

Submitted by: Chair of the Assembly at the  
Request of the Mayor  
Prepared by: Public Works Department  
For Reading: December 14, 2010

CLERK'S OFFICE

**APPROVED**

Date: 1-11-11

**ANCHORAGE, ALASKA**  
**AR No. 2010-372**

A RESOLUTION APPROPRIATING TWO MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,475,000) FROM THE ANCHORAGE ECONOMIC DEVELOPMENT CORPORATION (AEDC) TO THE GIRDWOOD VALLEY SERVICE AREA CAPITAL IMPROVEMENT FUND (406) ALLOWING THE MUNICIPALITY OF ANCHORAGE (MOA) TO ASSUME RESPONSIBILITY FOR THE PLANNING, DESIGN AND CONSTRUCTION OF MISCELLANEOUS PROJECTS INCLUDED IN THE GIRDWOOD ECONOMIC DEVELOPMENT BLOCK GRANT IN THE PUBLIC WORKS DEPARTMENT.

WHEREAS, AEDC has received a 2010 Legislative Girdwood Economic Development Block Grant to develop the following projects (hereinafter "the PROJECTS"); 1) Girdwood Town Square Improvements, 2) Olympic Mountain Loop Upgrade at Arlberg Avenue (Federal Match), and 3) Arlberg Avenue Extension to Access Upvalley Heritage Land Bank Property; and

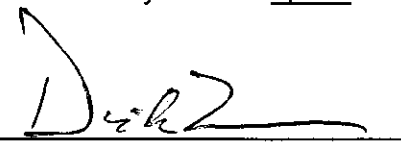
WHEREAS, the MOA and AEDC have entered into an agreement to cooperatively complete the PROJECTS under the terms and conditions identified in the agreement; now, therefore,

**THE ANCHORAGE ASSEMBLY RESOLVES:**

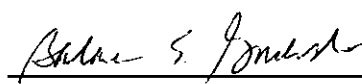
**SECTION 1.** The sum of TWO MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,475,000) is hereby appropriated from AEDC to the Girdwood Valley Service Area Capital Improvement Fund (406) allowing the MOA to assume responsibility for the planning, design and construction of miscellaneous projects included in the Girdwood Economic Development Block Grant in the Public Works Department.

**SECTION 2.** This resolution shall take effect immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 11<sup>th</sup> day of January, 2011.

  
Chair of the Assembly

ATTEST:

  
Municipal Clerk

**Department of Appropriation:**  
Public Works Department \$2,475,000



# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 680-2010

Meeting Date: December 14, 2010

1 **FROM: MAYOR**

2  
3 **SUBJECT: A RESOLUTION APPROPRIATING TWO MILLION FOUR HUNDRED**  
4 **SEVENTY-FIVE THOUSAND DOLLARS (\$2,475,000) FROM THE**  
5 **ANCHORAGE ECONOMIC DEVELOPMENT CORPORATION (AEDC)**  
6 **TO THE GIRDWOOD VALLEY SERVICE AREA CAPITAL**  
7 **IMPROVEMENT FUND (406) ALLOWING THE MUNICIPALITY OF**  
8 **ANCHORAGE (MOA) TO ASSUME RESPONSIBILITY FOR THE**  
9 **PLANNING, DESIGN AND CONSTRUCTION OF MISCELLANEOUS**  
10 **PROJECTS INCLUDED IN THE GIRDWOOD ECONOMIC**  
11 **DEVELOPMENT BLOCK GRANT IN THE PUBLIC WORKS**  
12 **DEPARTMENT.**

13  
14 The Alaska State Legislature awarded a \$2,500,000 Girdwood Economic Development  
15 Block Grant to AEDC to develop the following projects (hereinafter "the PROJECTS"):

- 16  
17 1. Girdwood Town Square Improvements  
18 2. Olympic Mountain Loop Upgrade at Arlberg Avenue (Federal Match)  
19 3. Arlberg Avenue Extension to Access Upvalley Heritage Land Bank Property  
20

21 AEDC and the MOA have entered into an agreement allowing the MOA to assume  
22 responsibility for the planning, design, and construction of the PROJECTS identified in  
23 the Girdwood Economic Development Block Grant (Exhibit A).  
24

25 The agreement allows AEDC to retain \$25,000 for administrative services. The  
26 remaining \$2,475,000 has been set aside for the PROJECTS.  
27

28 The budget detail is as follows:

29  
30 **REVENUE**

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
406.7294.9825.BP2010	State Grant Revenue – Direct	\$2,475,000

34 **EXPENDITURE**

<u>Account Number</u>	<u>Account Name</u>	<u>Amount</u>
406.7294.5302.BP2010	Infrastructure – Any Costs	\$2,425,500
406.7294.6924.BP2010	Central Services to IGC	49,500
	Total:	\$2,475,000

1  
2 THE ADMINISTRATION RECOMMENDS APPROVAL OF A RESOLUTION  
3 APPROPRIATING TWO MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND  
4 DOLLARS (\$2,475,000) FROM THE ANCHORAGE ECONOMIC DEVELOPMENT  
5 CORPORATION (AEDC) TO THE GIRDWOOD VALLEY SERVICE AREA CAPITAL  
6 IMPROVEMENT FUND (406) ALLOWING THE MUNICIPALITY OF ANCHORAGE  
7 (MOA) TO ASSUME RESPONSIBILITY FOR THE PLANNING, DESIGN AND  
8 CONSTRUCTION OF MISCELLANEOUS PROJECTS INCLUDED IN THE  
9 GIRDWOOD ECONOMIC DEVELOPMENT BLOCK GRANT IN THE PUBLIC  
10 WORKS DEPARTMENT.  
11

12 Prepared by: Robert J. Moore, Principal Administrative Officer  
13 Public Works Department

14 Approved by: Ron Thompson, P.E., Director, Public Works Department

15 Fund Certification: Lucinda Mahoney, CFO  
16 406.7294.9825.BP2010 \$2,475,000  
17 (2010 State Grant)

18 Concur: George J. Vakalis, Municipal Manager  
19

20 Respectfully submitted: Daniel A. Sullivan, Mayor  
21

**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
ANCHORAGE ECONOMIC DEVELOPMENT  
CORPORATION AND  
THE MUNICIPALITY OF ANCHORAGE**

**Project: Girdwood Economic Development Block Grant  
Project Number: TBD  
Project Development**

The parties to this Agreement are the Anchorage Economic Development Corporation (hereinafter AEDC) and the Municipality of Anchorage, a Municipality established under Alaska law (hereinafter the MUNICIPALITY).

**WHEREAS**, the MUNICIPALITY requests to be allowed to own, maintain, and to assume all responsibility for the planning, design and construction of the following projects (hereinafter the PROJECTS):

- 1. Girdwood Town Square Improvements**
- 2. Olympic Mountain Loop Upgrade at Arlberg Avenue (Federal Match)**
- 3. Arlberg Avenue Extension to Access Upvalley Heritage Land Bank Property**

**WHEREAS**, \$2,500,000 was appropriated in the 2010 Capital Budget (SB 230) by the Legislature to AEDC as the Girdwood Economic Development Block Grant (the "Grant") to develop the PROJECTS;

**WHEREAS**, the MUNICIPALITY has exercised its authority under State law or local charter to assume the power to plan, design, construct and maintain, finance, hold title to, or otherwise control highways, streets, roads, and transportation facilities within its boundaries;

**WHEREAS**, Alaska Statute 19.05.040 provides that AEDC may enter into agreements with local agencies relating to highways, streets, roads, and transportation facilities;

**WHEREAS**, the MUNICIPALITY has requested a direct transfer to them of \$2,500,000 to conduct project development of the PROJECTS;

**WHEREAS**, the undersigned parties have been authorized to enter into this Agreement to cooperatively complete the PROJECTS under the terms and conditions identified below;

**THEREFORE**, the parties, in consideration of the mutual promises contained in the Agreement, agree to the following:

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Memorandum of Agreement between the AEDC and Municipality  
Girdwood Economic Development Grant

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## 1. COMPLIANCE WITH LAWS AND REGULATIONS

The MUNICIPALITY agrees to comply, and shall require compliance by any contractors, with all applicable local, State, and federal laws and regulations. The MUNICIPALITY shall comply with and assume all obligations of AEDC under the terms and conditions of the grant agreement by and between AEDC and the State of Alaska (the "Grant Agreement"), including Appendix C, except for those grant reporting requirements to be provided by AEDC as provided in this Agreement.

## 2. PROJECT SCOPE

1. **Girdwood Town Square Improvements:** The Girdwood Town Square Economic Development project was identified in 2003/2004 to enhance and develop the Girdwood business center. The total cost of the project is \$6.4 million. Partial funding of \$5.4 million was provided by a previous federal economic development grant. The project design, permitting, and right-of-way acquisition are complete. This funding will be used to complete this project and comply with the requirements of the federal earmark. The importance of this project to the community is also demonstrated by the numerous volunteer hours and thousands of dollars in private and in-kind donations to improve and beautify the Town Square and surrounding park.
2. **Olympic Mountain Loop Upgrade at Arlberg Avenue (Federal Match):** This funding will open the door to full use of two federal grants from 2003 and 2004, totaling \$1,272,000. This road grants access to trails leading up the valley, to local businesses, to a number of residential buildings, to Alyeska Resort, and to a transportation hub for the entire community. Because of strict construction requirements attached to federal funds, this match is needed to fully fund the project.
3. **Arlberg Avenue Extension to Access Upvalley Heritage Land Bank Property:** Access to Heritage Land Bank property past the current termination point of Arlberg Avenue is key to future development of resort facilities, businesses serving recreational tourism, and to the proposed Nordic and Multiuse Trail System. Many acres of Heritage Land Bank property remain inaccessible because there is no roadway. This road project has been a capital request priority for many years. Funding allocated for this project will be used to prepare a Concept Study Report in accordance to A Strategy for Developing Context Sensitive Transportation Projects, adopted by the Municipality of Anchorage Assembly on October 14, 2008.

## 3. DELEGATION OF DUTIES

- a. The MUNICIPALITY has the responsibility to plan, design, advertise for construction bid proposals, award, and administer the construction of the PROJECTS within the available funds.
- b. The AEDC will support the MUNICIPALITY in the preparation of grant reporting requirements and apprise the MUNICIPALITY of all grant requirements and timelines necessary for the successful completion of the PROJECTS.

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#### **4. FUNDING**

- a. The approximate allocation of funds for the PROJECTS is as follows:
  1. Girdwood Town Square Improvements  
\$1,000,000
  2. Olympic Mountain Loop Upgrade at Arlberg Avenue (Federal Match)  
\$1,340,000
  3. Arlberg Avenue Extension to Access Upvalley Heritage Land Bank Property  
\$160,000
- b. AEDC indirect costs, at the rate of 1%, are deducted from the PROJECTS account.
- c. Grant reporting services provided by AEDC staff, as listed under 3b of this Agreement, will be directly charged to the PROJECTS.

#### **5. BILLING**

- a. Project costs eligible as expenses include in-house or contracted project management, engineering, surveying, right-of-way acquisition, permitting, utility relocations and construction services.
- b. Except for limitations, if any, in the Grant Agreement, there will be one lump sum payment for the PROJECTS to the MUNICIPALITY, in the amount of \$2,500,000 less the amount of \$25,000 to be retained by AEDC for AEDC's services, which payment shall be made upon the execution of this Agreement and receipt of funds from the State.
- c. Within six (6) months after acceptance by AEDC that the MUNICIPALITY has met the requirements of this Agreement, the MUNICIPALITY will return the full amount of the grant, less legitimate project expenses, as detailed in a final certified expenditure report, to the State of Alaska. In the event that the State of Alaska determines that additional grant funds are to be returned to the State of Alaska, the MUNICIPALITY shall be solely responsible for returning the unused additional funds and will indemnify AEDC for any costs or expenses related to the return of such funds, except for grant funds retained by AEDC.

#### **6. CONTRACT PROCUREMENT**

If the MUNICIPALITY contracts with third-party contractors, the MUNICIPALITY shall select the contractors using the competitive procurement principles consistent with the State Procurement Code, AS 36.30.

#### **7. AUDIT OF THE PROJECT**

The MUNICIPALITY will retain for a period of three years after final billing, all contracts, invoices, payrolls, personnel records, conditions of employment, and other data relating to the matters of this Agreement. AEDC reserves the right to perform a final PROJECT audit. If the

State of Alaska under the terms of the Grant Agreement requires AEDC to perform a final audit in addition to AEDC's annual audit, the Municipality shall reimburse AEDC the costs of one (1) additional final project audit, if required by the State of Alaska, in a total amount not to exceed \$5,000. Any cost for a State of Alaska final project audit exceeding \$5,000 shall be the responsibility of AEDC. The MUNICIPALITY's liability for this State of Alaska final project audit shall terminate six (6) months after acceptance by AEDC that the MUNICIPALITY has met the requirements of this Agreement.

## **8. INDEMNIFICATION**

- a. The MUNICIPALITY agrees to indemnify, defend and hold harmless AEDC and its agents and employees from and against any and all claims, damages, losses, expenses, attorneys' fees or related expenses arising from the MUNICIPALITY's assumption of responsibilities and obligations under this Agreement, except as to those arising solely out of the acts or omissions of AEDC, its employees or agents.
- b. Responsibility for all claims, lawsuits, or liability, including attorney's fees and costs, resulting from injuries or damages sustained by any person or property arising from the wrongful or negligent acts of both MUNICIPALITY and AEDC, which result in the joint negligence of MUNICIPALITY and AEDC, shall be apportioned on the basis of comparative fault.
- c. AEDC acknowledges that the MUNICIPALITY is self-insured. To the extent that the MUNICIPALITY enters into any subcontracts with third parties for the construction of the Project, MUNICIPALITY shall require third parties to add AEDC and the MUNICIPALITY as named insureds on any liability insurance policies for the Project.

## **9. WAIVER OF PROVISIONS**

The failure of AEDC to insist upon strict performance of the MUNICIPALITY of any provision in this Agreement is not a waiver or relinquishment of the provision for the future. The waiver by the AEDC of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the AEDC.

## **10. LOBBYING**

The AEDC and MUNICIPALITY shall ensure that none of the funds under this Agreement will be used for the purposes of lobbying the Alaska State Legislature or the United States Congress.

## **11. CONTACTS**

Required notices of this Agreement must be sent to the following contract administrators:

AEDC: Bill Popp, President  
510 L Street, Suite 603  
Anchorage, Alaska 99501

MUNICIPALITY: J.W. Hansen, Acting Director  
Project Management and Engineering

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Memorandum of Agreement between the AEDC and Municipality  
Girdwood Economic Development Grant

Municipality of Anchorage  
P.O. Box 196650  
Anchorage, AK 99519-6650

Each party agrees to notify the other party in writing of any change in the administrator.

## **12. TERMINATION FOR CAUSE**

- a. If the MUNICIPALITY is in substantial violation of the Agreement, or if the MUNICIPALITY has failed to fulfill its responsibilities under the Agreement in a proper and timely manner, AEDC may, in its discretion, notify the MUNICIPALITY of the violation or failure. If the MUNICIPALITY fails to correct the violation within a reasonable time, or to offer assurance satisfactory to AEDC that the violation or failure will be remedied or the work defects cured, AEDC will, in its discretion, terminate the Agreement and assume control of the PROJECTS. AEDC will give written notice to the MUNICIPALITY at least fifteen (15) days before the effective date of termination, and will state the reasons for the termination.
- b. If the Agreement is terminated for cause under this section, the MUNICIPALITY may retain the grant funds expended for satisfactorily completed work on the project. However, the MUNICIPALITY is not relieved of any liability to AEDC, or any third party, for damages caused by the contract breach, and AEDC will, in its discretion, withhold compensation due, if any, under this subsection until the amount of damages owed to AEDC can be determined and deducted against AEDC's obligations. The MUNICIPALITY shall return any funds except for funds used for satisfactorily completed work.

## **13. TERMINATION FOR CONVENIENCE**

- a. Either Party may, in its discretion, at any time terminate the Agreement if it determines that termination is in its best interests. The terminating Party shall give written notice to the other Party of its decision to terminate the Agreement not less than fifteen (15) days before the effective date of termination. The written notice will include a statement of why the decision to terminate was made.
- b. If the Agreement is terminated for convenience under this section, each party shall be entitled to retain that portion of its expenses which was actually expended under the Agreement, and which is directly attributable to performance under the Agreement. The MUNICIPALITY may also retain any costs properly incurred by the MUNICIPALITY in honoring convenience termination clauses in its agreements with its contractors.

## **14. TERMINATION BY MUTUAL CONSENT**

- a. If the AEDC or the MUNICIPALITY wishes to terminate this Agreement prior to its completion, the initiating Party shall notify the other Party in writing of its reasons for requesting the early termination. This request must be made at least fifteen (15) days prior to the proposed termination date. If both Parties agree that it is in their mutual best interests to terminate this Agreement early, all finished or unfinished documents and other materials shall become the property of the MUNICIPALITY.

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Memorandum of Agreement between the AEDC and Municipality  
Girdwood Economic Development Grant

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- b. If the Agreement is terminated as provided herein, the MUNICIPALITY shall be entitled to retain such grant funds as were expended on the Projects, and which are directly attributable to the MUNICIPALITY's performance of the Agreement. The MUNICIPALITY shall also be entitled to grant funds required in honoring convenience termination clauses in the Agreement with its contractors. The MUNICIPALITY shall return all other unused grant funds to AEDC.

**15. AMENDMENT OF AGREEMENT**

This Agreement may only be modified or amended by written agreement signed by the original signatories or their successors in office.

**16. TERM OF THE AGREEMENT**

In the event the MUNICIPALITY has not delivered the proposed PROJECTS SCOPE prior to December 30, 2016, and after consultation with the MUNICIPALITY, AEDC may grant a time extension or terminate for cause at its discretion.

**17. THE WHOLE AGREEMENT**

This Agreement constitutes the entire agreement between the Parties. There are no other understandings or agreements between the Parties, either oral or memorialized in writing regarding the matters addressed in this Agreement. This Agreement may not be amended by the Parties unless agreed to in writing with both Parties signing through their authorized representatives.

**18. AGREEMENT SUBJECT TO GRANT AGREEMENT**

This Agreement is subject to all of the terms and conditions of the Grant Agreement. In the event that the Grant Agreement contains any provisions that are inconsistent with this Agreement, the MUNICIPALITY and AEDC agree to amend this Agreement in order to be consistent with the Grant Agreement.

**SIGNATURES**

  
\_\_\_\_\_  
Authorized Signature for MUNICIPALITY      Municipal Manager

10/5/10  
Date

  
\_\_\_\_\_  
Authorized Signature for AEDC      President

10/4/2010  
Date

**Content ID:** 009660**Type:** AR\_FundsApprop - Funds Approp Resolution

A RESOLUTION APPROPRIATING TWO MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$2,475,000) FROM THE ANCHORAGE ECONOMIC DEVELOPMENT CORPORATION (AEDC) TO THE GIRDWOOD VALLEY SERVICE AREA CAPITAL IMPROVEMENT FUND (406) ALLOWING THE MUNICIPALITY OF ANCHORAGE (MOA) TO ASSUME RESPONSIBILITY FOR THE PLANNING, DESIGN AND CONSTRUCTION OF MISCELLANEOUS PROJECTS INCLUDED IN THE GIRDWOOD ECONOMIC DEVELOPMENT BLOCK GRANT IN THE PUBLIC WORKS DEPARTMENT.

**Author:** pruittns**Initiating Dept:** PME**Review Depts:** Purchasing**Date Prepared:** 11/24/10 9:34 AM**Assembly Meeting Date:** 12/14/10**Public Hearing Date:** 1/11/11

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
Clerk_Admin_SubWorkflow	12/3/10 10:47 AM	Exit	Joy Maglaqui	Public	009660
MuniManager_SubWorkflow	12/3/10 10:47 AM	Approve	Joy Maglaqui	Public	009660
Finance_SubWorkflow	12/2/10 7:36 PM	Approve	Lucinda Mahoney	Public	009660
Finance_SubWorkflow	12/2/10 3:48 PM	Checkin	Nina Pruitt	Public	009660
Finance_SubWorkflow	12/2/10 3:28 PM	Checkin	Nina Pruitt	Public	009660
OMB_SubWorkflow	11/30/10 4:18 PM	Approve	Cheryl Frasca	Public	009660
Purchasing_SubWorkflow	11/24/10 4:52 PM	Approve	Fred Kaltenbach	Public	009660
Public_Works_SubWorkflow	11/24/10 2:05 PM	Approve	Ron Thompson	Public	009660
PME_SubWorkflow	11/24/10 1:50 PM	Approve	Steve Shrader	Public	009660
FundsAppropWorkflow	11/24/10 1:09 PM	Checkin	Brenda Reddish	Public	009660
PME_SubWorkflow	11/24/10 11:52 AM	Reject	Steve Shrader	Public	009660
FundsAppropWorkflow	11/24/10 9:52 AM	Checkin	Brenda Reddish	Public	009660