealed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal.



Valerie A. Barkley
NOTARY PUBLIC in and for Alaska
My commission expires: 12/1/05



Appendix C

Executive Summary

Property Appraised: The subject property is an improved parcel containing 43,653 square feet or 1.002 acres. The Anchorage tax identification number is 004-091-95.

Location: 3801 DeBarr Road in Anchorage, Alaska

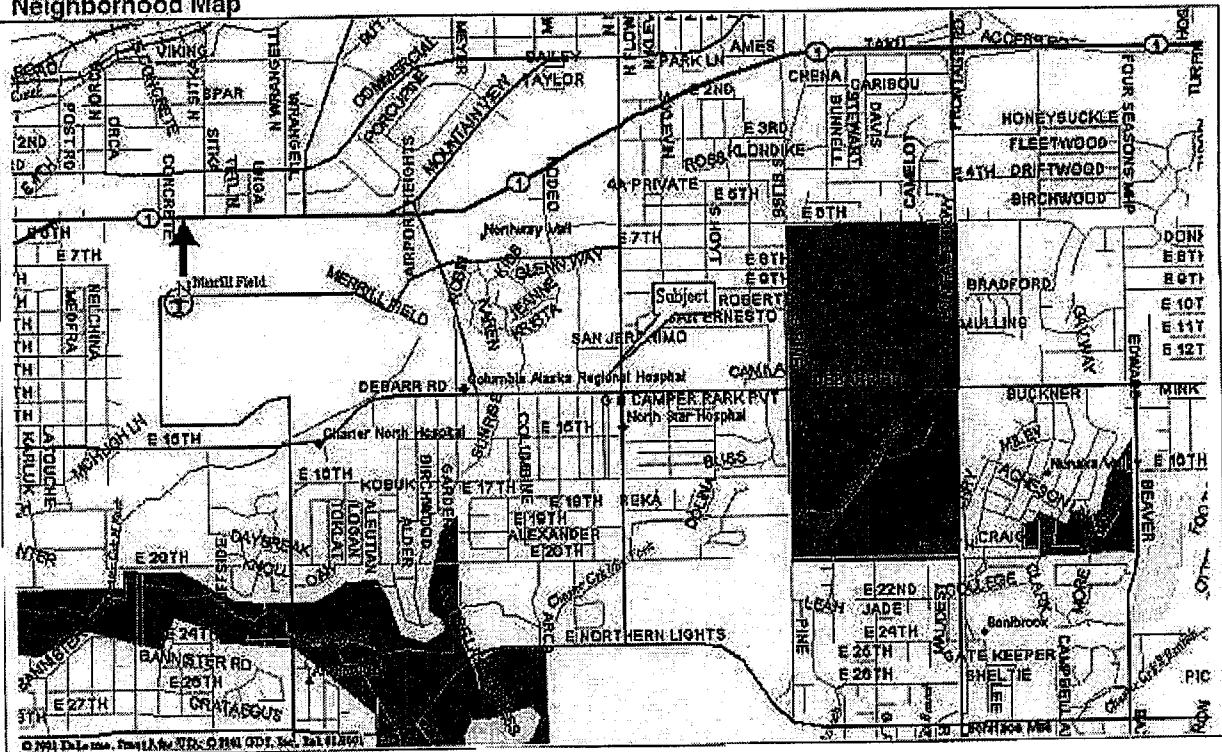
Legal Description: Tract F2 Penland Park Subdivision (Plat 75-69)

Ownership of Leased Fee Interest: Municipality of Anchorage

Ownership of Leasehold Interest: Kenny H. Lee

Zoning: B-1A

Neighborhood Map



Property Rights Appraised: Leased Fee

Date of the Report: September 11, 2006

Date of Valuation (date of inspection): September 1, 2006

Highest & Best Use:

Commercial

Estimated Market Value—Leased Fee Interest **\$613,000**

Appendix D

HLB Resolution 2006-10

A RESOLUTION OF THE HERITAGE LAND BANK ADVISORY COMMISSION RECOMMENDING ASSEMBLY APPROVAL OF A SALE BY COMPETITIVE BID OF THE FEE SIMPLE INTEREST IN HLB PARCEL NO. 3-015, COMPRISING 1.0± ACRE AT THE CORNER OF DEBARR ROAD AND BRAGAW ROAD.

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, the HLB, at "the direction of the Mayor and Assembly, may convey HLB land or interest not needed for specific public facilities or purposes. Each disposal shall be in the municipal interest and based at or above fair market appraised value or for other equivalent municipal values or objectives" (AMC 25.40.010E); and

WHEREAS, the HLB Advisory Commission is required to hold a public hearing, with public notice as specified in this chapter, prior to making a recommendation to the mayor and assembly regarding the disposal of Heritage Land Bank land or an interest in land (AMC 25.40.025A); and

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

WHEREAS, HLB Parcel #3-015 is a one-acre parcel legally described as Tract F-2, Penland Park Subdivision (TID #004-091-95), zoned B-1ASL; and

WHEREAS, the subject parcel contains a ground lease that was transferred to the Municipality of Anchorage, with improvements upon the parcel that are privately owned and managed; and

WHEREAS, in March 2006, Kenny H. Lee applied to purchase the leased fee interest in the subject property, now held by HLB, on which the improvements (Birch Tree Restaurant) are situated; and

WHEREAS, Kenny H. Lee leases the subject property from HLB under the lease expiring in 2059, payments for which are currently \$1,500 per month, which is below market rate pursuant to a 1971 lease executed by the State of Alaska, and subsequent amendments thereto; and

WHEREAS, an appraisal of the subject property was conducted by the Municipal Assessor's office, estimating a value of \$ 220,000.00 for the fee simple estate, and a commercial appraisal will be ordered; and

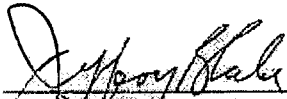
WHEREAS, an agency review was sent out on April 17, 2006, with no objections submitted, the subject property was posted May 9, 2006, and a public notice mailing of the proposed disposal was sent May 10, 2006, thereby meeting the fourteen-day minimum posting requirement,

**NOW THEREFORE THE HERITAGE LAND BANK ADVISORY COMMISSION
RECOMMENDS ASSEMBLY APPROVAL FOR A COMPETITIVE BID SALE OF HLB
FEE SIMPLE INTEREST IN PARCEL NO. 3-015, SUBJECT TO:**

Section 1. Fee simple interest in the subject property shall be sold for a price of at least fair market value, subject to existing long-term lease, existing and pending easements, utility assessments and obligations and other encumbrances that may exist, and approval by the Anchorage Assembly.

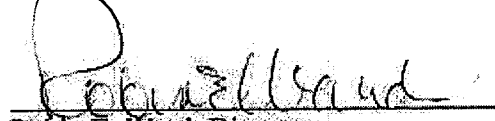
Section 2. This resolution will take effect immediately upon passage and approval.

APPROVED:



Jeffery Blake, Chair
Heritage Land Bank Advisory Commission

ATTEST:



Robin E. Ward, Director
Heritage Land Bank

May 25, 2006
Date

5/25/2006
Date

Content Information**Content ID :** 004180**Type:** Ordinance - AO**Title:** Disposal of Municipal Interest in HLB Parcel #3-015 via Sealed Bid Public Sale**Author:** vanhornlr**Initiating Dept:** HLB**Description:** Sale of municipal (leasehold) interest in HLB Parcel #3-015 at minimum Fair Market Value, via sealed bid sale**Keywords:** 3-015 sealed bid sale disposal**Date Prepared:** 7/18/06 1:50 PM**Assembly Meeting Date**
MM/DD/YY: 9/26/06**Public Hearing Date**
MM/DD/YY: 10/10/06

2006 SEP 15 AM 10:22
 CLERKS OFFICE
 M.O.A.

Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOrdinanceWorkflow	7/18/06 1:55 PM	Checkin	vanhornlr	Public	004180
HLB_SubWorkflow	7/18/06 2:02 PM	Approve	wardre	Public	004180
ECD_SubWorkflow	7/18/06 2:04 PM	Approve	thomasm	Public	004180
AllOrdinanceWorkflow	7/19/06 6:49 AM	Reject	mitsonjl	Public	004180
AllOrdinanceWorkflow	7/19/06 9:05 AM	Checkin	vanhornlr	Public	004180
HLB_SubWorkflow	7/21/06 9:41 AM	Approve	wardre	Public	004180
ECD_SubWorkflow	7/21/06 10:02 AM	Approve	thomasm	Public	004180
AllOrdinanceWorkflow	7/25/06 10:12 AM	Reject	mitsonjl	Public	004180
AllOrdinanceWorkflow	7/25/06 10:59 AM	Checkin	vanhornlr	Public	004180
ECD_SubWorkflow	7/25/06 2:21 PM	Approve	thomasm	Public	004180
OMB_SubWorkflow	7/26/06 6:09 PM	Approve	mitsonjl	Public	004180
AllOrdinanceWorkflow	8/1/06 2:20 PM	Reject	fehlenrl	Public	004180
AllOrdinanceWorkflow	9/12/06 3:45 PM	Checkin	vanhornlr	Public	004180
HLB_SubWorkflow	9/12/06 3:57 PM	Approve	wardre	Public	004180
ECD_SubWorkflow	9/12/06 4:01 PM	Approve	thomasm	Public	004180
OMB_SubWorkflow	9/13/06 8:16 AM	Approve	mitsonjl	Public	004180
Legal_SubWorkflow	9/13/06 3:38 PM	Approve	fehlenrl	Public	004180
MuniManager_SubWorkflow	9/15/06 7:06 AM	Approve	leblancdc	Public	004180
MuniMgrCoord_SubWorkflow	9/15/06 9:17 AM	Approve	abbottmk	Public	004180