

Submitted by: Chair of the Assembly at the  
Request of the Acting Mayor  
Prepared by: Real Estate Services, a  
division of Heritage Land  
Bank  
For Reading: April 21, 2009

CLERK'S OFFICE

**APPROVED**

Date: 5/12/09

**ANCHORAGE, ALASKA**

**AO No. 2009-52**

1 **AN ORDINANCE AUTHORIZING ACQUISITION OF REAL PROPERTY IN**  
2 **PETERS CREEK FOR MUNICIPAL LIGHT & POWER FOR AN AMOUNT NOT**  
3 **TO EXCEED SEVENTY THOUSAND DOLLARS (\$70,000), PLUS CLOSING**  
4 **COSTS.**

5  
6  
7 **WHEREAS**, the Municipality desires to acquire real property in Peters Creek on  
8 behalf of Municipal Light and Power Utility (ML&P) for an amount not to exceed  
9 \$70,000 plus closing costs. The property is legally described as Lot 40, Section  
10 9, Township 15 North, Range 1 West, Seward Meridian; and

11  
12 **WHEREAS**, Anchorage Municipal Code sections 25.20.010 and 25.20.020  
13 authorize the Municipality to acquire land for any public purpose subject to  
14 Assembly approval; and

15  
16 **WHEREAS**, the Administration negotiated a purchase agreement with the  
17 Robert C. Brink 2003 Trust to acquire Lot 40, Section 9, Township 15 North,  
18 Range 1 West, Seward Meridian (TID # 051-103-09) containing 108,900 square  
19 feet; and

20  
21 **WHEREAS**, this acquisition of land is necessary to accommodate the placement  
22 of down guys constructed in association with the upgrades to the Eklutna  
23 transmission line; Now therefore,

24  
25 **THE ANCHORAGE ASSEMBLY ORDAINS:**

26  
27 **Section 1.** The acquisition of Lot 40, Section 9, Township 15 North, Range 1  
28 West, Seward Meridian, situated in the Anchorage Recording District, Third  
29 Judicial District, State of Alaska for an amount not to exceed SEVENTY  
30 THOUSAND DOLLARS (\$70,000) plus closing costs, is hereby authorized.

31  
32 **Section 2.** Pursuant to Anchorage Municipal Code 25.10.050B., the Assembly  
33 approves the transfer of managing authority for this parcel to ML&P.

34  
35 **Section 3.** The Real Estate Services Division of Heritage Land Bank, a  
36 department of the Municipality of Anchorage, retains the exclusive right to  
37 dispose of the legally described property or any interest therein at any time by  
38 sale, exchange, lease, permit or other conveyance; provided, the entire net  
39 proceeds of any such disposition shall be paid to ML&P upon receipt thereof.

**Section 4.** This ordinance shall take effect immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 12<sup>th</sup> day of May, 2009.

Debbi Ossander

Chair of the Assembly

ATTEST:

Brian S. Juntto  
Municipal Clerk

**MUNICIPALITY OF ANCHORAGE**  
**Summary of Economic Effects -- General Government**

AO Number: 2009-52

Title: **AN ORDINANCE AUTHORIZING ACQUISITION OF REAL  
PROPERTY PETERS CREEK FOR MUNICIPAL LIGHT AND  
POWER FOR AN AMOUNT NOT TO EXCEED SEVENTY  
THOUSAND DOLLARS (\$70,000), PLUS CLOSING COSTS.**

Sponsor: ACTING MAYOR  
Preparing Agency: Heritage Land Bank  
Others Impacted: Municipal Light & Power

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)				
	FY09	FY10	FY11	FY12	FY13	
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:						
CAPITAL:	\$	70				
POSITIONS: FT/PT and Temp						

**PUBLIC SECTOR ECONOMIC EFFECTS:**

Purchase of the lot supports the necessary rebuilding and upgrading to the Eklutna transmission line located in the Peters Creek area.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

Nominal reduction in property tax base due to transfer of privately held parcel to public non-taxable use.

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Prepared by: William M. Mehner, Director Heritage Land Bank & Real Estate Services  
Telephone: 907-343-4334



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

AM No. 227-2009

Meeting Date: April 21, 2009

1  
2 **FROM: ACTING MAYOR**

3  
4 **SUBJECT: AN ORDINANCE AUTHORIZING ACQUISITION OF REAL**  
5 **PROPERTY IN PETERS CREEK FOR MUNICIPAL LIGHT &**  
6 **POWER FOR AN AMOUNT NOT TO EXCEED SEVENTY**  
7 **THOUSAND DOLLARS (\$70,000), PLUS CLOSING COSTS.**  
8

9 This ordinance authorizes Real Estate Services, a division of Heritage Land  
10 Bank (RES) to act on behalf of Municipal Light and Power (ML&P) to acquire a  
11 lot in Peters Creek near Oberg Road, legally described as follows:  
12

13 Lot 40, Section 9, Township 15 North, Range 1 West, Seward  
14 Meridian (TID # 051-103-09).  
15

16 ML&P rebuilt and upgraded the Eklutna transmission line in 2006. Pole  
17 structures and associated down guys were necessary with this upgrade. See  
18 **Appendix A: December 19, 2008 ML&P Memorandum and map.**  
19

20 Down guys are heavy wire spans running from the top of a transmission pole to  
21 a ground base and are necessary to securely anchor a pole in its location. See  
22 **Appendix A** map, depicting the subject area.  
23

24 The Robert C. Brink 2003 Trust owns Lot 40. In an attempt to sell Lot 40, Mr.  
25 Brink discovered that his existing access had been terminated by the placement  
26 of a north down guy for pole 131B (**Appendix A**).  
27

28 After ML&P explored various options, it concluded with the seller that ML&P  
29 acquisition of Lot 40 is the most advantageous and cost effective solution.  
30

31 ML&P Board of Directors unanimously approved authorization for acquisition of  
32 the subject property. See March 25, 2009 ML&P Resolution No. 2009-01,  
33 **Appendix B**. Funding to acquire the subject parcel shall be expended from  
34 2008 ML&P Capital Funds as certified in **Appendix A**.  
35

36 Pursuant to Anchorage Municipal Code 25.10.050B., once the sale closes, the  
37 managing authority of the property shall be transferred to ML&P. However, the

1 Municipality, through the Real Estate Services Division of Heritage Land Bank,  
2 retains the exclusive right to dispose of the property or any interest therein at  
3 any time by sale, exchange, lease, permit or other conveyance, provided the  
4 entire net proceeds of any such disposition shall be paid to ML&P upon receipt  
5 thereof.  
6

7 **THE ADMINISTRATION RECOMMENDS APPROVAL OF AN ORDINANCE**  
8 **AUTHORIZING ACQUISITION OF REAL PROPERTY IN PETERS CREEK**  
9 **FOR MUNICIPAL LIGHT & POWER FOR AN AMOUNT NOT TO EXCEED**  
10 **SEVENTY THOUSAND DOLLARS (\$70,000), PLUS CLOSING COSTS.**  
11

12  
13 Prepared by: William Mehner, Director  
14 Heritage Land Bank/Real Estate Services Division  
15 Concur: Mary Jane Michael, Director  
16 Office of Economic & Community Development  
17 Concur: James M Posey, Director  
18 Municipal Light & Power  
19 Concur: James N. Reeves, Municipal Attorney  
20 Concur: Michael K. Abbott, Municipal Manager  
21 Respectfully submitted, Matt Claman, Acting Mayor  
22

23 **Appendices:**

24 Appendix A – ML&P DEC. 19, 2008 Memorandum with Fund Certification and Map  
25 Appendix B – ML&P Resolution No. 2009-01

## Appendix A



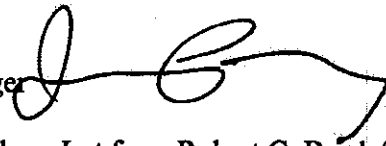
# MUNICIPAL LIGHT & POWER

## Administration Division

### MEMORANDUM

DATE: December 19, 2008

TO: William Mehner, Executive Director  
Real Estate Services, MOA

FROM: James M. Posey, General Manager 

SUBJECT: Authorization for ML&P to Purchase Lot from Robert C. Brink 2003 Trust

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During the course of Municipal Light & Power (ML&P) rebuilding and upgrading the Eklutna transmission line in late spring of 2006, it was necessary to set pole structures numbered 131 A&B, together with associated down guys, on Lots 53 and 60 in the Peters Creek area near Oberg Road (Section 9, Township 15 North, Range 1 West, Seward Meridian). Down guys are heavy wire spans running from the top of a transmission pole to a ground base and necessary to securely anchor a pole in its location. The accompanying grid map depicts the subject area and matters referred to in this memorandum.

The Robert C. Brink 2003 Trust (hereafter Robert Brink) owns Lot 40 in the subject area. Lot 40 sits to the north stacked immediately above Lot 53 which, in turn, sits to the north stacked immediately above Lot 60. Prior to ML&P's pole and down guy placements for structures 131 A&B, Mr. Brink's only access for Lot 40 was through a 25 foot roadway easement running north/south along the length of the west border of Lot 53 and then continuing along a 25 foot roadway easement running west/east along the south border of Lot 53. This easement along the south border of Lot 53 is also contiguous to a 50 foot roadway and utility easement running west/east along the north border of Lot 60, resulting in a combined 75 foot road easement for Mr. Brink's Lot 40 running west/east across the south and north borders of Lots 53 and 60, respectively. (From the east border of the Lots 53/60 combined 75 foot easement, Mr. Brink's access then continued further east over Bernie Avenue - lying in a 100 foot combined easement running west/east along the south and north borders of Lots 54 and 59, respectively - until Peters Creek Road.)

Both Lots 53 and 60 were also subject to a 75 foot easement in their underlying patent for the Eklutna transmission line, which runs northeast/southwest through those Lots and across their 75 foot combined west/east easement strip.

In attempting to sell Lot 40, Mr. Brink discovered that his foregoing access had been terminated by the placement of the north down guy for pole 131B. That placement had left only 14 feet from the guy's base to the north border on Lot 53 of the combined 75 foot easement. Municipal officials stated that at least 20 feet is required to meet municipal street

standards.

The owner of Lot 53 was approached for an easement that would cross to the north of the down guy, but he would not agree to grant of such an easement. Municipal officials also indicated that there is insufficient room between pole 131B's south guy and Peters Creek for a road easement in that area. The cost of relocating the poles is prohibitive (as well as complicated by MEA and AWWU structures in the easements, not shown on diagram).

Also considered was the possibility of access for Lot 40 through Lot 38 off its northeast corner. Lot 38 has a 50 foot road and utilities west/east easement running along its south border to Oberg Road. This was originally a combined 100 foot west/east easement that included a 50 foot west/east easement running along the contiguous north boundary of Lot 39. However, Lot 39's 50 foot easement had been vacated (with a Municipal note that it was topographically unsuitable for road).

The remaining 50 foot easement on Lot 38 crosses terrain with slopes in the range of 25%, which are not suitable for even a driveway to Lot 40. Expanding the easement to include lesser slopes of 12% - 15% slope would increase the easement area to approximately 30,000 square feet, with driveway construction costs of approximately \$100 per square foot plus permitting. More importantly, the Lot 38 owner is unwilling to sell an easement containing the gentler sloping because he is planning on that area as the site for his new home's septic system.

The origin, nature and competing priorities among the varying easements that have generated the present difficulty are not entirely clear, so that any effort to litigate liability with Mr. Brink would be problematic and likely costly. Such litigation, moreover, would not disturb the underlying realities that it was ML&P's actions that occasioned harm to Mr. Brink without any contributing fault on his part. Accordingly, the most honorable and practical resolution in this situation is for ML&P to accept responsibility for having effectively deprived Mr. Brink of the beneficial use of Lot 40 and to purchase it at a fair value.

Our right-of-way consultant on the Eklutna project was unable to locate any recent sales of properties comparable to Lot 40. However, ML&P in 2006 purchased an easement across the adjacent property (Lots 53 and 54) for the Eklutna project at an appraised value of \$0.80 per square foot. These lots have the same 2.5 acre or 108,900 square foot size, for an \$87,120 value per lot before adjustments.

Adjusting for the two-year time lapse by a modest 15% or 7.5% per annum generates a current value of approximately \$100,000 (in fact assessed value over preceding three years on Lot 53 has increased an average of 12% per annum, as has assessment increase on Lot 40 over past two years). As the adjacent property has fully developed roads (minimum estimated cost for Lot 40 at \$25,000, if not blocked by ML&P) and power (minimum \$5,000 for Lot 40), the \$100,000 current value for the adjacent properties may be adjusted to \$70,000 for Lot 40, which is also its current assessed value (\$69,600).

ML&P is therefore requesting authorization to purchase Lot 40 for \$70,000 from the Robert C. Brink 2003 Trust, with Mr. Brink's suggested Warranty Deed for the transfer enclosed for review. Please note also that the Assembly authorization for the acquisition should provide

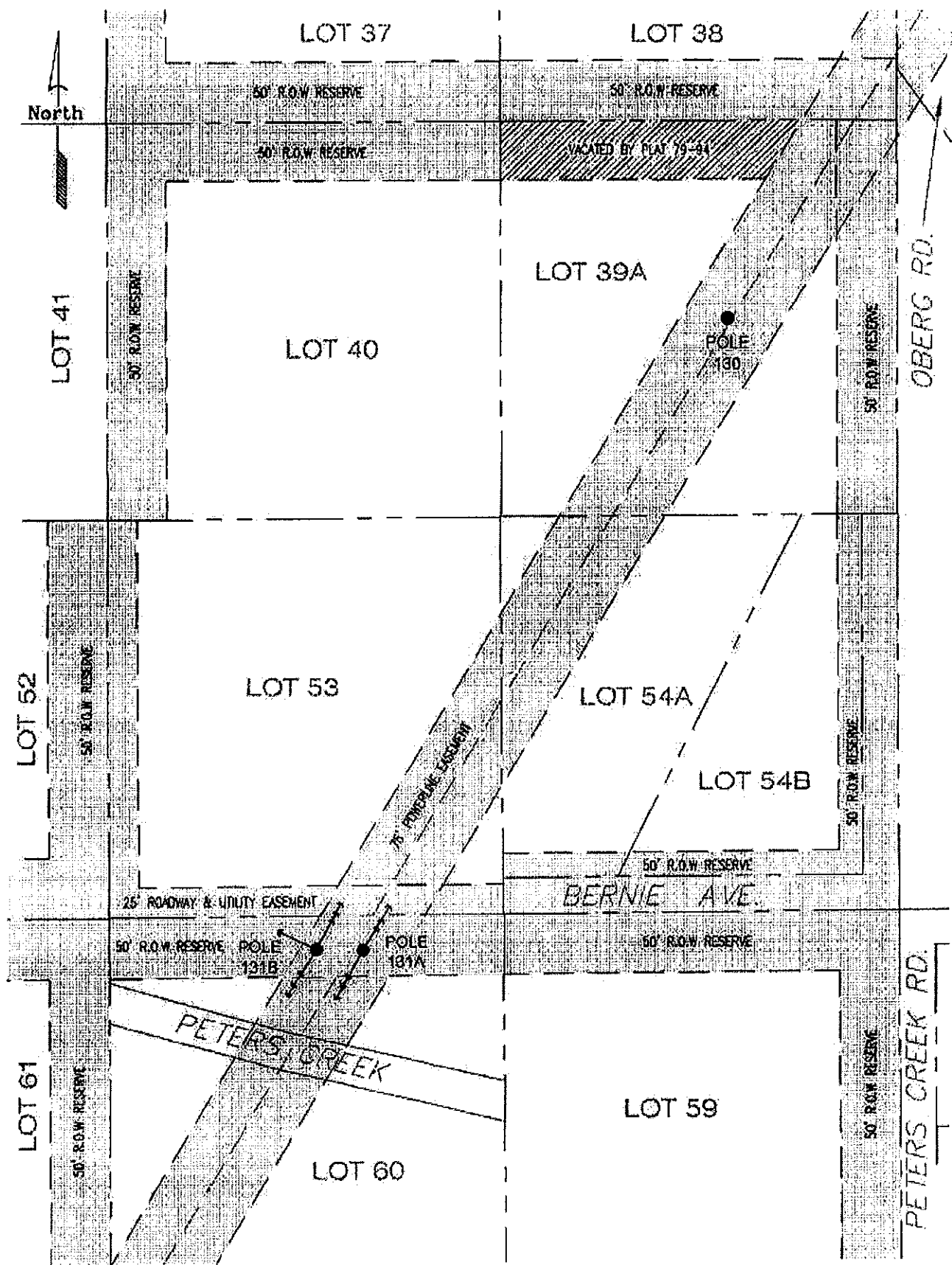
that the MOA will hold this property for the benefit of ML&P, with further disposition at ML&P's direction and application of proceeds to its account.

**Funds are available in PSFIS:**

530 – M4300 – 1071 - M3126 BP2008 \$70,000 *PH*  
(2008 Capital)

*Richard E. Miller* *12-22-08*  
Richard E. Miller, Chief Financial Officer  
and Assistant General Manager *ew*





## Appendix B

Submitted by: Chair of the Municipal  
Light & Power Utility  
Board of Directors

Date: March 25, 2009

### MUNICIPAL LIGHT & POWER UTILITY BOARD OF DIRECTORS Resolution No. 2009-01

**A RESOLUTION RECOMMENDING THAT THE ASSEMBLY APPROVE AN ORDINANCE AUTHORIZING ACQUISITION OF REAL PROPERTY DESCRIBED AS LOT 40, SECTION 9, TOWNSHIP 15 NORTH, RANGE 1 WEST, SEWARD MERIDIAN, FOR AN AMOUNT NOT TO EXCEED SEVENTY THOUSAND DOLLARS (\$70,000), PLUS CLOSING COSTS, FROM ROBERT C. BRINK 2003 TRUST.**

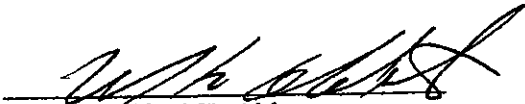
**WHEREAS**, staff of Municipal Light & Power Utility (ML&P) requests authorization to acquire real property in Peters Creek for an amount not to exceed \$70,000 plus closing costs, legally described as Lot 40, Section 9, Township 15 North, Range 1 West, Seward Meridian (the property); and

**WHEREAS**, the background and reasons for staff's request are discussed in the General Manager's December 19, 2008 memorandum attached hereto; and

**WHEREAS**, acquisition of the property is necessary to accommodate the placement of down guys constructed in association with the upgrades to the Eklutna transmission line.

**NOW THEREFORE, BE IT RESOLVED** that the ML&P Board of Directors recommends approval by the Municipal Assembly of an appropriate ordinance authorizing ML&P's acquisition of the subject property.

**PASSED AND APPROVED** unanimously by the ML&P Board of Directors this 25th day of March 2009.

  
Wilfred K. Abbott  
Chairman,

ATTEST:

  
Linda Davidovics

**Content ID:** 007577**Type:** Ordinance - AO

**Title:** AN ORDINANCE AUTHORIZING ACQUISITION OF REAL PROPERTY IN PETERS CREEK FOR MUNICIPAL LIGHT & POWER FOR AN AMOUNT NOT TO EXCEED SEVENTY THOUSAND DOLLARS (\$70,000), PLUS CLOSING COSTS

**Author:** vanhornlr**Initiating Dept:** HLB**Review Depts:** MLP**Description:** Acquisition of property in Peters Creek by ML&P**Keywords:** Real Property Acquisition Peters Creek**Date Prepared:** 4/1/09 3:12 PM**Director Name:** Wm. M. Mehner**Assembly Meeting Date:** 4/21/09**Public Hearing Date:** 5/12/09

<b>Workflow Name</b>	<b>Action Date</b>	<b>Action</b>	<b>User</b>	<b>Security Group</b>	<b>Content ID</b>
Clerk_Admin_SubWorkflow	4/10/09 10:06 AM	Exit	Joy Maglaqui	Public	007577
MuniMgrCoord_SubWorkflow	4/10/09 10:06 AM	Approve	Joy Maglaqui	Public	007577
MuniManager_SubWorkflow	4/10/09 7:50 AM	Approve	Michael Abbott	Public	007577
Legal_SubWorkflow	4/6/09 9:19 AM	Approve	Rhonda Westover	Public	007577
Finance_SubWorkflow	4/5/09 2:50 PM	Approve	Sharon Weddleton	Public	007577
OMB_SubWorkflow	4/3/09 4:51 PM	Approve	Wanda Phillips	Public	007577
MLP_SubWorkflow	4/3/09 10:07 AM	Approve	Richard Miller	Public	007577
ECD_SubWorkflow	4/1/09 4:21 PM	Approve	Tawny Klebesadel	Public	007577
HLB_SubWorkflow	4/1/09 3:23 PM	Approve	William Mehner	Public	007577
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