

Submitted by: ASSEMBLY MEMBER COFFEY
ASSEMBLY MEMBER SELKREGG

Prepared by: Finance Department

Reviewed by: Department of Law and
Assembly Counsel

For reading: August 11, 2009

CLERK'S OFFICE

AMENDED AND APPROVED

Date: 8-11-09

**ANCHORAGE, ALASKA
AR NO. 2009-126(S)**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY CONDITIONALLY
GRANTING A TEN-YEAR REAL PROPERTY TAX EXEMPTION AND A FIVE-YEAR
TAX DEFERRAL CONSECUTIVE TO THE EXEMPTION FOR CERTAIN
DETERIORATED PROPERTY, SUBJECT TO STATED CONDITIONS AND
LIMITATIONS.**

WHEREAS, AS 29.45.050(o) and AMC 12.35.005 – 12.35.070 allow the Assembly to grant a tax exemption, a tax deferral, or both for specific properties situated within an area designated as deteriorated and areas adjacent to property designated as deteriorated; and

WHEREAS, in AO 2006-139(S) as appended, the Assembly designated a Deteriorated Area that includes the following described real property and certain other adjacent lots (the "Property"):

EAST ADDITION SUBDIVISION Block 37, Lots 1 of Acre Lot 2, 2 of Acre Lot 2, 3, 4 S16', 4 N2, 5, 6 S2 of Acre Lot 2, 7, 8, 9, 11, 12 N33', 12 S16', 13 of Acre Lot 2, 14 of Acre Lot 2, 15 of Acre Lot 2, 16 of Acre Lot 2, 17, 18 of Acre Lot 2, and 19 and Block 37B, Lots TR A, 2A, 3A, 4A, 5A, 6B, 9, 10, 11A, 13A, 13B, 15A, 15B, and 16; and

WHEREAS, AO 2006-139(S) ordains that the subject property may be considered an exemption from real property taxes for a period of time not to exceed ten years and deferral of property taxes for an additional period of no more than five years, subject to a resolution approved by the Assembly setting forth the specific terms and conditions of such exemption and deferral, and effective dates; and

WHEREAS, in AO 2006-139(S), the Assembly determined that new construction on the referenced adjacent properties would encourage, enhance, and accelerate improvement on the deteriorated properties by allowing consolidation of existing lots and construction of larger, more economically viable commercial structures in the area; and

1 WHEREAS, Marc Marlow applied for a 99% ten-year exemption followed by a
2 five-year deferral from real property taxes for the Property described above (the
3 "Downtown Renaissance" application); and
4

5 WHEREAS, the "Downtown Renaissance" application for tax exemption and
6 deferral proposes to foster redevelopment of the Property for mixed use by means of a
7 Planned Unit Development (PUD) or other appropriate land use technique, with
8 development to occur in phases, with the exemption and deferral to become effective as
9 to each phase on January 1 of the year after each phase is completed; and
10

11 WHEREAS, the "Downtown Renaissance" application, states that in order to
12 complete the proposed development, it may be necessary for the interests in the
13 property to be further assigned to a development entity that may or may not be owned
14 or controlled by Marc Marlow; and
15

16 WHEREAS, the Chief Fiscal Officer of the Municipality of Anchorage reviewed
17 the application and, after certain modifications to the original proposal were agreed to,
18 the Chief Fiscal Officer has verified its eligibility for the requested tax exemption and tax
19 deferral pursuant to AMC 12.35.010.C and recommends it for approval, and has so
20 advised the Acting Mayor and the Assembly as set out by memorandum dated May 8,
21 2009 and included with AIM 50-2009; and
22

23 WHEREAS, the Acting Mayor accepted and concurred in the Chief Fiscal
24 Officer's recommendation as included with AIM 50-2009, and on that basis, the
25 "Downtown Renaissance" application for tax exemption and deferral is hereby
26 submitted to the Assembly for approval as authorized in AO 2006-139(S); and
27

28 WHEREAS, the Assembly hereby finds the proposed tax exemption and tax
29 deferral are necessary under AMC 12.35.010.A.4. for the following specific reasons:
30

31 (1) No development would happen without the tax benefits: Without the
32 tax benefits, the proposal to develop the property is not sufficient to attract
33 private investment. Without the development, the full and true value of the
34 Property would probably remain static or perhaps decline for the foreseeable
35 future.
36

37 (2) Because the proposed project is not likely to go forward without the
38 requested tax exemption and deferral, the corresponding benefits from the
39 project, including the opportunity for increased economic activity in an otherwise
40 depressed section of Downtown, are also unlikely to occur without the incentives;
41 and
42

43 WHEREAS, the Assembly hereby finds that the proposed tax exemption and tax
44 deferral are necessary to promote or improve economic development of the
45 municipality, as required by AMC 12.35.010.A.4.d, for the following specific reasons:
46

47 (1) This project is consistent with the Anchorage Downtown
48 Comprehensive Plan, adopted in December 2007, which provides a framework to

1 guide Downtown development to realize the Plan's vision of a "vital, dynamic
2 urban city center".

3
4 (2) The project will promote and improve economic development of the
5 municipality by serving as a catalyst for other development and as a key location
6 in Downtown to implement the goals and strategies of the Anchorage Downtown
7 Comprehensive Plan.

8
9 (3) Project emphasis is directed at meeting the need for more downtown
10 housing, jump-starting development, and creating linkages: The project supports
11 the goal of increased downtown housing by adding 340 housing units which, in
12 turn, will support local retail and increase the sense of community in Downtown.

13
14 (4) The project is well positioned to jump-start development and create
15 linkages based on its proximity to the McKinley Building, which is identified in the
16 Anchorage Downtown Comprehensive Plan as a primary opportunity site. The
17 proximity of this development will serve as a catalyst for further development in
18 surrounding areas by creating a critical mass of residential and commercial
19 activity in a key location with linkages to the rest of Downtown.

20
21 (5) The project incorporates the development of product types that the
22 Anchorage Downtown Comprehensive Plan recommends as supporting future
23 revitalization of the area designated as "East Avenues District": Mixed use
24 development with mid-to-high density residential, office and commercial
25 development; and

26
27 WHEREAS, the Assembly hereby finds that the proposed tax exemption and tax
28 deferral will provide "measurable public benefits commensurate with the level of
29 incentive granted," as required by AMC 12.35.010.A.5, for the following specific
30 reasons:

31
32 (1) The proposal is designed to avoid shifting taxes to any other taxpayer.
33 Under the proposal, the owners of the Property will pay property taxes based on
34 the full and true value of the Property, like all taxpayers, until the proposed
35 development is completed. Thereafter, during the exemption period, the
36 Property will be taxed at its 2009 assessed value, plus 1% compounded each
37 year from 2009. Assuming the Property would not have appreciated in value
38 during that period unless it were developed, this means the Municipality will
39 receive as much tax as it would have if no exemption had been granted and no
40 development had occurred, or perhaps slightly more taxes. The only property tax
41 that is foregone during the ten-year exemption period is the approximate
42 incremental property tax caused by the development.

43
44 (2) During the five-year deferral period, the property taxes charged for
45 immediate collection will be based on the Property's 2009 assessed value, plus
46 1% compounded each year from 2009. Assuming the value of the Property would
47 not have appreciated in value during that period unless it were developed, this
48 means during the deferral period, the Municipality will receive as much tax as it

1 would have received if no deferral had been granted and no development had
2 occurred, or perhaps slightly more taxes. The only property tax that is deferred
3 during the five-year deferral period is the approximate incremental property tax
4 caused by the development.
5

6 (3) If the Property were to be developed based on the current proposal,
7 its value for tax purposes would be higher than it would otherwise be, and,
8 starting with the first year during which property taxes would be fully payable (i.e.,
9 2025 or later) this increase in value would result in payment of more property
10 taxes than would otherwise be received in that year and in ensuing years, absent
11 development.
12

13 (4) In attempting to quantify the economic effect of the proposed tax
14 exemption and tax deferral, the Assembly assumes that the entire amount of the
15 deferred taxes will be paid by the Property owner in full upon the sale of the
16 property or if the property is refinanced during the deferral period.
17

18 (5) Based on the projection of the valuation of the Property in the years
19 following the expiration of the tax exemption and tax deferral, assuming that
20 applicable mill rates do not change, the Property will begin contributing
21 approximately \$300,000 per year in property taxes in 2025 or later. Therefore,
22 the effect of developing the Property would be to increase the amount of property
23 taxes it would generate by approximately \$250,000 in the first year following
24 expiration of the exemption and deferral periods (i.e., 2025 or later) and the same
25 or greater amounts in later years.
26

27 (6) This demonstrates that the Municipality would receive "measurable
28 public benefits" in the form of tax revenues commensurate with the level of
29 incentive granted, as required by law.
30

31 (7) In addition to this "measurable" benefit, the Assembly anticipates that
32 the granting of the requested tax exemption and tax deferral will also yield other
33 economic benefits that are not directly measurable, in the form of a general
34 favorable influence on fair market value of other properties in the vicinity of the
35 Property, which would in turn increase the property tax contributions of those
36 other properties, and might generate jobs that would otherwise not exist.
37

38 NOW, THEREFORE, the Anchorage Assembly resolves:
39

40 **Section 1.** Each of the 37 tax parcels comprising the Property (identified on
41 Exhibit A attached to this Resolution by property description, tax identification number
42 and 2009 assessed value) shall be exempt from taxation for a period of ten years with
43 respect to that portion of its assessed value that exceeds its 2009 assessed value, plus
44 1% compounded each year from 2009; and upon the expiration of the ten-year partial
45 exemption each parcel shall be subject to a five-year deferral of that same portion of the
46 tax otherwise payable. The exemptions and deferrals granted by this Resolution are
47 subject to the following terms and conditions:
48

1 a. **Development of the Property shall be subject to public site plan review**
2 **by the Planning and Zoning Commission.** The parcel, or a larger unit of a phased
3 development of which the parcel is a part, must be developed in compliance with **an**
4 **approved site plan.** ~~the project description contained in the Application, which~~ **The**
5 ~~project description, with~~ **conceptual site plan,** is attached to this Resolution as Exhibit
6 B. **Development of the Property shall conform to the Anchorage Downtown**
7 **Comprehensive Plan adopted December 11, 2007 (AO 2007-113).**
8

9 b. If the identity of a tax parcel changes as a result of a replat (such as by the
10 merger of several contiguous parcels into a newly-identified single parcel), all rights of
11 exemption and deferral and any associated responsibilities or contingent liabilities
12 associated with that parcel will transfer by operation of law to the newly-identified tax
13 parcel.
14

15 c. The exemption period for each tax parcel will begin on January 1 of the year
16 following the issuance of a conditional certificate of occupancy, but no later than ten
17 years after the effective date of this Resolution. If a conditional certificate of occupancy
18 is not issued for a tax parcel within ten years after the effective date of this Resolution,
19 all rights of exemption and deferral with respect to that tax parcel expire.
20

21 d. If the Property is developed in phases (i.e., sequentially), the exemption
22 period for each phase will begin when the development of that phase is substantially
23 completed. All property included in a specific phase of development, whether
24 constituting one or more separate parcels or constituting a single unit of a larger parcel,
25 shall be treated as a single unit for purposes of determining the availability and timing of
26 the exemption and deferral.
27

28 e. No exemption or deferral will be available for any parcel or any unit of a
29 phased development unless development of at least one parcel or at least one unit
30 commences within thirty-six (36) months after the effective date of this Resolution. In
31 addition, at the end of the eighty-fourth (84th) month after the effective date of this
32 Resolution, any parcel or unit of a phased development with respect to which
33 development has not yet commenced will cease to be eligible for a tax exemption or
34 deferral under this Resolution. For the purpose of meeting this requirement,
35 "commencement of development" means the filing of an application for a building
36 permit.
37

38 f. For each year during which an exemption or deferral of tax is in effect, the
39 Assessor shall establish the parcel's full and true value according to normal procedure
40 and shall compute the total tax that would, in the absence of the exemption or deferral,
41 be assessed and levied based on that value and applicable mill rates. During the
42 exemption period, the tax due and payable will be the amount determined by applying
43 each year's applicable mill rates to the 2009 assessed value, plus 1% compounded
44 each year from 2009. In the tax deferral period, the difference between this tax, due
45 and payable for each parcel, and the Assessor's computation of the total tax that would
46 have been assessed and levied according to normal procedure shall be recorded as the
47 deferred tax. The deferred tax shall be a lien on the parcel and shall become due as
48 stated in subparagraph (g) below.

g. In the event of a refinancing of any debt secured by the Property or a transfer of title to the property pursuant to a sale, exchange, gift or other transaction, at any time during the tax deferral period or after expiration of the deferral period, all deferred taxes will become due and payable. In addition, if the transaction is a transfer of title, any deferral then in effect will terminate.

h. The policy decision to grant exemptions and deferrals pursuant to this Resolution is based on an evaluation of data concerning the economics of the proposed project as presented in the application submitted to the Chief Fiscal Officer and the determination, based on that data, that the exemptions and deferrals are necessary to induce development of the Property. Therefore, the exemptions and deferral are expressly conditioned upon the requirement that the owner(s) or developer(s) shall provide for review by the Chief Fiscal Officer copies of all loan applications or investment proposals, together with supporting financial data including *pro formas*, submitted to any prospective lender or investor, so that the Chief Fiscal Officer can confirm that the data and analysis presented therein is consistent with the data presented in the application. This material must be provided to the Chief Fiscal Officer no later than thirty (30) days after its submission to the prospective lender or investor. **The owner(s) or developer(s) shall annually submit a financial performance report, including an income and expense budget showing performance against the budget, and a status report on the inclusion of work force housing, showing occupancy and financial performance.** If the material is not provided, or if the material provided is inconsistent with what was presented in the application for exemptions and deferrals and demonstrates that the exemptions and/or deferrals are not necessary to induce development of the Property **or the development is not in compliance with terms of approval**, the Chief Fiscal Officer shall give notice to the owner(s) of record and to the Assembly that the exemptions and deferrals are revoked.

Section 2. The greater of 20 units or 6% of the total residential units in all phases of the project shall be workforce homes. For purposes of this condition, "workforce homes" shall mean homes developed on the same site as the proposed development and made available for sale, rent, or lease as permanent, primary year-round residences for families and individuals whose household income is at or below 120% of Anchorage median family income as determined annually by US Department of Housing and Urban Development.

a. Workforce homes shall continue to be affordable to households at or below 120% median family income for at least 15 years commencing on the date of initial occupancy. Affordable means that the rent or mortgage payment will not exceed 30% of a households gross income.

b. Workforce units in the project shall be mixed with market rate units and shall not be clustered together or segregated in any way from market-rate units. The exterior appearance of workforce units shall be made similar to market-rate units by the provision of exterior building materials and finishes substantially the same in type and quality. The workforce units must be the same size, in terms of square footage and number of bedrooms, as the market rate units. If the project contains a phasing plan,

1 the phasing plan shall provide for the development of workforce units concurrently with
2 the market-rate units.

3
4 c. Prior to the issuance of a building permit for any portion of the project, the
5 applicant shall have entered into a Workforce Home Development Agreement with the
6 Municipality. The development agreement shall set forth the commitments and
7 obligations of the Municipality and the applicant.

8
9 d. Prior to the issuance of a building permit for any portion of the project, the
10 applicant shall record a Declaration of Covenants, Conditions, and Restrictions on the
11 property to ensure the continued affordability of the affordable housing units in
12 accordance with this ordinance.

13
14 **Section 2 3.** This Resolution is effective upon the date of its adoption by the
15 Assembly. The exemptions and deferrals it authorizes become effective, if at all, upon
16 the terms and conditions stated herein.

17
18 PASSED AND APPROVED by the Anchorage Assembly this 11th day of
19 August, 2009.

20
21 Dalbir Assiender
22 Chair

23
24 ATTEST:

25 Balane S. Jovanich
26
27 Municipal Clerk