

CLERK'S OFFICE

APPROVED

Date: 9-15-09

Submitted by: Chairman of the Assembly
at the Request of the Mayor
Prepared by: Project Management &
Engineering Department
For reading: September 15, 2009

ANCHORAGE, ALASKA
AR No. 2009-208

A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE APPROPRIATION OF THIRTY NINE THOUSAND DOLLARS (\$39,000) AS PAYMENT IN LIEU OF SUBDIVISION AGREEMENT OBLIGATIONS FOR ROAD AND DRAINAGE IMPROVEMENTS FROM HILAND LAND COMPANY, A GENERAL PARTNERSHIP, AND KAANDA, AN ALASKA LIMITED LIABILITY COMPANY TO THE EAGLE RIVER OTHER CAPITAL IMPROVEMENT PROGRAM (CIP) FUND (FUND 420) PROJECT MANAGEMENT & ENGINEERING DEPARTMENT, FOR IMPROVEMENTS TO WEST RIVER DRIVE.

WHEREAS, on August 6, 1986, the Municipality of Anchorage and the Hiland Land Company entered into a Subdivision Agreement (Public Works File #85-62) as a condition to subdivide property described as Southfork North, Tract B (preliminary plat case #S-7976). The Subdivision Agreement obligated Hiland Land Company to build road and drainage improvements on West River Drive. This Agreement was recorded August 19, 1986 at Book 1477 Page 0099, Anchorage Recording District, Third Judicial District, State of Alaska;

WHEREAS, on April 12, 1988, the plat to subdivide Southfork North, Tract B was filed. (Reference plat 88-12). This same date, the Municipality of Anchorage accepted a Deed of Trust on Tract E Southfork North Subdivision per plat 88-12 as a performance guarantee and security for completion of agreement obligations. The deed of trust was recorded at Book 1724 Page 542, Anchorage Recording District;

WHEREAS, disagreement arose between the Municipality of Anchorage and Hiland Land Company over the scope of drainage improvements to be made to West River Drive and the continuing financial obligations of Hiland Land Company and its principals to complete the work;

WHEREAS, on October 31, 1997, the disagreement resulted in the Municipality issuing a Notice of Rescission of the Subdivision Agreement; said rescission recorded at Book 03149 page 208, Anchorage Recording District;

WHEREAS, on December 18, 2000, the Municipality also released the Deed of Trust on Tract E by Deed of Reconveyance, recorded at Book 03735 Page 0919, Anchorage Recording District;

WHEREAS, the consequence of the above is that the Municipality of Anchorage has not accepted subdivision improvements for the portion of West River Drive located in Southfork North Subdivision nor has this same portion of West River Drive been turned over to the CBERRRSA for maintenance and snow plowing;

WHEREAS, during this same timeframe, uphill from and just beyond the Hiland Land Company development, the Cascades Subdivision was being developed by Cascades - a partnership - under separate, but similar, subdivision agreements (PM&E files 85-60 and 92-010). For similar reasons, the Municipality rescinded these agreements; recorded notices are at Book 02443 Page 031 (March 23, 1993) and 2007-006752-0 respectively. Recently, a successor entity to Cascades - KAANDA - has constructed the required Cascade improvements under a

right of way permit (20050729-CO-1) and those improvements were accepted by CBERRRSA for road maintenance and snow removal on June 19, 2008.

WHEREAS, the road improvements in the Cascades Subdivision are eligible for CBERRRSA road maintenance and snow removal. However, because the intervening portion of West River Road (Southfork North) has never been accepted by the Municipality and turned over to CBERRRSA, the Cascades Subdivision receives no maintenance and no snow removal.

WHEREAS, the general partner of Hiland Land Company is willing to contribute Twenty-five Thousand and no/100 Dollars (\$25,000) and KAANDA is willing to contribute Fourteen Thousand and no/100 Dollars (\$14,000) to the completion of the West River Drive road and drainage improvements, contributed funds totaling \$39,000;

WHEREAS, the Municipality has sufficient funds - \$36,000 - in drainage funds to match contributed funds to complete these roadway and drainage improvements. Costs of the improvements are estimated at \$75,000.

WHEREAS, this combined funding will bring this roadway system and drainage to acceptable standards; and, acceptance for maintenance and snow removal by CBERRRSA

THE ANCHORAGE ASSEMBLY RESOLVES:


Section 1. That the sum of Thirty-Nine Thousand and no/100 Dollars (\$39,000) of contributed funds be appropriated to the Eagle River Other Capital Improvement Program (CIP) Fund (Fund 420), Project Management & Engineering Department, for West River Drive improvements.

Section 2. That the contributions by Hiland Land Company and KAANDA are accepted as payment in lieu of performance under the aforementioned subdivision agreements and right of way agreements.

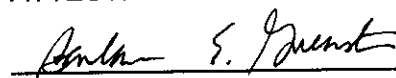
Section 3. That the sum of Thirty-Nine Thousand and no/100 Dollars (\$39,000) be appropriated as a capital contribution for the completion of West River Drive improvements so that the road is accepted for maintenance and snow removal by CBERRRSA.

Section 4. That this resolution shall take effect immediately upon passage and approval by the Anchorage Municipal Assembly.

PASSED AND APPROVED by the Anchorage Municipal Assembly this 15th day of September, 2009.


Chair

ATTEST:


Municipal Clerk

Department of Appropriation:
Project Management & Engineering Department \$39,000



MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 488-2009

Meeting Date: September 15, 2009

FROM: Mayor

SUBJECT: APPROPRIATION OF THIRTY NINE THOUSAND DOLLARS (\$39,000) AS PAYMENT IN LIEU OF SUBDIVISION AGREEMENT OBLIGATIONS FOR ROAD AND DRAINAGE IMPROVEMENTS FROM HILAND LAND COMPANY, A GENERAL PARTNERSHIP, AND KAANDA, AN ALASKA LIMITED LIABILITY COMPANY TO THE EAGLE RIVER OTHER CAPITAL IMPROVEMENT PROGRAM (CIP) FUND (FUND 420) PROJECT MANAGEMENT & ENGINEERING DEPARTMENT FOR IMPROVEMENTS TO WEST RIVER DRIVE.

This matter arises from real estate market failures in the late 1980s which resulted in West River Drive being partially completed; and, neither accepted to standards by the Municipality nor accepted for maintenance and snow removal CBERRRSA.

In August 1986, the Municipality of Anchorage and the Hiland Land Company entered into a Subdivision Agreement, Public Works File #85-62, as a condition to subdivide property described as Southfork North, Tract B (preliminary plat case #S-7976). The Subdivision Agreement covering the obligation to build road and drainage improvements on West River Drive was recorded August 19, 1986 at Book 1477 Page 0099, Anchorage Recording District, Third Judicial District, State of Alaska.

In 1992, while seeking an extension of time to complete obligations of the subdivision agreement, the Engineer for Hiland Land Company also reported that road and drainage improvements were installed and all work that remained were utility extensions. However, parties to the agreement disagreed over the extent, nature, and completeness of drainage improvements. This led to a subsequent rescission of the subdivision agreement by the Municipality and the release of respective collateral - performance guarantee - for the subdivision agreement. Consequently, West River Drive, was neither accepted to standards by the Municipality nor was it accepted for maintenance by CBERRRSA.

Similarly, uphill from and beyond this development, the Cascades Subdivision was developed by Cascades, a partnership under subdivision Agreement PM&E files 85-60 and 92-010. Subdivision Agreement Public Works file 85-60 was rescinded by the Municipality by recorded notice at Book 02443 Page 031 on March 23, 1993. Subdivision Agreement Public Works file 92-010 was rescinded by the Municipality by recorded notice at 2007-006752-0. However, recently, a successor entity, KAANDA, has constructed the required improvements under a right of way permit and those

improvements have been accepted by CBERRRSA for road maintenance and snow removal.

Having only a portion of the road accepted for snow removal and maintenance is obviously impractical. Recently, Mr. Gary Baugh, a member of KAANDA, and Al Pace, the general partner of the now defunct Hiland Land Company, stepped forward and offered to pay \$39,000 into the CBERRRSA account to contribute to the completion of West River Drive improvements so the entire road can be brought to acceptable standards and accepted for maintenance and snow removal by CBERRRSA. The Municipality has identified an additional \$36,000 in State Matching Grant Funds for a cumulative total of \$75,000 to complete the work and acceptances.

Accordingly, the administration recommends the acceptance of these funds and the appropriation of the additional funds as necessary to complete the West River Drive improvements.

Revenue Account		
420-7286-9861-2009	Capital Contributions	\$39,000
Expenditure Account		
420-7286-9609-BP2009	Restricted Contributions	\$39,000

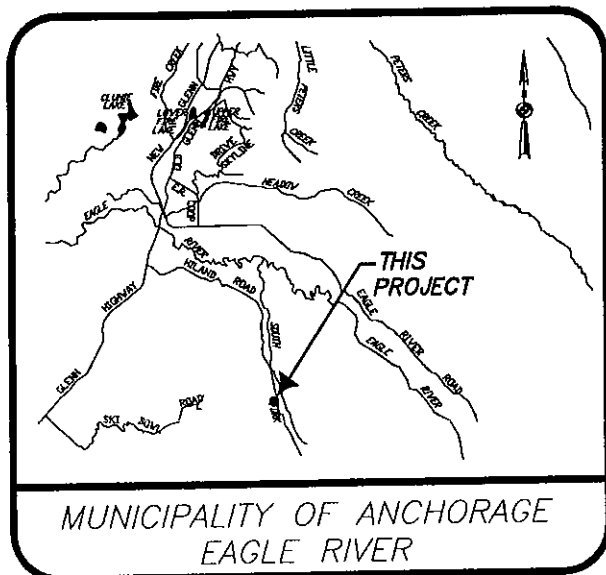
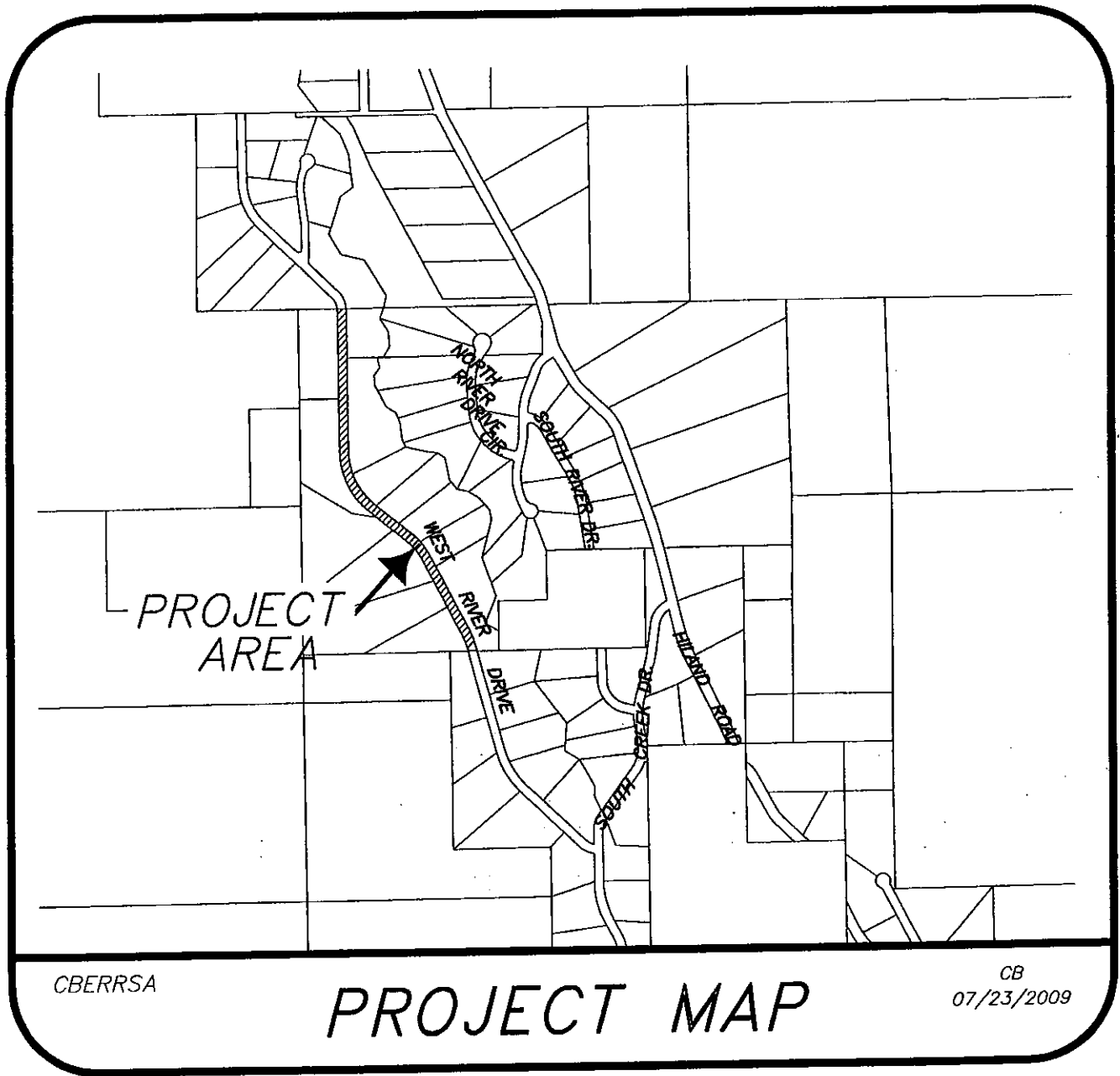
THE ADMINISTRATION RECOMMENDS APPROPRIATING THE SUM OF THIRTY-NINE THOUSAND AND NO/100 DOLLARS (\$39,000) AS PAYMENT IN LIEU OF SUBDIVISION AGREEMENT OBLIGATIONS TO THE EAGLE RIVER OTHER CAPITAL IMPROVEMENT PROGRAM (CIP) FUND (FUND 420), PROJECT MANAGEMENT & ENGINEERING DEPARTMENT FOR ROAD AND DRAINAGE IMPROVEMENTS FOR WEST RIVER DRIVE.

Prepared by: Donald C. Keefer, P.E., Project Management & Engineering Dept.

Fund Certification: Lucinda Mahoney, CFO
420-7286-9609-BP2009 \$39,000

Concur: George J. Vakalis, Municipal Manager

Respectfully submitted: Daniel A. Sullivan, Mayor



ROADWAY AND DRAINAGE IMPROVEMENTS

WEST RIVER DRIVE
EAGLE RIVER, ALASKA

Project Management & Engineering Department

Content ID: 008042**Type:** AR_FundsApprop - Funds Approp Resolution

A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE APPROPRIATION OF THIRTY NINE THOUSAND DOLLARS (\$39,000) AS PAYMENT IN LIEU OF SUBDIVISION AGREEMENT OBLIGATIONS FOR ROAD AND DRAINAGE

Title: IMPROVEMENTS FROM HILAND LAND COMPANY, A GENERAL PARTNERSHIP, AND KAANDA, AN ALASKA LIMITED LIABILITY COMPANY TO THE EAGLE RIVER OTHER CAPITAL IMPROVEMENT PROGRAM (CIP) FUND (FUND 420) PROJECT MANAGEMENT & ENGINEERING DEPARTMENT, FOR IMPROVEMENTS TO WEST RIVER DRIVE**Author:** maglaquijp**Initiating
Dept:** PME**Review
Depts:** PME, Finance**Date
Prepared:** 8/13/09 4:39 PM**Assembly
Meeting
Date:** 9/15/09

Workflow Name	Action Date	Action	User	Security Group	Content ID
Clerk_Admin_SubWorkflow	9/2/09 3:01 PM	Exit	Joy Maglaqui	Public	008042
MuniManager_SubWorkflow	9/2/09 3:01 PM	Approve	Joy Maglaqui	Public	008042
MuniManager_SubWorkflow	9/2/09 3:00 PM	Checkin	Joy Maglaqui	Public	008042
Finance_SubWorkflow	8/20/09 3:47 PM	Approve	Lucinda Mahoney	Public	008042
Finance_SubWorkflow	8/20/09 10:22 AM	Checkin	Nina Pruitt	Public	008042
OMB_SubWorkflow	8/14/09 9:13 AM	Approve	Cheryl Frasca	Public	008042
PME_SubWorkflow	8/13/09 4:52 PM	Approve	Jerry Hansen	Public	008042
FundsAppropWorkflow	8/13/09 4:48 PM	Checkin	Sharilyn Mumaw	Public	008042