

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Department of Economic &
Community Development
For reading: September 26, 2006

CLERK'S OFFICE
APPROVED

Date: 10/10/06

ANCHORAGE, ALASKA

AO NO. 2006- 138

1 AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR THE
2 BLOCK 70 PARKING GARAGE WITH ALASKA CENTER FOR
3 CONVENTION & TRADE, LLC, APPROVING AN AGREEMENT WITH
4 ALASKA HOUSING FINANCE CORPORATION TO LICENSE, ASSIGN,
5 CONSTRUCT AND PURCHASE THE BLOCK 70 PARKING GARAGE,
6 ACCEPTING AN ASSIGNMENT FROM CIVICVENTURES OF THE RIGHT
7 TO BUILD A PARKING GARAGE, APPROVING PARKING ON BLOCK 70
8 UNTIL CONSTRUCTION COMMENCES FOR THE PARKING GARAGE, AND
9 APPROVING SITE PLANS AND LANDSCAPING FOR THE BLOCK 70
10 PARKING GARAGE.

11
12
13 WHEREAS, the original plan for construction of the civic and convention center
14 included construction of a parking garage which was dropped from the project when
15 the combined cost of the parking garage and convention building exceeded the
16 amount of funds available for the convention center project; and

17
18 WHEREAS, when the parking garage was eliminated from the convention center
19 project, Alaska Center for Convention and Trade, LLC ("ACCT"), CIVICVentures
20 and the Municipality of Anchorage agreed, in the Amended and Restated
21 Development Agreement effective December 31, 2005, if funds became available
22 for construction of a parking garage before completion of construction of the
23 convention center, ACCT would have the right to enter into a development
24 agreement with the Municipality for construction of the parking garage; and

25
26 WHEREAS, as part of the acquisition of Block 80 from Alaska Housing
27 Development Corporation for construction of the convention center, Anchorage
28 Community Development Authority conveyed the southern half of Block 70 to
29 Alaska Housing Development Corporation, and the Alaska Legislature, in response
30 to requests from ACCT, AHFC and the Alaska Department of Administration,
31 enacted Chapter 47 of the Session Laws of Alaska 2006, authorizing AHFC to
32 spend up to \$44 million for purchase of a parking garage; and

33
34 WHEREAS, AHFC wishes to purchase a parking garage to be built upon the
35 southern half of Block 70 and ACCT is willing to build a garage under the

Amended and Restated Development Agreement with the Municipality, and the Municipality is willing to sell the parking garage to AHFC; and

WHEREAS, in fulfillment of the foregoing goals, CIVICVentures reassigned to the Municipality the right to construct a parking garage in connection with construction of the convention center, the Municipality and ACCT entered into a Block 70 Parking Garage Development Agreement (subject to approval by the Assembly), and the Municipality and AHFC entered into an Agreement to License, Assign, Construct and Purchase the Block 70 Parking Garage; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. The assignment from CIVICVentures to the Municipality of the right to enter into a development agreement for a parking garage is accepted and approved.

Section 2. The Block 70 Parking Garage Development Agreement, the essential terms and conditions of which are set out in the accompanying Assembly Memorandum, is approved.

Section 3. The Agreement to License, Construct and Purchase the Block 70 Parking Garage, the essential terms and conditions of which are set out in the accompanying Assembly Memorandum, is approved.

Section 4. Surface parking, in accordance with attached Exhibit B, is hereby approved until such time as construction of a parking garage is commenced.

Section 5. Anchorage Municipal Code title 21 provisions governing public facility site selection, site plan review and public facility project landscaping review, bulk variance, and zoning, are hereby waived and made inapplicable to the site selection and site plan review for the Block 70 parking garage. This waiver is applicable only if the following conditions of final design are satisfied, unless the mayor waives such condition in writing and provides the Assembly with a copy of the written waiver of condition:

1. The parking garage shall not exceed 836 spaces and 9 stories in height.
2. The design Features set forth in section 4.2.1 of the Agreement to License, Assign, Construct and Purchase the Block 70 Parking Garage shall be included in the final design, unless the mayor gives written approval to modify such design features. The retail space shall be

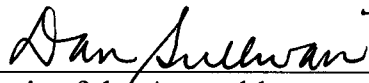
substantially the same as described in Exhibit A to the Block 70
Parking Garage Development Agreement.

3. Prior to November 1, 2006, ACCT shall conduct a public hearing
process to receive public comment concerning the design of the
parking garage and shall prepare a summary of the public comments
received.

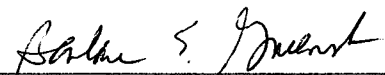
Section 6. In the event ACCT fails to satisfy each of the 3 conditions in
Section 5 above, the approval and waiver in this ordinance shall be void, and the
parking garage shall comply with all substantive and procedural requirements of
title 21.

Section 7. This ordinance shall be effective immediately upon passage and
approval by the Anchorage Assembly.

PASSED AND APPROVED this 10th day of October, 2006.


Chair of the Assembly

ATTEST:


Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2006- 138

Title: AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR THE BLOCK 70 PARKING GARAGE WITH ALASKA CENTER FOR CONVENTION & TRADE, LLC, APPROVING AN AGREEMENT WITH ALASKA HOUSING FINANCE CORPORATION TO LICENSE, ASSIGN, CONSTRUCT AND PURCHASE THE BLOCK 70 PARKING GARAGE, ACCEPTING AN ASSIGNMENT FROM CIVICVENTURES OF THE RIGHT TO BUILD A PARKING GARAGE, APPROVING PARKING ON BLOCK 70 UNTIL CONSTRUCTION COMMENCES FOR THE PARKING GARAGE, AND APPROVING SITE PLANS AND LANDSCAPING FOR THE BLOCK 70 PARKING GARAGE.

Sponsor: Mayor
Preparing Agency: Department of Law
Others Impacted:

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						
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -	
Add: 6000 Charges from Others						
Less: 7000 Charges to Others						
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -	
REVENUES:	\$ 220					
CAPITAL:						
POSITIONS: FT/PT and Temp						

PUBLIC SECTOR ECONOMIC EFFECTS:

Receipt of \$220,000 revenue to the Municipality as an administrative fee.

PRIVATE SECTOR ECONOMIC EFFECTS:

None.

Prepared by: Depart

Telephone: 343-4545

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 683 -2006

Meeting Date: September 26, 2006

1 **From:** MAYOR

2
3 **Subject:** AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT
4 FOR THE BLOCK 70 PARKING GARAGE WITH ALASKA CENTER
5 FOR CONVENTION & TRADE, LLC, APPROVING AN
6 AGREEMENT WITH ALASKA HOUSING FINANCE
7 CORPORATION TO LICENSE, ASSIGN, CONSTRUCT AND
8 PURCHASE THE BLOCK 70 PARKING GARAGE, ACCEPTING AN
9 ASSIGNMENT FROM CIVICVENTURES OF THE RIGHT TO
10 BUILD A PARKING GARAGE, APPROVING PARKING ON
11 BLOCK 70 UNTIL CONSTRUCTION COMMENCES FOR THE
12 PARKING GARAGE, AND APPROVING SITE PLANS AND
13 LANDSCAPING FOR THE BLOCK 70 PARKING GARAGE.
14

15
16 INTRODUCTION

17
18 The purpose of this ordinance is to implement the section of the Amended and Restated
19 Development Agreement allowing for the construction of a parking garage in connection
20 with the Civic and Convention Center, if funding for a garage becomes available.
21

22 The original proposal from ACCT for construction of a convention center included
23 construction of a parking garage on Block 102. The parking garage was dropped from the
24 final project because the combined cost escalations of the convention center and parking
25 garage exceeded the funds available for the project. At the time the parking garage was
26 deleted, ACCT and the Municipality agreed, if funds for construction of a parking garage
27 could be located prior to completion of the convention center, ACCT and the Municipality
28 would build the garage subject to final agreement.
29

30 In response to this provision, ACCT lobbied the State administration and legislature for
31 funds to build a parking garage on the south half of Block 70 (just north of the Atwood
32 Building). The Legislature passed legislation authorizing AHFC to purchase a parking
33 garage for an amount not to exceed \$44 million dollars. AHFC plans to sell \$44 million of
34 revenue bonds supported by lease payments from the State.
35

36
37 THE PARKING GARAGE

38
39 The parking garage is presently at a 10% design level. Its final design is expected to evolve

1 as cost estimates are refined. Presently, the design is for a 9-story garage with 836 parking
2 spaces. The ground floor will contain commercial retail space. The tenants are not yet
3 determined but the location seems ideal for at least one restaurant. The sidewalks on the E, F
4 and 7th Avenue sides of the garage will be heated from face of the building to the curb. There
5 will be two entry lanes on E street and two exit lanes on 7th Avenue. The garage will be
6 connected to the Atwood building via a skybridge. The southwest corner will contain a
7 glass-enclosed elevator and stairway, separated from the building at ground level in order to
8 permit passage between the building and the stairwell at street level. The building contains a
9 10-foot cantilever on all sides of the building, except the alley, to protect a portion of the
10 sidewalk from the weather. The exterior of the garage is covered with a metal skin designed
11 to reduce the visual impact to the structure.
12
13

14 THE LEGAL AND BUSINESS STRUCTURE

15
16 There are two principal agreements and one corollary agreement. The corollary agreement is
17 between CIVICVentures (CV) and the Municipality, and it is necessary to implement the two
18 principal agreements.
19

20 The corollary agreement is an assignment by CV to the Municipality of the right to construct
21 a parking garage. This assignment is necessary to permit the Municipality to exercise its
22 right to build a parking garage under the Amended and Restated Development Agreement.
23 Absent this assignment, ACCT would need to enter into an agreement with CV. However,
24 this is undesirable because the State can only enter into contract with the Municipality and
25 also because CV is a single purpose entity - the purpose is to build and own the Convention
26 Center. CV is not authorized to build a parking garage for sale to the State.
27

28 THE WAIVER OF TITLE 21 REQUIREMENTS

29
30 In authorizing construction of the Convention Center, the Assembly (in AO2004-54, AO
31 2004-179 and AO 2005-91) waived various site plan review, public facilities review,
32 platting, bulk variance and zoning requirements imposed by title 21. At the same time, the
33 Assembly also required the developer to conduct a streamlined public review and comment
34 process. This waiver applied to a proposed parking garage as well as to the Convention
35 Center itself. However, because the garage described in those earlier ordinances was smaller
36 than the garage called for in the current development agreement, the Department of Law has
37 indicated the waiver contained in the earlier ordinances is not applicable to the parking
38 garage contemplated by the Block 70 Parking Garage Development Agreement. The
39 proposed ordinance reinstates the waiver of certain title 21 requirements, provided the design
40 features justifying and supporting the waiver are included in the final design, or the mayor
41 agrees in writing such design feature may be modified.
42
43

44 APPROVAL OF SURFACE PARKING

45
46 This section of the ordinance deals with a technical issue discovered during investigations
47 relating to the Property Exchange Agreement transferring Block 80 to the Anchorage

Community Development Authority, and transferring the southern half of Block 70 to AHFC. The discovery was residential housing was located on at least one lot on Block 70 in 1970. Thus, despite the fact that the southern half of Block 70 has been used as surface parking lot for many years, it is possible the density of use on the lot was a violation of zoning law. This provision makes clear that whether or not there is zoning violation, the State may park on block 70 in the manner set forth in the exhibit to the Property Exchange Agreement

THE ESSENTIAL TERMS OF EACH AGREEMENT

1. The assignment from CIVICVentures.

This assignment is between CV and the Municipality. In this agreement, CV transfers to the Municipality the right under the Amended and Restated Development Agreement to enter into an agreement with ACCT to construct a parking garage. CV also acknowledges it is responsible for costs of environmental cleanup of Block 70, an amount in excess of the \$200,000 committed by ACCT.

2. The Block 70 Parking Garage Development Agreement.

The Block 70 Parking Garage Development Agreement is between ACCT, as developer, and (nominally) MOA, as initial owner of the garage prior to sale to AHFC. It is modeled after the Convention Center Development Agreement. Attached to the Agreement are exhibits, describing the 10% design level and identifying the design features of the garage including those included at the request and insistence of the Municipality. The Development Agreement calls for ACCT to carry the 10% design level forward to sum-certain pricing level documents (in the convention center project, these were referred to as the 35% design level documents). At that time, ACCT will present a proposed fix price for construction of the parking garage and a construction schedule for the project. Then, at that point AHFC must decide to proceed to Phase II - construction of the garage or terminate the project. If the cost, schedule or design at the end of Phase I are not acceptable to AHFC, it may elect to terminate the Project.

Although the Development Agreement refers to many obligations of the MOA to review, approve (or reject), and pay for work, in reality, the MOA is not responsible for making these decisions and it is not liable for the obligations imposed upon it by the Development Agreement (with some very limited exceptions described below). The reason the MOA does not exercise the rights granted it in the Development Agreement and is not liable for the obligations described in the Development Agreement is because the MOA assigns to AHFC both its rights and obligation under the Development Agreement.

The limitation on MOA liability is set out explicitly in Section 7 of the Development Agreement. In that section, ACCT expressly agrees, after assignment to AHFC, ACCT will look only to AHFC for payment and expressly release the Municipality from liability and claims ACCT might have in connection with its efforts to build the parking garage.

3. The Agreement to License, Assign Construct and Purchase the Block 70 Parking

Garage.

The second principal agreement is the Purchase and Sale Agreement. This is an Agreement between the Municipality and AHFC. In some limited ways, this Agreement is similar to a standard purchase and sale agreement where an owner of a building sells the structure to a buyer. However, in a number of ways, this Purchase and Sale Agreement is unique because it assigns to AHFC virtually all of the MOA's rights, responsibilities, and liabilities under the Development Agreement. In effect, AHFC 'steps into the shoes' of the MOA and assumes the right and responsibility for approving, rejecting, overseeing, monitoring, deciding and paying for work under the development agreement. In addition to the assignment of rights, responsibilities and liabilities to AHFC, other significant provisions of the Purchase and Sale Agreement are:

- A. MOA is paid an administrative fee to cover both actual cost and risk incurred. The fee is \$220,000.
- B. MOA administers the 1% for Art program. The cost of this program, including an administrative fee to the MOA, is to be paid by AHFC out of the project budget.
- C. MOA is guaranteed the final design will contain certain design features important to the Municipality (that is, these features will not be cut without MOA consent, even if the project experiences cost escalations requiring something to be cut). These features include: Retail space on ground level, heated sidewalks, the glass tower at the SW corner, no entrance or exit on F street, and a decorative facing to cover the concrete structure.
- D. MOA retains liability for cost escalation associated with changes in the Municipality code or regulations causing the project to increase in cost between the time the fixed price contract is executed and the building permit is issued. (This was also a risk assumed by CV in the Convention Center Project.) This risk is manageable.
- E. MOA pays for the cost of environmental cleanup, if such cost exceed \$200,000. This provision is an improvement over the exposure the MOA already bears. Under the Agreement between AHFC and the MOA for purchase of Block 80, the MOA was required to accept the cost of environmental cleanup of Block 70. Thus, at the present time, the MOA has liability for all costs of cleanup. In the Development Agreement, the MOA was able to negotiate with ACCT to get ACCT to agree to pay the first \$200,000 of environmental cleanup cost. Drilling on Block 70 suggests the possibility of at least one site with some petroleum contamination. The source of this contamination is unknown but old photographs suggest it may be an underground fuel tank from residential property once located on the site. In the unlikely event the cleanup exceeds \$200,000, the MOA will be reimbursed up to an additional \$500,000 from CV for environmental cleanup.

1
2 THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE
3 APPROVING A DEVELOPMENT AGREEMENT FOR THE BLOCK 70 PARKING
4 GARAGE WITH ALASKA CENTER FOR CONVENTION & TRADE, LLC,
5 APPROVING AN AGREEMENT WITH ALASKA HOUSING FINANCE
6 CORPORATION TO LICENSE, ASSIGN, CONSTRUCT AND PURCHASE THE BLOCK
7 70 PARKING GARAGE, ACCEPTING AN ASSIGNMENT FROM CIVICVENTURES OF
8 THE RIGHT TO BUILD A PARKING GARAGE, APPROVING PARKING ON BLOCK
9 70 UNTIL CONSTRUCTION COMMENCES FOR THE PARKING GARAGE, AND
10 APPROVING SITE PLANS AND LANDSCAPING FOR THE BLOCK 70 PARKING
11 GARAGE.
12
13

14 Prepared by: Department of Law
15 Approved by: James N. Reeves, Municipal Attorney
16 Concur: Denis C. LeBlanc, Municipal Manager
17 Respectfully submitted: Mark Begich, Mayor
18
19

Content Information

Content ID : 004377

Type: Ordinance - AO

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR THE BLOCK 70 PARKING GARAGE WITH ALASKA CENTER FOR

Title: CONVENTION & TRADE, LLC, APPROVING AN AGREEMENT WITH ALASKA HOUSING FINANCE CORPORATION TO LICENSE, ASSIGN, CONSTRUCT AND PURCHASE THE BLOCK 70 PARKING G

Author: fehlenrl

Initiating Dept: Legal

AN ORDINANCE APPROVING DEVELOPMENT AGREEMENT BLOCK 70 PARKING GARAGE, AGREEMENT WITH AHFC, ACCEPTING CV ASSIGNMENT, APPROVING BLOCK 70 PARKING, AND APPROVING SITE PLANS/LANDSCAPING FOR BLOCK 70 PARKING GARAGE.

Description:

Keywords: Convention Center, Parking Garage, Block 70

Date Prepared: 9/15/06 11:53 AM

Director Name: James N. Reeves

Assembly

Meeting Date 9/26/06

MM/DD/YY:

Public Hearing

Date 10/10/06

MM/DD/YY:

M.O.A.
2006 SEP 15 PM 3:12
CLERKS OFFICE

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	9/15/06 11:59 AM	Checkin	fehlenrl	Public	004377
Legal_SubWorkflow	9/15/06 12:00 PM	Approve	fehlenrl	Public	004377
OMB_SubWorkflow	9/15/06 12:03 PM	Approve	mitsonjl	Public	004377
MuniManager_SubWorkflow	9/15/06 1:44 PM	Approve	leblancdc	Public	004377
MuniMgrCoord_SubWorkflow	9/15/06 1:48 PM	Approve	abbottmk	Public	004377