

AMENDED 5-1-07; FAILED 5-1-07;
IMMEDIATE RECONSIDERATION FAILED
5-1-07

Submitted by: *Assembly Chair by Reg of AG 11/07*
DAN COFFEY, ASSEMBLY CHAIR
Prepared by: Municipal Light & Power
For reading: May 1, 2007

ANCHORAGE, ALASKA

AO No. 2007-58 (S) *as Amended*

1 **AN ORDINANCE AUTHORIZING A DEVELOPMENT AGREEMENT WITH**
2 **KIMCO/POB GLENN SQUARE ANCHORAGE, LLC, FOR DESIGN,**
3 **ENGINEERING, AND CONSTRUCTION OF AN OFFICE AND RETAIL**
4 **CONDOMINIUM COMPLEX; ACQUIRING OWNERSHIP INTERESTS IN**
5 **THE COMPLEX WITHIN TRACT 1, MOUNTAIN VIEW DEVELOPMENT**
6 **SUBDIVISION; DECLARING OFFICIAL INTENT TO REIMBURSE**
7 **EXPENDITURES FOR ACQUISITION OF THE OWNERSHIP INTERESTS**
8 **FROM PROCEEDS OF TAX EXEMPT REVENUE BONDS; AND INCREASING**
9 **THE MUNICIPAL LIGHT & POWER (ML&P) 2007 CAPITAL BUDGET**
10 **(FUND 531) TO FUND THE ACQUISITION IN AN AMOUNT NOT TO**
11 **EXCEED TWENTY-FOUR MILLION DOLLARS (\$24,000,000).**

12
13 **WHEREAS,** the current site constraints and stated needs of Municipal Light & Power
14 Utility support a new headquarters facility for the Utility; and

15
16 **WHEREAS,** the current headquarters location cannot be economically expanded to
17 accommodate current or future requirements of the Utility; and

18
19 **WHEREAS,** there are recognized economic advantages to a new Utility headquarters
20 facility located within the Mt. View service district; and

21
22 **WHEREAS,** it is recognized a new privately owned commercial condominium
23 development is available within the Mt. View district, and meets the current
24 operational, conditional, and competitive aspects desired by the Municipality; and

25
26 **WHEREAS, the condominium development has capacity to accommodate the**
27 **Utility's anticipated future needs for space; and**

28
29 **WHEREAS, the condominium development may not accommodate the Utility's**
30 **needs for customer service facilities, in which event further Assembly approval will**
31 **be sought within one hundred twenty (120) days for acquisition of customer service**
32 **facilities near or within the condominium development; and**

33
34 **WHEREAS,** the Planning and Zoning Commission approved on March 5, 2007 a site
35 selection plan and public building review; and

36
37 **WHEREAS,** the Urban Design Commission on March 14, 2007 issued a preliminary

plan approval, subject to final submission; now, therefore,

THE ANCHORAGE ASSEMBLY ORDAINS:

Section 1. Notwithstanding other provisions of Anchorage Municipal Code pertaining to the acquisition of real property or construction of improvements to real property, the Municipality is hereby authorized to enter into a development agreement with Kimco/POB Glenn Square Anchorage LLC (Kimco/POB), a Delaware Limited Liability Company, to provide for the design, engineering, project management, and construction of a Municipal Light & Power headquarters facility, under the following terms and conditions, and upon such other terms and conditions as the Mayor or designee shall deem reasonably necessary, appropriate, or in the best interests of the Municipality:

A Development Agreement Consisting of:
Developer Provided Services/Fees

A. The developer shall provide for full architectural design, engineering, project management, construction management, and provisioning for a properly licensed general contractor(s) and/or specialty contractors to construct a building and site improvements of sufficient size, quality, and functionality to meet the operational needs of the Municipal Light & Power Utility. All services and requirements shall be performed and meet all state and local codes, ordinances, and laws for a public facility. The developer provided services shall include, but not be limited to the following deliverables and cost elements in execution of these services:

1. Architectural, Engineering, Civil, Electrical, Mechanical, Geotechnical, other professional design/survey services, and permits necessary and sufficient for the Municipal Light & Power building structure and adjacent site improvements (including sufficient professional liability insurance);
2. Project Management Services throughout the duration of the project and until all finish work, site work, and all other improvements have been finally completed and a certificate of occupancy has been issued;
3. On-site Construction Management Services to insure all contracted services are constructed, inspected, and completed in accordance with all approved plans and specifications;
4. Construction Management Expenses;
5. Developer Fees, Profit and Overhead.

The total cost of all services, fees, and expenses allocable by the developer shall not exceed \$2,341,505 [2,853,770].

Construction Services

- A. The developer shall oversee the construction of a three (3) story retail/office building (condominium complex/building) with the office space (floors 2 & 3, **the Office Unit**) constructed in accordance with architectural plans and specifications approved by the Municipality for the ultimate ownership/use by the Municipal Light & Power Utility. The Developer shall retain and operate the ground floor retail space (the Retail Unit), **as well as those portions of the Office Unit not currently needed by Municipal Light & Power, SUBJECT TO option(s) for Municipal Light & Power to acquire such portions of the Office Unit.**

The Developer shall provide for and coordinate the building and site improvement services to include general contractor(s), specialty contractors, suppliers, and other trades and crafts required to construct, supply, commission, inspect, and complete all build-outs in accordance with all approved plans, specifications, and requirements of the building complex and common grounds (fragment lots 7 & 8). These services shall be performed and be subject to the following terms and conditions:

1. General and specialty contractors and suppliers (major subcontractor trade) shall be secured through advertised competitive bidding procedures;
2. All site and facility improvement work shall be subject to Alaska State Statutes Title 36, Public Contracts, and shall require that all labor and wages paid will be in conformance with and reported to the State of Alaska, Department of Labor & Workforce Development;
3. That all public construction contracts issued will include notification by the Developer to the State of Alaska, Department of Labor & Workforce Development;
4. That a 100% Performance & Payment Bond(s) shall be secured from the project General Contractor in the full amount of the project work naming the Municipality of Anchorage as a co-obligee;
5. That the project General Contractor provides broad form "all risk" builder's risk insurance, comprehensive general and automobile

liability, and worker's compensation and employer's liability insurance in a form and in the amounts approved by the Municipal Risk Manager;

6. That all electrical & mechanical work performed on the project shall include and be subject to the ML&P/IBEW Collective Bargaining Agreement, and that such work by any general, specialty and/or sub-contractor shall require that they be signatory to, or have a written letter of assent issued by the IBEW Local 1547;

7. That, at a minimum, the Municipal Light & Power portion of the building shall incorporate a 1% for the arts component as part of the completed building project.

All Construction Service and site improvement costs shall be aggregated and allocated between Municipal Light & Power and Kimco/POB in accordance with their percentage ownerships, as tenants-in-common, [a 65.2/34.8% ownership allocation shall be payable by Municipal Light & Power as tenants in common with the developer] in the condominium complex built on fragment lots 7 and 8. The final allocation of actual costs for Municipal Light & Power shall be adjusted to offset the cost of Municipal Light & Power tenant improvements, 1% for the arts, and the differential costs associated with the structural upgrades required to the ground floor (retail unit) in order for the complex to be a "semi-hardened" facility. The total payable costs by Municipal Light & Power for ~~its~~ their ^{54%} 65.2% ownership interests in the condominium building and site improvements shall not exceed \$9,627,624 ~~[13,752,173]~~. Municipal Light & Power shall also establish and have available a contingency fund in the amount of \$684,437 ~~[1,000,000]~~ to provide for any qualified change orders or facility improvements that may be requested by the Utility during construction. Any increase to the construction service portion of the development agreement beyond what is stipulated herein shall be subject to approval by the Anchorage Assembly.

In addition, KIMCO/POB and ML&P shall encourage and incorporate value engineering and constructability reviews through the general contractor and/or other major sub-contractor work to identify potential cost savings and/or project improvements that are beneficial to the owners. Any cost savings/cost reductions associated with any accepted improvement shall be shared equitably between the appropriate contractor or sub-contractor, KIMCO/POB, and ML&P.

Total Cost of construction shall not exceed \$9,627,624 ~~[13,752,173]~~.

Contingency shall not exceed \$684,437 ~~[1,000,000]~~.

Land Purchase

A. The condominium complex shall be built upon fragment lots 7 & 8 of Tract 1, MT VIEW DEVELOPMENT SUBDIVISION, according to Plat Nos. 2006-62 and -64. Kimco/POB will sell, and the Municipality will buy, the following:

1. A ^{54%} percentage ~~[65.2%]~~ interest, as a tenant in common with Kimco/POB, in Fragment Lots 7 & 8, with site improvements, for a purchase price not to exceed \$1,903,570 ~~[2,286,846]~~.

2. An ^{82.7%} [fee] ~~[(100%)]~~ interest in Fragment Lot 9 for a purchase price not to exceed \$2,303,154 ~~[2,771,050]~~. Lot 9 (same legal description as above) shall be fully constructed with all approved site amenities as an entrance/parking area for the street level access at the second story level of the condominium complex. [This lot shall be owned by Municipal Light & Power for exclusive use by its employees and customers.]

^{54%}
Upon substantial completion of the condominium complex, the Municipality and Kimco/POB, as ~~[a 65.2%]~~ tenants-in-common of Fragment lots 7 & 8 and the building, ~~[and Kimco/POB as a 34.8% tenant-in-common]~~ will dedicate the property as Glenn Square Condominiums under Alaska law, with the office space and related common areas conveyed to the Municipality, and the retail unit and related common areas conveyed to Kimco/POB.

Total Cost of the land shall not exceed \$4,206,724 ~~[5,057,896]~~.

Total Project Costs (developer, construction, contingency, land) not to exceed \$16,860,290 ~~[22,663,839]~~.

Section 2. The Municipality, through Municipal Light & Power, is authorized to purchase real property and a condominium office complex for the new Municipal Light & Power Headquarters Facility. Municipal Light & Power expects to finance the real property and building costs on a long-term basis with proceeds of tax exempt revenue bonds; and Municipal Light & Power expects a portion of the bonds and proceeds of the bonds will be used to reimburse Municipal Light & Power for the costs incurred against the project prior to the issuance of the bonds; now, therefore, Municipal Light & Power makes the following declaration of official intent:

A. Be it ordained, Municipal Light & Power reasonably expects a portion of

the new headquarters complex and other real property will be paid by Municipal Light & Power prior to the issuance of the bonds and proceeds of the bonds will be used to reimburse Municipal Light & Power for those Headquarter costs incurred and paid by Municipal Light & Power prior to the issuance of such bonds. The bonds will be issued in a total principal amount not to exceed SIXTEEN MILLION EIGHT HUNDRED SIXTY THOUSAND TWO HUNDRED NINETY DOLLARS (\$16,860,290) [Twenty-Four Million Dollars (\$24,000,000)]; and

B. Be it ordained, Municipal Light & Power intends the adoption of this ordinance shall be and constitutes an "official intent resolution" within the meaning of Section 1.150-2 of the Income Tax Regulations prescribed by the United States Treasury Department; and

C. Be it ordained, this ordinance shall be made available for public inspection at the finance office of Municipal Light & Power after its approval by the Anchorage Assembly.

Section 3. The sum of SIXTEEN MILLION EIGHT HUNDRED SIXTY THOUSAND TWO HUNDRED NINETY DOLLARS (\$16,860,290) [Twenty-Four Million Dollars (\$24,000,000)] is hereby appropriated to the Municipal Light & Power Fund (Fund 531). This supplemental appropriation will be funded from tax exempt revenue bonds expected to be issued in 2007, and the 2007 Municipal Light & Power Capital Budget is hereby revised as follows:

| <u>Funds</u> | <u>Utility</u> | <u>Capital Budget</u> |
|--------------|-------------------------|----------------------------------|
| 531 | Municipal Light & Power | <u>\$58,027,290 [65,167,000]</u> |

Section 4. This ordinance shall be effective immediately upon its passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _____ day of _____, 2007.

Chair of the Assembly

ATTEST:

Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- Utilities

AO Number: 2007-58 (S)

Title: AN ORDINANCE AUTHORIZING A DEVELOPMENT AGREEMENT WITH KIMCO/POB GLENN SQUARE ANCHORAGE, LLC, FOR DESIGN, ENGINEERING, AND CONSTRUCTION OF AN OFFICE AND RETAIL CONDOMINIUM COMPLEX; ACQUIRING OWNERSHIP INTERESTS IN THE COMPLEX WITHIN TRACT 1, MOUNTAIN VIEW DEVELOPMENT SUBDIVISION; DECLARING OFFICIAL INTENT TO REIMBURSE EXPENDITURES FOR ACQUISITION OF THE OWNERSHIP INTERESTS FROM PROCEEDS OF TAX EXEMPT REVENUE BONDS; AND INCREASING THE MUNICIPAL LIGHT & POWER (ML&P) 2007 CAPITAL BUDGET (531) TO FUND THE ACQUISITION IN AN AMOUNT NOT TO EXCEED TWENTY-FOUR MILLION DOLLARS (\$24,000,000).

Sponsor: MAYOR
 Preparing Agency: ML&P
 Others Impacted: None

| CHANGES IN REVENUES AND EXPENSES: | | (In Thousands of Dollars) | | | | |
|--|------------|---------------------------|------------|------------|------------|--|
| | FY07 | FY08 | FY09 | FY10 | FY11 | |
| Operating Revenues: | | | | | | |
| TOTAL OPERATING REVENUES | \$ - | \$ - | \$ 1,110.4 | \$ 2,220.9 | \$ 2,220.9 | |
| Operating Expenses: | | | | | | |
| Depreciation | \$ - | \$ 246.0 | \$ 421.8 | \$ 421.8 | \$ 421.8 | |
| MUSA - Property Tax Portion | \$ - | \$ 254.2 | \$ 247.7 | \$ 241.3 | \$ 234.8 | |
| Musa - Gross Receipts | \$ - | \$ - | \$ 13.9 | \$ 27.8 | \$ 27.8 | |
| Building Maintenance & Operation | \$ - | \$ 341.7 | \$ 512.5 | \$ 512.5 | \$ 512.5 | |
| TOTAL OPERATING EXPENSES | \$ - | \$ 841.9 | \$ 1,195.9 | \$ 1,203.4 | \$ 1,196.9 | |
| Non-Operating Revenues: | | | | | | |
| Restricted Interest | \$ 63.5 | \$ 35.3 | | | | |
| TOTAL NON-OPERATING REVENUES | \$ 63.5 | \$ 35.3 | \$ - | \$ - | \$ - | |
| Non-Operating Expenses: | | | | | | |
| Interst on Long-Term Debt | \$ 179.1 | \$ 713.5 | \$ 701.1 | \$ 688.2 | \$ 674.8 | |
| Allowance for Funds Used During Construction | \$ (509.7) | \$ (538.5) | | | | |
| TOTAL NON-OPERATING EXPENSES | \$ (330.6) | \$ 175.0 | \$ 701.1 | \$ 688.2 | \$ 674.8 | |
| NET INCOME (LOSS) | \$ 394.1 | \$ (981.6) | \$ (786.6) | \$ 329.3 | \$ 349.2 | |

POSITIONS: FT/PT and Temp

PUBLIC SECTOR ECONOMIC EFFECTS:

Accompanying documents summarize capital expenditures not to exceed \$16,860,290 in 2007 and 2008, subject to reimbursement from tax exempt revenue bonds. This transaction will result in an annual 2.7% rate increase once approved by the Municipal Assembly and the Regulatory Commission of Alaska estimated to begin July 1, 2009, which translates to a cost of \$1.49 per month for a typical residential customer.

SUMMARY OF ECONOMIC EFFECTS

PRIVATE SECTOR ECONOMIC EFFECTS:

The 2.7% rate increase once approved by the Municipal Assembly and the Regulatory Commission of Alaska estimated to begin July 1, 2009, translates to a 0.20 cent (¢) increase in cost per KWh. Current revenue per KWh is 7.26 cents (¢).

Prepared by: Richard Miller

Telephone: 263-5205

Validated by OMB: _____

Date: _____

Approved by: James M. Posey
 (Director, Preparing Agency)

Date: May 1, 2007



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

AM No. 234-2007(A)

Meeting Date: May 1, 2007

1 **From:** ~~Dan Coffey, Assembly Chair~~

2
3 **Subject:** **An Ordinance Authorizing a Development Agreement with**
4 **KIMCO/POB Glenn Square Anchorage, LLC, for Design, Engineering,**
5 **and Construction of an Office and Retail Condominium Complex;**
6 **Acquiring Ownership Interests in the Complex within Track 1,**
7 **Mountain View Development Subdivision; Declaring Official Intent to**
8 **Reimburse Expenditures for Acquisition of the Ownership Interests**
9 **from Proceeds of Tax Exempt Revenue Bonds; and Increasing the**
10 **Municipal Light & Power (ML&P) 2007 Capital Budget (Fund 531) to**
11 **Fund the Acquisition in an Amount not to Exceed Twenty-Four Million**
12 **Dollars (\$24,000,000).**

13
14 The purpose of this memorandum is to outline the changes proposed to Assembly
15 Ordinance No. 2007-58, hereafter referred to as AO 2007-58 (S), as amended.

16
17 Subsequent to introduction of AO 2007-58, Kimco/POB advertised and secured
18 competitive bids for the construction of the condominium complex to be built under this
19 proposed development agreement. As such, the original construction budget of
20 \$16,000,000 is now prepared for execution in the amount of \$13,693,000 based upon
21 the bid submitted by the lowest responsive and responsible bidder, Watterson
22 Construction Company.

23
24 In addition, Municipal Light & Power's space needs were reevaluated; its share of the
25 condominium complex on Fragment Lots 7 and 8 has been reduced from 66,075
26 square feet (of a total 101,308 ft²) to 54,755 square feet (approximately 54% of the
27 total). Accordingly, Municipal Light & Power's share of the construction costs of the
28 condominium complex, as well as its share of the developer's fees, land costs and site
29 improvements, are adjusted proportionately.

30
31 AO No. 2007-58 (S) incorporates the downward change of the developer's fees (page
32 3, line 2), original construction budget and contingency (page 4, lines 28, 30 and 44,
33 and page 5, line 1), and land costs (page 5, lines 12, 15 and 30). Additionally,
34 beginning on page 4, line 36, a new paragraph has been inserted that will require
35 Kimco/POB and ML&P to deploy "value engineering and constructability reviews"
36 through the general contractor and/or major sub-contractors on this project. By
37 incorporating this industry practice, it should assist in managing the cost of construction
38 of the complex, and should benefit the overall quality of the building through industry
39 based improvements that are more generally known by the specific trades and crafts
40 contractors.

41
42 Also removed from the original ordinance is \$1,336,161 from the budget and
43 appropriations sections. This earmark was originally anticipated by the administration

1 for the future purchase of additional lots along Mt. View Drive that would abut the
2 current project site. The removal of this earmark will insure that this amended ordinance
3 becomes project specific to this development without any unplanned expansions. Any
4 future purchase of lands or new improvements that may be requested by ML&P will be
5 subject to normal review and approval by the Assembly at that time. It is anticipated
6 that Municipal Light & Power will submit such request to the Assembly within one
7 hundred twenty (120) days.

8
9 The bottom line and overall reduction of AO 2007-58 (S), as amended, is \$7,139,710,
10 from the original request of \$24,000,000 to \$16,860,290.

11
12 Based upon these revisions, I respectfully encourage the Assembly to substitute and
13 adopt AO No. 2007-58 (S) as submitted.

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15 Prepared by: Dan Coffey, Assembly Chair
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