| | |
|---|---|
| **From:** | Windt Pearson, Rebecca A. |
| **To:** | girdwoodgalaxy@gmail.com; Kelley, Kyle T.; kelliegbos@gmail.com |
| **Cc:** | Tyler, Margaret S.; Falsey, William D.; Gadamus, Jack J.; Briggs, Tiffany E; Soule, Gregory G. |
| **Subject:** | Outstanding GBOS Questions |
| **Date:** | Thursday, June 25, 2026 1:01:02 PM |
| **Attachments:** | image001.png |

Jennifer, Kellie, and Kyle,

I'm wrapping up final tasks in my last few days in the office and wanted to circle back on a few things I had noted as outstanding requests from the GBOS team from our last quarterly meeting.  Apologies for the delay in getting back to you on these items.

First, I had a note that you had asked **why municipal assessed value does not appear to track with the increase and decrease in the market value of a home and, as a corollary, why so many homes in Girdwood experienced changes in assessed value this year**.

Jack, our Municipal Assessor, helped me with the following response:

- For 2026, Property Appraisal updated parts of the residential assessment model to better reflect current market information and align better with national assessment standards. The basic approach to valuing homes did not change, but some of the information used in the model was updated, including construction cost data, home quality categories, and the way homes are grouped into market areas. In Girdwood, those updates were combined with a larger local market adjustment than most residential areas received. Put simply, recent market data showed that Girdwood assessments had not kept pace with the market, so the 2026 Girdwood values included both the general model updates and an additional market correction.

Jack is cc'd here, so that you might follow up with him directly with any follow up questions.

Additionally, I had a note that you had asked about **why a traffic study has not been completed by the Municipality as part of the Holtan Hills development, and whether such a study might still be a possibility**.

Tiffany from Real Estate and Greg Soule from Development Services helped me with info informing the following response:

> As I know you all know, the Municipal Traffic Department does not directly complete traffic studies related to specific private developments (it is not adequately resourced to do so). A traffic study requirement is imposed on a developer as a condition of approval on the platting action for the new development. With respect to Holtan Hills, the plat application for phase 1 of the project has been submitted and the Traffic Department has determined that the trip generation for phase 1 does not hit the minimum threshold for imposing the traffic study requirement. That said, this may change as platting actions for additional phases of the project come forward.

Again, Tiffany and Greg are cc'd for any follow up questions.

I've also cc'ing Bill Falsey for further follow up, as he will be stepping back into the Municipal Manager's shoes after my departure. It has pleasure working productively with you all on Girdwood issues.

All the Best,

Becky

**Becky Windt Pearson**
*Municipal Manager*
Municipality of Anchorage
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Anchorage, Alaska 99501
(907) 343-7110
Rebecca.A.WindtPearson@anchorageak.gov

Submitted by: Chair of the Assembly at the Request of the Mayor
Prepared by: Dept. of Law
For reading: June 23, 2026

# ANCHORAGE, ALASKA
# AO No. 2026-89

**AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 12.110, TAX INCENTIVES FOR FIRST TIME HOME BUYERS.**

**WHEREAS,** housing is an urgent need in Anchorage, with the average sales listing price increasing by 40% from 2020 to 2025; and

**WHEREAS,** Mayor LaFrance has set a goal and strategy to build and rehabilitate 10,000 homes in Anchorage in 10 years; and

**WHEREAS,** the *10,000 Homes in 10 Years* plan calls for the development of incentives to "close the feasibility 'gap' in residential development and reuse"; and

**WHEREAS**, the Anchorage Assembly's *Housing Action Plan* sets a goal to "Reduce housing cost burdens and ensure safe, affordable, high-quality permanent housing for all residents" and a strategy to "Focus Incentives & Public Investment to Increase Housing Stock "; and

**WHEREAS**, Strategy 4 of the *Anchorage 2040 Land Use Plan* (*2040 LUP*) calls for the use of property tax abatements to incentivize developments that are difficult to finance; and

**WHEREAS**, according to the National Association of Realtors, the average age of a first-time homebuyer was 40 years old in 2025, up from the late 20s in the 1980s; and

**WHEREAS,** a tax abatement for first time home buyers would stimulate the production of "missing middle" housing, expanding pathways to home ownership; and

**WHEREAS,** state statute under AS 29.45.050 allows local governments to abate property taxes for the purpose of economic development, to include the Municipal and School District portions; and

**WHEREAS**, the present AO has been crafted to take into account the best available market analysis, lessons learned from the prior and current 12.60 and 12.70 ordinances, and the priorities identified in *10,000 Homes in 10 Years*, the *Housing Action Plan*, and the *2040 LUP*; and

**WHEREAS**, the present AO will offer up to 10 years tax abatement for first time homebuyers of new residential property where the residential units are sold for no more than the most recent average assessed value of single family homes within the municipality, whichever is greater; now, therefore,

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**<u>Section 1.</u>** Anchorage Municipal Code 12.110 is enacted as follows:

**Chapter 12.110** ***Tax Incentives for First Time Home Buyer***

**12.110.010 Property tax incentives for housing; location.**

This chapter authorizes property tax exemptions for new residential units purchased by first time home buyers.

**12.110.015 Property tax incentives for housing.**

A. *Exclusions:* The following types of properties are not eligible for this housing tax incentive:

1. *Otherwise exempt property.* Property or a portion of property for which an application has been filed and is under review, or has been granted pursuant to AMC 12.35.040, 12.35.050, 12.60, 12.70, 12.80, or other similar provision of Title 12 are not eligible for this housing tax incentive. Submission of an application for exemption pursuant to this chapter shall automatically terminate any existing tax exemption application or designation for the subject property. This does not render ineligible a property located within a “deteriorated area” as defined under section 12.35.005, if no application is filed or under review or exemption granted for the property.

2. *Short-term rental property.* Properties with an initial rental term for a period of less than 30 days. Any portion of a property for which the initial rental term is less than 30 days is not eligible for this housing tax incentive. Rental of a portion of a property for an initial term of less than 30 days shall automatically terminate an application for or previously granted exemption under this chapter.

*B.* *Requirements:* The following requirements must be met by the residential units to be constructed:

1. Qualifying residential units must:

a. *New Construction*. Be new construction;

b. *First Time Home Buyer.* Have an eventual owner or purchaser of the residential unit who qualifies as a first time home buyer;

c. *Purchase Price Cap.* Have a sale price for each residential unit equal to or less than the most recent annual average assessed value of a single family home within the Municipality of Anchorage; and

d. *Owner Occupied.* Upon possession by the first-time home buyer, be owned and occupied as the primary residence and permanent place of abode of an eligible owner for a continuous period prior to January 1 of the exemption year with the intent to remain through at least the first year of exemption.

2. *Building and Zoning Code Compliance*. All work performed to construct the new residential units described in the application must be in compliance with Anchorage Municipal Code, including Titles 21 and 23.

3. *Wage and Labor Compliance.* All work performed to construct the new residential units described in the application must be in compliance with State and Federal wage and labor standards and worker safety standards.

C. *Violations*. Violations of the requirements of subsection B of this section may be subject to penalty under AMC Chapter 1.60 including three times the value of exemption received.

**12.110.020 Applications for property tax exemptions.**

A. *Submission.* An application for an exemption under this chapter shall be made in writing to the municipal assessor.

B. *Timeline for submission.* Applications must be submitted prior to issuance of the Certificate of Occupancy for the constructed units. Applications made after issuance of the Certificate of Occupancy shall be rejected.

C. *Contents.* The application shall, at a minimum, contain:

1. *Name.* The name of the applicant;

2. *Address.* The legal description and street address of the property for which the application is made;

3. *Residential units design.* Drawings of the structure including the residential units that the applicant will construct, including a floor plan that includes approximate square footages;

4. *Existing structures*. Drawings showing the square footage of all existing structures and any structures to be constructed on the property;

5. *Acknowledgement of liability.* Applicant acknowledges that the residential units will be taxable if and when the residential units are no longer eligible for tax exemption under this chapter;

6. *Labor compliance.* Applicant acknowledges that the residential units must be built in compliance with State and Federal wage and labor standards and worker safety standards; and

7. *Other information.* Other information as may be required by the assessor. Other information may include detailed financial records regarding the design and construction of the residential units.

D. *Deadline for applications.* Applications for an exemption under this chapter shall only be accepted before 5:00 p.m. August 31, 2031.

**12.110.030 Provisional approval.**

A. The municipal assessor shall provisionally approve an application for tax exemption if:

1. *Complete application.* The applicant submitted a complete application; and

2. *Requirement acknowledgement*. The applicant acknowledges it must:

a. *First time home buyer.* The applicant acknowledges that the residential units will qualify for exemption if and only if owned and occupied by a qualified first time home buyer;

b. *Acknowledgement of sales price cap.* Applicant acknowledges that the residential units will qualify for exemption if and only if the sale price for each residential unit is equal to or less the most recent annual average assessed value of single family homes within the Municipality of Anchorage; and

c. *Acknowledgement of owner occupied.* Applicant acknowledges that the residential units will qualify for exemption if and only if owned and occupied as the primary residence and permanent place of abode of an eligible owner for a continuous period prior to January 1 of the exemption year with the intent to remain through at least the first year of exemption.

**12.110.040 Final approval upon completion of construction of new housing; magnitude.**

A. *Final approval of exemption.* The municipal assessor shall finally approve an application for tax exemption if:

1. The applicant has completed construction of residential units substantially in accordance with the plans and drawings included in the provisional approval and a Certificate of Occupancy has been issued pursuant to AMC 23.10.107.4 for each structure that contains a residential unit described in the application within five years of provisional approval**;**

2. The applicant submits evidence proving the sales price of the residential unit was at or below the threshold required by this chapter;

3. The applicant submits evidence proving the owner of the property qualifies as a first time home buyer; and

4. The applicant submits an affidavit that construction of the residential units was in compliance with State and Federal wage and labor standards and worker safety standards.

B. *Magnitude of exemption.* The taxes eligible for exemption under this AMC 12.110 are those exempt to the extent of state statute and attributable only to the newly constructed qualifying portion of the residential unit(s) as described in the provisional or final approval, determined on a spatial basis. If an exemption is granted, it shall apply to all of the eligible property taxes attributable to newly constructed, eligible residential units described in the provisional or final approval.

**12.110.045 Duration of Exemption**

A. *Duration of tax exemption.* Tax exemptions approved under section 12.110.040 shall be for a period of 10 consecutive years beginning on January 1 of the first full calendar year after final approval of the application.

**12.110.050 Termination of exemption; transfer of exemption.**

A. *Failure to file annual report.* An exemption granted under this chapter shall automatically terminate if the owner of the property fails to comply with the annual report for three (3) consecutive years.

B. *Transfer on change of ownership.* An approved provisional or final exemption shall run with the parcel and transfer only once from the applicant to a first-time home buyer when the ownership of the property is transferred, however the municipality will not prorate the exemption for a partial calendar year.

C. *Verified lack of compliance with the Anchorage Municipal Code, including Titles 21 and 23.* An exemption granted under this chapter shall terminate immediately if and when a state or federal court or administrative agency determines, in a final unappealable decision, that, subsequent to the issuance of the Certificate of Occupancy, changes and modifications have been made to the property taking it out of conformance.

**12.110.060 Appeals.**

A. *Of assessor to chief fiscal officer*. Any decision of the assessor under this chapter may be appealed to the chief fiscal officer or the chief fiscal officer's designee in writing within 30 days of the date the decision was issued. For the purposes of this chapter the date of issuance is the date upon which the decision was mailed or otherwise delivered to the parties.

B. *Of chief fiscal officer to the office of administrative hearings*. Any decision of the chief fiscal officer or the chief fiscal officer's designee under this chapter may be appealed to an administrative hearings officer in accordance with AMC 3.60 within 30 days of the date the decision was issued. For the purposes of this chapter the date of issuance is the date upon which the decision was mailed or otherwise delivered to the parties.

**12.110.070 Annual reports of owners; assembly notification.**

A. *Annual compliance and status report.* Not later than March 15 of each year, the owner of the property for which an exemption has been granted, shall file with the assessor, a report including:

1. *Occupancy.* A statement of occupancy and vacancy of the residential unit(s) for the prior 12 months;

2. *Residential unit(s) remain as described.* A certification that the constructed residential unit(s) described in the application continue to exist and have not been converted to a non-residential use and continue to comply with the requirements of this chapter;

3. *Further changes.* A description of physical changes or other improvements constructed since the last report or, on first report, since the filing of the application; and

4. *Additional information.* Any additional information requested by the assessor, chief fiscal officer, or designee. Additional information may include detailed financial records regarding the design, construction, and operation of the residential units.

B. *Annual reports to the Assembly.* The assessor shall transmit annual reports to the Assembly in an Assembly Information Memorandum that contains:

1. *Annual report of exempted taxes.* A summary of the total taxes exempted for each property that has been granted a tax exemption under this chapter.

2. *Annual report of applications and status.* A summary list of each application for an exemption under this chapter received by the assessor, the status (rejected, provisional approval, or final approval), number of units proposed, under construction and completed, and the parcel address or description of location.

**12.110.075 Confidentiality of information.**

At the request of the applicant or owner, financial information and records submitted with the application or annual reports, and other information in which the applicant or owner has a reasonable expectation of privacy and nondisclosure, shall be confidential and may not be released except upon court order, when necessary to enforce the provisions of or to collect the taxes due to the municipality and reviewed only by the municipal assessor, and not disclosed except to the municipal attorney, chief fiscal officer, the internal auditor, or administrative hearing officer in the performance of their official duties.

**12.110.080 Definitions.**

In this chapter:

"Construction" has the same meaning set forth in AMC 21.15.040.

“Family” has the meaning set forth in 24 C.F.R. § 5.403 as of May 22, 2026.

“First time home buyer” means family of which no member owned any present ownership interest in a residence of any family member during the seven (7) years before commencement of homeownership assistance for the family. The term “first-time homeowner” includes a single parent or displaced homemaker (as those terms are defined in 12 U.S.C. 12713) who, while married, owned a home with his or her spouse, or resided in a home owned by his or her spouse.

“Residential unit” means a dwelling unit as defined in AMC 21.15.040 which is leased or rented to the same person or persons for 30 or more consecutive days. As used in this definition “person” means only natural persons.

**Section 3.** Pursuant to AS 29.45.050(m), notice is hereby provided that this ordinance, if adopted, or the entirety of Chapter 12.110 may be repealed by the voters through referendum.

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

PASSED AND APPROVED by the Anchorage Assembly this _______ day of _______________, 2026.

ATTEST:

_______________________________
Chair

_______________________________
Municipal Clerk

# MUNICIPALITY OF ANCHORAGE

## Assembly Memorandum

**AM No. 402-2026**

**Meeting Date: June 23, 2026**

**FROM:** **MAYOR**

**SUBJECT:** **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 12.110, TAX INCENTIVES FOR FIRST TIME HOME BUYERS.**

This ordinance establishes a new property tax incentive program to support first-time homeownership and increase the supply of "missing middle" housing in Anchorage. It is a targeted implementation of the Mayor's 10,000 Homes in 10 Years strategy and aligns with the Assembly's Housing Action Plan and the Anchorage 2040 Land Use Plan.

**Purpose**

Anchorage continues to face a significant housing affordability challenge, with home prices rising 40% from 2020 to 2025 and the average age of first-time homebuyers increasing. The average single-family home in Anchorage has an assessed value of almost $500,000, and new construction averages more than $650,000. This ordinance is designed to expand access to homeownership while encouraging the construction of housing at price points accessible to first-time buyers.

The incentive helps address a key barrier identified in local housing policy: the limited production of "starter" homes. By reducing property tax burden during the early years of ownership, this program improves project feasibility for builders and lowers total cost of ownership for buyers. It will incentivize builders to produce lower-cost homes.

**How the Incentive Works**

The ordinance creates a new chapter in municipal code (AMC 12.110) authorizing a property tax abatement for qualifying new residential units purchased by first-time homebuyers.

The program applies to newly-constructed residential units that are purchased and occupied by first-time homebuyers as their primary residence. To ensure the incentive targets attainable housing, eligible units must be sold for a price at or below the Municipality's average assessed single-family home value. According to the 2026 Property Appraisal Annual Valuation Report, the average assessed value is $496,746 for a single-family home.

For qualifying properties, the ordinance provides a property tax exemption for up to 10 years on the value attributable to the newly constructed residential portion of the property. The exemption applies to taxes allowed under state law, including both municipal and school district portions.

The process includes both provisional and final approval. Developers must apply prior to construction completion to receive provisional approval, and final approval is granted once construction is complete and eligibility criteria—such as sale price and buyer qualification—are verified.

The ordinance also includes accountability measures to ensure the program meets its intended purpose. Properties must comply with applicable zoning, building, and labor standards, and short-term rentals are not eligible. Property owners are required to submit annual reports demonstrating continued compliance, and the exemption may be terminated if program requirements are not met.

**Policy Impact**

This incentive is intended to increase production of entry-level housing, expand pathways to homeownership for Anchorage residents, support infill development, and complement existing housing tools. By focusing on first-time buyers, the program directs public benefit toward workforce households while helping unlock new housing supply.

**THE ADMINISTRATION RECOMMENDS APPROVAL.**

| | |
|---|---|
| Prepared by: | Nolan Klouda, Policy Director |
| Approved by: | Susanne Fleek-Green, Chief of Staff |
| Concur: | Ona R. Brause, Director, OMB |
| Concur: | Lance R. Wilber, CFO |
| Concur: | Eva Gardner, Municipal Attorney |
| Concur: | William D. Falsey, Chief Administrative Officer |
| Concur: | Rebecca A. Windt Pearson, Municipal Manager |
| Respectfully submitted: | Suzanne LaFrance, Mayor |

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

AO Number: 2026-89

Title: **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 12.110, TAX INCENTIVES FOR FIRST TIME HOME BUYERS.**

Sponsor: **Mayor LaFrance**

Preparing Agency: Department of Law
Others Impacted: Department of Finance

***CHANGES IN EXPENDITURES AND REVENUES:*** **(In Thousands of Dollars)**

| | FY26 | FY27 | FY28 | FY29 | FY30 |
|---|---|---|---|---|---|
| **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:** | | | | | |
| **POSITIONS: FT/PT and Temp** | | | | | |

**PUBLIC SECTOR ECONOMIC EFFECTS:**

While the number of applicants for this exemption is uncertain, the Property Appraisal Division is expected to manage the additional processing and annual review within existing resources.

The proposed ordinance is expected to be largely revenue-neutral. The exemption is narrowly targeted to newly constructed residential units that are purchased by first-time homebuyers, subject to a defined price cap, and required to be owner-occupied as a primary residence. While a portion of each unit's value may reflect land or other components previously included in the tax base, the majority of the exempt value is anticipated to be attributable to new construction that has not previously been taxed.

Given these constraints, little to no measurable impact on current tax revenues or mill rates is expected. However, exempting these units will delay the tax cap exclusions under AMC 12.25.040 B.1 until they become taxable.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

The impact on the private sector is expected to be minimal. While property tax exemptions can shift the cost of government onto the remaining tax base through higher mill rates, the proposed exemption is narrowly tailored to apply only to first time home buyers of new construction, meet specified price thresholds, and are owner-occupied. Given these limitations, any resulting tax shift or impact on mill rates is expected to be negligible.

Prepared by: *Jack Gadamus* Telephone: 343-6678

Submitted by: Chair of the Assembly at the Request of the Mayor
Prepared by: Dept. of Law
For reading: June 23, 2026

# ANCHORAGE, ALASKA
# AO No. 2026-93

**AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 12.100, TAX INCENTIVES FOR MIXED USE MULTI UNIT HOUSING.**

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**WHEREAS**, Goal 2 of the *Anchorage 2040 Land Use Plan* (*2040 LUP*) states that "Infill and redevelopment meet the housing and employment needs of residents and businesses in Anchorage"; and

**WHEREAS,** housing is an urgent need in Anchorage, with the average sales listing price increasing by 40% from 2020 to 2025; and

**WHEREAS**, economic trends have resulted in high vacancies in certain classes of commercial property in Anchorage, such as office buildings; and

**WHEREAS,** Mayor LaFrance has set a goal and strategy to build and rehabilitate 10,000 homes in Anchorage in 10 years; and

**WHEREAS,** the *10,000 Homes in 10 Years* plan calls for the development of incentives to "close the feasibility 'gap' in residential development and reuse"; and

**WHEREAS**, the Anchorage Assembly's *Housing Action Plan* sets strategies to "Encourage Reuse and Redevelopment" and Focus Incentives & Public Investment to Increase Housing Stock; and

**WHEREAS,** state statute under AS 29.45.050 allows local governments to abate property taxes for the purpose of economic development, to include the Municipal and School District portions; and

**WHEREAS,** mixed-use structures with both commercial and residential spaces offer a means to increase housing stock while supporting local business and increasing diverse housing opportunities in the market; and

**WHEREAS**, the present AO has been crafted to take into account the best available market analysis, lessons learned from the prior and current 12.60 and 12.70 ordinances, and the priorities identified in *10,000 Homes in 10 Years*, the *Housing Action Plan*, and the *2040 LUP*; and

**WHEREAS**, the present AO will offer up to 10 years tax abatement for the residential portions of new or rehabilitated mixed use buildings where the residential units are sold for no more than the most recent average assessed value of single family homes within the municipality, whichever is greater; now, therefore,

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**Section 1.** Anchorage Municipal Code 12.100 is enacted as follows:

## Chapter 12.100 *Tax Incentives for Mixed Use Multi-Unit Housing*

### 12.100.010 Property tax incentives for housing; location.

This chapter authorizes property tax exemptions for new residential units in newly constructed or rehabilitated mixed commercial-residential structures. A minimum of four new residential units must be constructed and the construction must increase the total number of residential units on property.

### 12.100.015 Property tax incentives for housing.

A. *Exclusions:* The following types of properties are not eligible for this housing tax incentive:

1. *Otherwise Exempt Property.* Property or a portion of property for which an application has been filed and is under review, or has been granted pursuant to AMC 12.35.040, 12.35.050, 12.60, 12.80, or 12.70 are not eligible for this housing tax incentive. Submission of an application for exemption pursuant to this chapter shall automatically terminate any existing tax exemption application or designation for the subject property. This does not render ineligible a property located within a "deteriorated area" as defined under section 12.35.005, if no application is filed or under review or exemption granted for the property.

2. *Short-term rental property.* Properties with an initial rental term for a period of less than 30 days. Any portion of a property for which the initial rental term is less than 30 days is not eligible for this housing tax incentive. Rental of a portion of a property for an initial term of less than 30 days shall automatically terminate an application for or previously granted exemption under this chapter.

B. *Requirements:* The following requirements must be met by the residential units to be constructed or rehabilitated:

1. Qualifying residential units must:

a. *Mixed-Use Building.* Exist within a mixed-use residential and commercial building;

b. *Purchase-Price Cap.* Have a sale price for each residential unit equal to or less than the most recent annual average assessed value of a single family home within the Municipality of Anchorage;

c. *Owner Occupied.* Upon possession by the buyer, be owned and occupied as the primary residence and permanent place of abode of an eligible owner for a continuous period prior to January 1 of the exemption year with the intent to remain through at least the first year of exemption.

2. *Building and Zoning Code Compliance*. All work performed to construct the new residential units described in the application must be in compliance with Anchorage Municipal Code, including Titles 21 and 23.

3. *Wage and Labor Compliance.* All work performed to construct the new residential units described in the application must be in compliance with State and Federal wage and labor standards and worker safety standards.

C. *Violations*. Violations of the requirements of subsection B of this section may be subject to penalty under AMC Chapter 1.60 including three times the value of exemption received.

**12.100.020 Applications for property tax exemptions.**

A. *Submission.* An application for an exemption under this chapter shall be made in writing to the municipal assessor.

B. *Timeline for submission.* Applications must be submitted prior to issuance of the Certificate of Occupancy for the constructed or rehabilitated units. Applications made after issuance of the Certificate of Occupancy shall be rejected.

C. *Contents.* The application shall, at a minimum, contain:

1. *Name.* The name of the applicant;

2. *Address.* The legal description and street address of the property for which the application is made;

3. *Residential units; design.* Drawings of the structure including the residential units that the applicant will construct or rehabilitate, including a floor plan that includes approximate square footages;

4. *Existing structures*. Drawings showing the square footage of all existing structures and any structures to be constructed on the property;

5. *Acknowledgement of liability.* Applicant acknowledges that the residential units will be taxable if and when the residential units are no longer eligible for tax exemption under this chapter;

6. *Labor compliance.* Applicant acknowledges that the residential

units must be built in compliance with State and Federal wage and labor standards and worker safety standards; and

7. *Other information.* Other information as may be required by the assessor. Other information may include detailed financial records regarding the design and construction of the residential units.

D. *Deadline for applications.* Applications for an exemption under this chapter shall only be accepted before 5:00 p.m. August 31, 2031.

**12.100.030 Provisional approval.**

A. The municipal assessor shall provisionally approve an application for tax exemption if:

1. *Complete application.* The applicant submitted a complete application; and

2. *Requirement Acknowledgement*. The applicant acknowledges it must:

a. *Four or more additional units.* The applicant acknowledges it must construct or rehabilitate not less than four new residential units in accordance with the plans and drawings submitted with its application; and

b. *Acknowledgement of sales price cap.* Applicant acknowledges that the residential units will qualify for exemption if and only if the sale price for each residential unit is equal to or less the most recent annual average assessed value of single family homes within the Municipality of Anchorage; and,

c. *Acknowledgement of owner occupied.* Applicant acknowledges that the residential units will qualify for exemption if and only if owned and occupied as the primary residence and permanent place of abode of an eligible owner for a continuous period prior to January 1 of the exemption year with the intent to remain through at least the first year of exemption.

**12.100.040 Final approval; magnitude.**

A. *Final approval of exemption.* The municipal assessor shall finally approve an application for tax exemption if:

1. The applicant has completed construction or rehabilitation of residential units substantially in accordance with the plans and drawings included in the provisional approval and a Certificate of Occupancy has been issued pursuant to AMC 23.10.107.4

for each structure that contains a residential unit described in the application within five years of provisional approval**;**

2. The total number of residential units on the property has increased by at least the number required by this chapter;

3. The applicant submits evidence proving the sales price of the residential unit was at or below the threshold required by this chapter; and

4. The applicant submits an affidavit that construction of the residential units was in compliance with Municipal Code and State and Federal wage and labor standards and worker safety standards.

B. *Magnitude of exemption.* The taxes eligible for exemption under this AMC 12.100 are those exempt to the extent of state statute and attributable only to the newly constructed or rehabilitated residential units, exclusive of non-residential space and previously existing or non-eligible residential units (whether or not remodeled) determined on a spatial basis as follows: The square footage of the eligible residential units shall be divided by the square footage of all structures on the property, then multiplied by the assessed value of all improvements on the property and by the mill rate applicable to the property. If an exemption is granted, it shall apply to all of the eligible property taxes attributable to newly constructed, eligible residential units.

**12.100.045 Duration of Exemption**

A. *Base duration of tax exemption.* Tax exemptions approved under section 12.100.040 shall be for a period of 10 consecutive years beginning on January 1 of the first full calendar year after final approval of the application.

**12.100.050 Termination of exemption; transfer of exemption.**

A. *Failure to file annual report.* An exemption granted under this chapter shall automatically terminate if the owner of the property fails to comply with the annual report for three (3) consecutive years.

B. *Transfer on change of ownership.* An exemption shall run with the land and transfer, in whole only, to another entity or owner when the ownership of the property is transferred, however the municipality will not prorate the exemption for a partial calendar year.

C. *Verified lack of compliance with the Anchorage Municipal Code, including Titles 21 and 23.* An exemption granted under this chapter shall terminate immediately if and when a state or federal court or administrative agency determines, in a final unappealable decision, that, subsequent to the issuance of the Certificate of Occupancy, changes and modifications have been made to the property taking it out of conformance.

**12.100.060 Appeals.**

A. *Of assessor to chief fiscal officer*. Any decision of the assessor under this chapter may be appealed to the chief fiscal officer or the chief fiscal officer's designee in writing within 30 days of the date the decision was issued. For the purposes of this chapter the date of issuance is the date upon which the decision was mailed or otherwise delivered to the parties.

B. *Of chief fiscal officer to the office of administrative hearings*. Any decision of the chief fiscal officer or the chief fiscal officer's designee under this chapter may be appealed to an administrative hearings officer in accordance with AMC 3.60 within 30 days of the date the decision was issued. For the purposes of this chapter the date of issuance is the date upon which the decision was mailed or otherwise delivered to the parties.

**12.100.070 Annual reports of applicants; assembly notification.**

A. *Annual compliance and status report.* Not later than March 15 of each year, the owner of the property for which an exemption has been granted, shall file with the assessor, a report including:

1. *Occupancy.* A statement of occupancy and vacancy of the residential unit(s) for the prior 12 months;

2. *Residential unit(s) remain as described.* A certification that the constructed or rehabilitated residential unit(s) described in the application continue to exist and have not been converted to a non-residential use and continue to comply with the requirements of this chapter;

3. *Further changes.* A description of physical changes or other improvements constructed since the last report or, on first report, since the filing of the application; and

4. *Additional information.* Any additional information requested by the assessor, chief fiscal officer, or designee. Additional information may include detailed financial records regarding the design, construction, and operation of the residential units.

B. *Annual reports to the Assembly.* The assessor shall transmit annual reports to the Assembly in an Assembly Information Memorandum that contains:

1. *Annual reports of property owners.* Copies of annual compliance and status reports submitted by property owners in accordance with AMC 12.100.070A.

2. *Annual report of exempted taxes.* A summary of the total taxes exempted for each property that has been granted a tax exemption under this chapter.

3. *Annual report of applications and status.* A summary list of each application for an exemption under this chapter received by the assessor, the status (rejected, provisional approval, or final approval), number of units proposed, under construction and completed, and the parcel address or description of location.

**12.100.075 Confidentiality of information.**

At the request of the applicant or owner, financial information and records submitted with the application or annual reports, and other information in which the applicant or owner has a reasonable expectation of privacy and nondisclosure, shall be confidential and may not be released except upon court order, when necessary to enforce the provisions of or to collect the taxes due to the municipality and reviewed only by the municipal assessor, and not disclosed except to the municipal attorney, chief fiscal officer, the internal auditor, or administrative hearing officer in the performance of their official duties.

**12.100.080 Definitions.**

In this chapter:

"Construction" has the same meaning set forth in AMC 21.15.040.

“Mixed use residential and commercial buildings” means single lot or building containing spaces classified as Residential units and other spaces classified for one or more types of non-residential use in which both residential and non-residential amenities are provided.

“Rehabilitation work” means work necessary to return the property to a habitable condition in compliance with Titles 15 and 23.

“Residential unit” means a dwelling unit as defined in AMC 21.15.040 which is occupied by the same person or persons for 30 or more consecutive days. As used in this definition “person” means only natural persons.

<u>**Section 3.**</u> Pursuant to AS 29.45.050(m), notice is hereby provided that this ordinance, if adopted, or the entirety of Chapter 12.100 may be repealed by the voters through referendum.

<u>**Section 4.**</u> This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this _______ day of _______________, 2026.

_________________________________

Chair of the Assembly

ATTEST:

______________________

Municipal Clerk

# MUNICIPALITY OF ANCHORAGE

## Assembly Memorandum

**AM No. 415-2026**

**Meeting Date: June 23, 2026**

**FROM:** **MAYOR**

**SUBJECT:** **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 12.100, TAX INCENTIVES FOR MIXED USE MULTI UNIT HOUSING.**

This ordinance establishes a new chapter (AMC 12.100) to provide targeted property tax incentives for the development and rehabilitation of mixed-use buildings that include owner-occupied residential units. The ordinance is designed to increase housing supply, encourage redevelopment of underutilized commercial properties, and support Anchorage's long-term land use and housing goals.

**Purpose**

This ordinance is intended to help close the financial feasibility gap that often prevents mixed-use and residential redevelopment projects from moving forward. Many commercial buildings in Anchorage were built in the 1970s and 1980s, and are in need of rehabilitation. These include office and retail structures with high vacancy rates. Incentivizing redevelopment of these structures to include residential units would repurpose these structures while adding to the municipality's housing stock.

An existing property tax incentive for multifamily properties under AMC 12.60 can also be applied to mixed use developments; however, that chapter of code does not allow for owner-occupied units. The proposed 12.100 could be utilized for owner-occupied units such as condominiums above commercial office space.

**How the Incentive Works**

Under 12.100, a developer could receive a 10-year property tax exemption for developing four or more residential units as part of a mixed-use development (as defined in Title 21). Owner-occupiers purchasing the units would receive the exemption for the 10-year period.

As with the proposed 12.110 for first time homebuyers, the eligible units must be sold at or below the Municipality's average assessed single-family home value. According to the 2026 Property Appraisal Annual Valuation Report, the average assessed value is $496,746 for a single-family home.

The exemption would only apply to the qualifying residential portion of the property. The remaining commercial space would continue to be taxable.

**THE ADMINISTRATION RECOMMENDS APPROVAL.**

| | |
|---|---|
| Prepared by: | Nolan Klouda, Policy Director |
| Approved by: | Susanne Fleek-Green, Chief of Staff |
| Concur: | Ona R. Brause, Director, OMB |
| Concur: | Lance R. Wilber, CFO |
| Concur: | Eva Gardner, Municipal Attorney |
| Concur: | William D. Falsey, Chief Administrative Officer |
| Concur: | Rebecca A. Windt Pearson, Municipal Manager |
| Respectfully submitted: | Suzanne LaFrance, Mayor |

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

AO Number: 2026-93

Title: **AN ORDINANCE OF THE ANCHORAGE ASSEMBLY ENACTING ANCHORAGE MUNICIPAL CODE CHAPTER 12.100, TAX INCENTIVES FOR MIXED USE MULTI UNIT HOUSING.**

Sponsor: **Mayor LaFrance**

Preparing Agency: Department of Law
Others Impacted: Department of Finance

| ***CHANGES IN EXPENDITURES AND REVENUES:*** | | | **(In Thousands of Dollars)** | | |
|---|---|---|---|---|---|
| | **FY26** | **FY27** | **FY28** | **FY29** | **FY30** |
| **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:** | | | | | |
| **POSITIONS: FT/PT and Temp** | | | | | |

**PUBLIC SECTOR ECONOMIC EFFECTS:**

While the number of applicants for this exemption is uncertain, Property Appraisal Division is expected to manage the additional processing and annual review within existing resources.

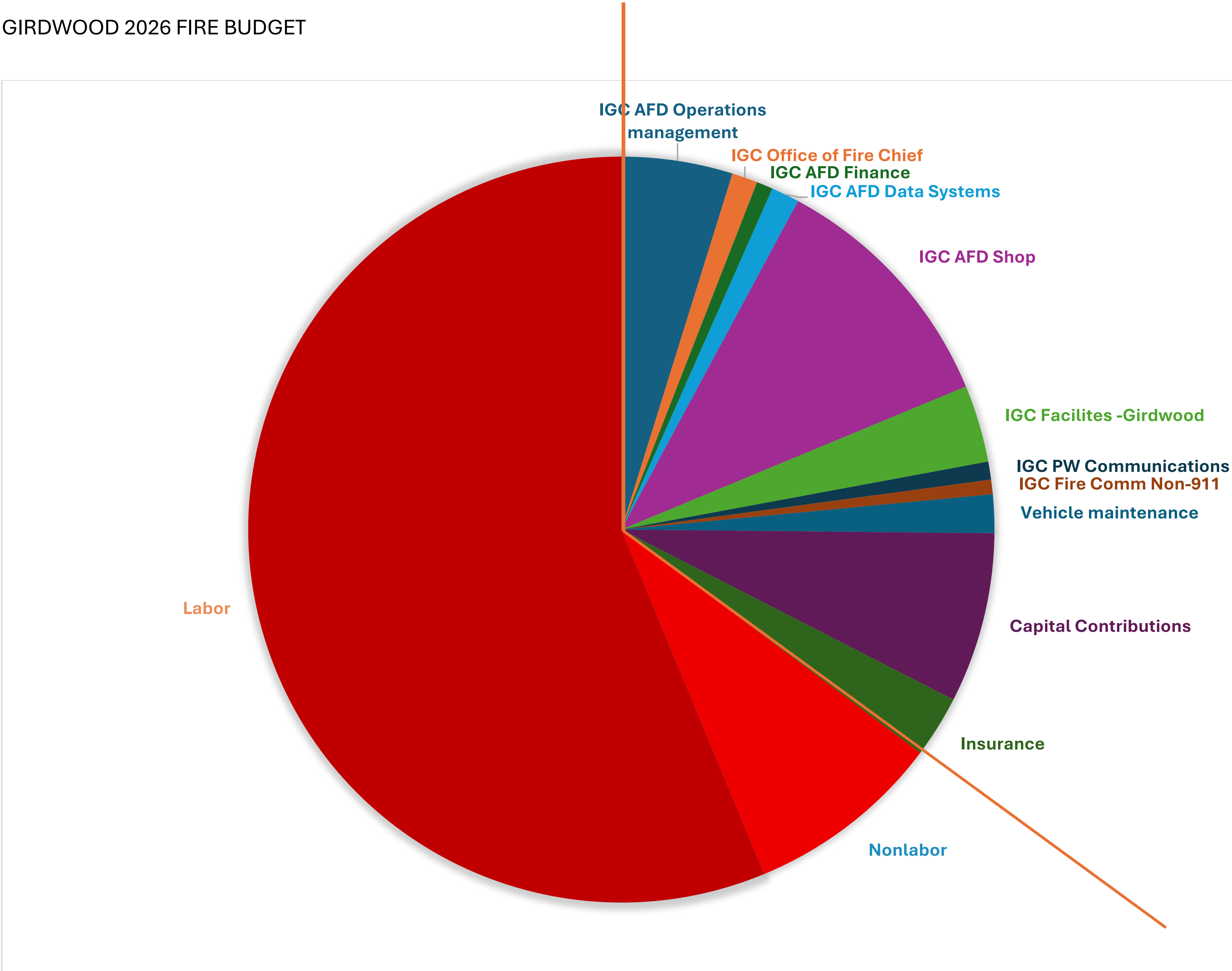
The proposed ordinance is expected to be largely revenue-neutral. As a condition of final approval, it is anticipated that the property will be declared as condominium units. While a small portion of each unit's value may reflect land or other components that were previously part of the tax base, the majority of the exempt value is expected to be attributable to new construction or qualifying rehabilitation that has not previously been taxed. As a result, little to no measurable impact on current tax revenues or change in mill rates is anticipated as a result of this ordinance. However, exempting these units in their initial year of assessment will delay their inclusion in the base amount used to calculate the maximum allowable tax revenue under AMC 12.25.040.

**PRIVATE SECTOR ECONOMIC EFFECTS:**

The impact on the private sector is expected to be minimal. While property tax exemptions can shift the cost of government onto the remaining tax base through higher mill rates, the proposed exemption is narrowly tailored to apply only to properties that increase the supply of residential units, are part of mixed-use developments, meet specified price thresholds, and are owner-occupied. Given these limitations, any resulting tax shift or impact on mill rates is expected to be negligible.

Prepared by: *Jack Gadamus* Telephone: 343-6678

GIRDWOOD 2026 FIRE BUDGET



Municipal Clerk's Office
Amended
Date: January 23, 2024
Approved
Date: January 24, 2024

Submitted by: Assembly Vice Chair Zaletel
Prepared by: Assembly Counsel's Office
For Reading: December 19, 2023

# ANCHORAGE, ALASKA
## AO No. 2023-137, As Amended

**AN ORDINANCE AUTHORIZING THE COMPETITIVE DISPOSAL OF PORTIONS OF HERITAGE LAND BANK PARCELS 6-011, 6-016, AND 6-017, LEGALLY DESCRIBED AS TRACT I PRINCE ADDITION ALYESKA SUBDIVISION (PLAT 87-131)(PID 075-311-04-000), TRACT B GIRDWOOD ELEMENTARY SCHOOL SUBDIVISION (PLAT 85-38)(PID 075-031-32-000), AND TRACT 9A SECTION 9 TOWNSHIP 10 NORTH RANGE 2 EAST (PLAT 73-220)(PID 075-041-31-000), TO CY INVESTMENTS LLC AS DESCRIBED IN THE DEVELOPMENT AGREEMENT BETWEEN THE DEVELOPER AND THE MUNICIPALITY OF ANCHORAGE DATED APRIL 29, 2022, AND AMEND THE HERITAGE LAND BANK 2021 ANNUAL WORK PROGRAM.**

**WHEREAS**, the Municipality of Anchorage (MOA) proposes the disposal of portions of Heritage Land Bank (HLB) Parcels 6-011, 6-016, and 6-017, legally described as Tract I Prince Addition Alyeska Subdivision (Plat 87-131)(PID 075-311-04-000), Tract B Girdwood Elementary School Subdivision (Plat 85-38)(PID 075-031-32-000), and Tract 9A Section 9 Township 10 North Range 2 East (Plat 73-220)(PID 075-041-31-000), To CY Investments LLC as described in the Development Agreement between the developer and the Municipality of Anchorage Dated April 29, 2022, and amend the HLB 2023 Annual Work Program; and

**WHEREAS**, HLB issued a Request for Proposals on April 6, 2021 for the development of portions of three parcels in Girdwood commonly known as Holtan Hills with the intent to provide housing; and

**WHEREAS,** HLB obtained an appraisal on December 18, 2021 where the developed area was estimated to have a market value of two million one hundred thousand dollars ($2,100,000); and

**WHEREAS**, the successful proposer was identified, and a Development Agreement was drafted and entered on April 29, 2022 between the MOA and the Developer; and

**WHEREAS,** the disposal will continue to implement residential housing identified in the 1995 Girdwood Area Plan and the 2006 Crow Creek Neighborhood Plan; and

**WHEREAS,** this disposal will occur according to the terms of the Development Agreement entered into by the Municipality of Anchorage and CY Investments, LLC including equal distribution of net proceeds of lot sales; and

**WHEREAS,** this disposal will occur over three phases and is intended to take the form of a Planned Unit Development, affording the development a mixed-density model which will allow single-family, multi-family, and condo-type construction by the ultimate purchasers, thereby addressing several areas of housing needs in the community; and

**WHEREAS,** the disposal over three phases is for 16.1 acres for Phase 1, 17.1 acres for Phase 2, and 27.2 acres for Phase III, for a total of 60.4 acres of portions of HLB Parcels 6-011, 6-016, and 6-017; and

**WHEREAS,** a Planned Unit Development (PUD), which can allow for greater density than current zoning would allow, requires a Conditional Use Permit approved by the Planning and Zoning Commission; and

**WHEREAS,** Phase 1 of the proposed Holtan Hills Planned Unit Development will propose to have single-family, multi-family, and condo-type units; and

**WHEREAS,** the completed development will include infrastructure comprised of roads and utilities that will extend to Crow Creek Road creating a second point of egress for the neighborhood and creating the opportunity for development of lands west of Crow Creek Road with utilities in the future; and

**WHEREAS,** development of municipal lands through a public-private partnership offers an opportunity for greater public benefit by meeting the community's goals in ways not typically feasible with a private development; and

**WHEREAS,** HLB and the Community of Girdwood have committed to work together to identify and apply for available State and Federal funding to develop secondary access on Crow Creek Road to the Holtan Hills development; and

**WHEREAS,** AWWU has sought a grant to cover the infrastructure costs of sewer to the parcels, which will reduce the development costs for offsite improvements; and

**WHEREAS,** the infrastructure development, including roads and utilities will attach to all parcels in Phase 1, including any lots subject to future conveyance to a Girdwood housing entity for the development of housing; and

**WHEREAS,** to meet the housing needs in Girdwood, the development of housing that is at least 50% occupied as primary residences whether owner occupied or leased on a five-month to yearly basis should be prioritized; and

**WHEREAS,** Girdwood has an estimated immediate need to add at least 150-300 units of year-round permanent housing for residents to its inventory and this demand will be updated through the Girdwood Area Plan that is underway; and

**WHEREAS,** many concerns have been expressed by the residents that the addition of more residents will increase the burden on the infrastructure and services available within Girdwood; and

**WHEREAS,** HLB is the primary owner of developable land within Girdwood for housing, industrial and commercial uses. HLB's Work Plan which is due for updating should be developed concurrently and in coordination with the Girdwood Area Plan that is also underway specifically in addressing housing, commercial and infrastructure needs for the community; and

**WHEREAS,** the Assembly finds that the Girdwood community recognizes that while there will be opportunity for public involvement during the entitlement process (i.e., conditional use permit and planned unit development) where public feedback can help shape density requirements, the Girdwood community seeks assurance that this development will provide some relief to the housing pressures experienced by current and future full-time residents of Girdwood, specifically by providing more stable long-term rental property and more attainable housing to those at 120 percent and below area median incomes; and

**WHEREAS,** the land development costs are not typically recouped by the developer until such time as the lots are sold and/or housing units constructed and sold; and

**WHEREAS,** in the Development Agreement, CY Investments LLC has a duty to act as Declarant of the homeowners' association for the Project; and

**WHEREAS,** as Declarant for the homeowners' association, CY Investments LLC can set the terms of the planned community through the declaration, and of the homeowners' association through the founding bylaws, including any restrictions on short term rentals, percentage required to approve changes to the homeowners' association bylaws, as well as the time period in which the developer shall transfer control of the homeowners' association to the individual owners and any rights retained, and all terms must be approved by HLB; and

**WHEREAS,** the return on investment to the HLB Fund will be deferred but likely significant, leading to the long-term health of the Fund; and

**WHEREAS,** this land disposal commits approximately 22% of the suitable residential developable land in Girdwood to the Holtan Hills development (2022 Existing Conditions Report by Huddle AK and Agnew::Beck); and

**WHEREAS,** the Assembly finds that a public commitment by the Municipality to improved communication and transparency, as well as a return on investment that considers the specific benefit to the Girdwood community as part of the calculation of the benefit for the Municipality as a whole, would be beneficial to the public interest; and

**WHEREAS,** the Assembly finds that as a resort community, Girdwood faces high external housing demand and has seen a drastic increase in short term rentals in the last 10 years, making it challenging for year-round residents of Girdwood to obtain housing, and raising concerns among residents that the character of this beloved and close-knit community will be lost as community members, especially working and middle class families, will be increasingly priced out of the housing market; and

**WHEREAS,** the projected profits of two Phases of the Holtan Hills development for HLB are estimated at approximately $1.2 Million and likely additional profits in Phase 3 that are not yet identified, those profits should be reinvested in further development of attainable housing in Girdwood; and

**WHEREAS,** the housing developed from Holtan Hills will contribute to the overall property tax base of the Girdwood Valley Service Area; and

**WHEREAS,** return on investments by HLB should not be viewed in strictly monetary terms, but overall benefit to the Municipality of Anchorage; and

**WHEREAS,** the proposed disposal of portions of HLB Parcel 6-011 is not in the *2023 HLB Annual Work Program (AR 2023-235, As Amended)*, pursuant to AMC § 25.40.020B, to proceed with the disposal, the *2023 HLB Annual Work Program* must be amended; and

**WHEREAS,** following required public noticing, the HLB Advisory Commission (HLBAC) held a public hearing and passed HLBAC Resolution 2022-09(S), recommending the disposal of portions of HLB Parcels 6-011, 6-016, and 6-017, legally described as Tract I Prince Addition Alyeska Subdivision (Plat 87-131)(PID 075-311-04-000), Tract B Girdwood Elementary School Subdivision (Plat 85-38)(PID 075-031-32-000), and Tract 9A Section 9 Township 10 North Range 2 East (Plat 73-220)(PID 075-041-31-000), to CY Investments, LLC as described in the Development Agreement between the developer and the Municipality of Anchorage Dated April 29, 2022, and amend the HLB 2021 Annual Work Program; now, therefore,

**THE ANCHORAGE ASSEMBLY ORDAINS:**

**<u>Section 1.</u>** The MOA is hereby authorized to execute disposal of portions of HLB Parcels 6-011, 6-016, and 6-017, legally described as Tract I Prince Addition Alyeska Subdivision (Plat 87-131)(PID 075-311-04-000), Tract B Girdwood Elementary School Subdivision (Plat 85-38)(PID 075-031-32-000), and Tract 9A Section 9 Township 10 North Range 2 East (Plat 73-220)(PID 075-041-31-000), to CY Investments, LLC as described in the Development Agreement dated April 29, 2022.

The following terms shall attach to any conveyance of these parcels as well as be included in the Development Agreement:

A. CY Investments LLC will restrict the use of single-family **<u>and 50% of the multi-family</u>** properties built in Holtan Hills, **[PHASE 1]**, to prohibit short-term rentals (less than 30 days in duration) except for rental of an Accessory Dwelling Unit (ADU) on the property, through the homeowners' association bylaws; which shall further provide that, until such time as the Municipality adopts an ordinance, applicable to properties in the homeowners' association, otherwise regulating short-term rentals, this specific restriction may be amended only by 100% unanimous approval of all parties entitled to vote on proposed amendments to the homeowners' association's bylaws; and

B. The above restriction and amendment vote requirement shall be included with the initial Declaration recorded by the Developer after approval of HLB and shall not be changed except by unit owners after formation of the homeowners' association and transfer of rights to it.

This Assembly approval requires and is conditioned upon the agreement by the Developer to the following terms and conditions:

C. All developers must submit applications for land use entitlements to the Girdwood Board of Supervisors (GBOS) for review prior to seeking official action by the designated decision-making body; and

D. At least one multi-family lot for the development of at least 8 units **per lot, and at least one other multi-family or single family lot** to be drawn from HLB's portion of profits **from the total Phases of the project** will be designated for future disposal**, at HLB's sole option,** to a Girdwood housing trust or non-profit entity for the purposes of developing community housing for residents, if and only if a housing trust or entity is established which can legally receive and own property, and if and only if the housing trust or entity is established within five years of the recording of the plat for Phase 1 of Holtan Hills Subdivision and upon approval of the Conditional Use Permit for the Residential Planned Unit Development. Otherwise, the multi-family lot reverts to Heritage Land Bank ownership; and

E. CY Investments LLC and HLB will continue to engage with the Girdwood Board of Supervisors or delegated committee as the project progresses; and

F. CY Investments LLC will develop Holtan Hills through the Conditional Use Permit for a Residential Planned Unit Development and will request approval to exceed the allowable density for the gR-3 zoning district as part of this process; and

The above terms are required for legal disposal of parcels in this Ordinance. Conveyance is subject to the agreement of the Developer to comply with the terms of this resolution.

[~~**Section 2. Within 45 days of passage of this ordinance, and concurrent with the ongoing development, HLB and GBOS shall identify and mutually agree on and pay for engagement of a third party to liaise between HLB and GBOS until such time as HLB has a newly appointed and confirmed HLB director that has been in the position for at least six months.**~~]

**Section 2[~~3~~].** Within 30 days of the close of the sale, HLB staff shall provide an update to the Assembly through an informational memorandum.

**Section 3[4].** The Municipality's intent for this development in all phases, is to provide community housing opportunities attainable for year-round residents of Girdwood **and to ensure diversified housing types, sizes, ownership models, and price points consistent with the approved Assembly Housing Action Plan**.

**Section 4[~~5~~].** HLB, in consultation with GBOS or a committee it designates, shall work to identify available State and Federal funding to develop a secondary access on Crow Creek Road to the Holtan Hills development.

**Section 5[~~6~~].** Pursuant to AMC § 25.40.020B, this ordinance hereby amends the *2023 HLB Annual Work Program* to include this disposal under the terms stated herein.

**Section 6[~~7~~].** This Ordinance shall become effective immediately upon passage and approval by the Anchorage Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 24th day of January, 2024.

Christopher Constant
______________________________
Chair

ATTEST:

______________________________
Municipal Clerk

# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 1009-2023

Meeting Date: December 19, 2023

**From:** **Assembly Vice Chair Zaletel**

**Subject:** **AN ORDINANCE AUTHORIZING THE COMPETITIVE DISPOSAL OF PORTIONS OF HERITAGE LAND BANK PARCELS 6-011, 6-016, AND 6-017, LEGALLY DESCRIBED AS TRACT I PRINCE ADDITION ALYESKA SUBDIVISION (PLAT 87-131)(PID 075-311-04-000), TRACT B GIRDWOOD ELEMENTARY SCHOOL SUBDIVISION (PLAT 85-38)(PID 075-031-32-000), AND TRACT 9A SECTION 9 TOWNSHIP 10 NORTH RANGE 2 EAST (PLAT 73-220)(PID 075-041-31-000), TO CY INVESTMENTS LLC AS DESCRIBED IN THE DEVELOPMENT AGREEMENT BETWEEN THE DEVELOPER AND THE MUNICIPALITY OF ANCHORAGE DATED APRIL 29, 2022, AND AMEND THE HERITAGE LAND BANK 2021 ANNUAL WORK PROGRAM.**

This ordinance authorizes the Municipality to execute the competitive disposal of portions of Heritage Land Bank (HLB) Parcels 6-011, 6-016, and 6-017, legally described as Tract I Prince Addition Alyeska Subdivision (Plat 87-131)(PID 075-311-04-000), Tract B Girdwood Elementary School Subdivision (Plat 85-38)(PID 075-031-32-000), and Tract 9a Section 9 Township 10 North Range 2 East (Plat 73-220)(PID 075-041-31-000), to CY Investments, LLC as described in the Development Agreement between the developer and the Municipality of Anchorage dated April 29, 2022, and to amend the 2021 HLB Annual Work Program.

This proposed disposal of public land was originally introduced in November of 2022 as AO 2022-103. On February 7, 2023, after much deliberation, the Assembly took up this matter in the form of AO 2022-103(S-2) and voted to postpone action on that item indefinitely. This ordinance reintroduces this proposal incorporating all of the changes proposed by the S-2.

**I request your support for the ordinance.**

Reviewed by: Assembly Counsel's Office

Respectfully submitted: Meg Zaletel, Assembly Vice Chair
District 4, Midtown

# MUNICIPALITY OF ANCHORAGE

## ASSEMBLY MEMORANDUM

No. AM 1009-2023(A)

Meeting Date: January 23, 2024

**From:** **Assembly Vice Chair Zaletel**

**Subject:** **AN ORDINANCE AUTHORIZING THE COMPETITIVE DISPOSAL OF PORTIONS OF HERITAGE LAND BANK PARCELS 6-011, 6-016, AND 6-017, LEGALLY DESCRIBED AS TRACT I PRINCE ADDITION ALYESKA SUBDIVISION (PLAT 87-131)(PID 075-311-04-000), TRACT B GIRDWOOD ELEMENTARY SCHOOL SUBDIVISION (PLAT 85-38)(PID 075-031-32-000), AND TRACT 9A SECTION 9 TOWNSHIP 10 NORTH RANGE 2 EAST (PLAT 73-220)(PID 075-041-31-000), TO CY INVESTMENTS LLC AS DESCRIBED IN THE DEVELOPMENT AGREEMENT BETWEEN THE DEVELOPER AND THE MUNICIPALITY OF ANCHORAGE DATED APRIL 29, 2022, AND AMEND THE HERITAGE LAND BANK 2021 ANNUAL WORK PROGRAM.**

This ordinance authorizes the Municipality to execute the competitive disposal of portions of Heritage Land Bank (HLB) Parcels 6-011, 6-016, and 6-017, legally described as Tract I Prince Addition Alyeska Subdivision (Plat 87-131)(PID 075-311-04-000), Tract B Girdwood Elementary School Subdivision (Plat 85-38)(PID 075-031-32-000), and Tract 9a Section 9 Township 10 North Range 2 East (Plat 73-220)(PID 075-041-31-000), to CY Investments, LLC as described in the Development Agreement between the developer and the Municipality of Anchorage dated April 29, 2022 **<u>(Appendix B)</u>**, and to amend the 2021 HLB Annual Work Program. **<u>The preliminary plat approving the subdivision of HLB Parcels 6-011, 6-016 and 6-017 into Tracts 1, 2, and 3, as depicted in Appendix A, was approved by the Platting Board on November 2, 2022 (Case S-12699).</u>**

This proposed disposal of public land was originally introduced in November of 2022 as AO 2022-103. **<u>Public notice of the Heritage Land Bank Advisory Commission (HLBAC) hearing was posted on the MOA public notice website, paper notices were mailed to surrounding property owners, and the property was physically posted on Thursday, September 8, 2022. HLBAC passed Resolution 2022-09(S) recommending the competitive disposal to CY Investments, LLC, finding the disposal to be in the best interest of the MOA and consistent with the HLB mission with conditions of approval (Appendix C).</u>** On February 7, 2023, after much deliberation, the Assembly took up this matter in the form of AO 2022-103(S-2) and voted to postpone action on that item indefinitely. This ordinance reintroduces this proposal incorporating all of the changes proposed by the S-2.

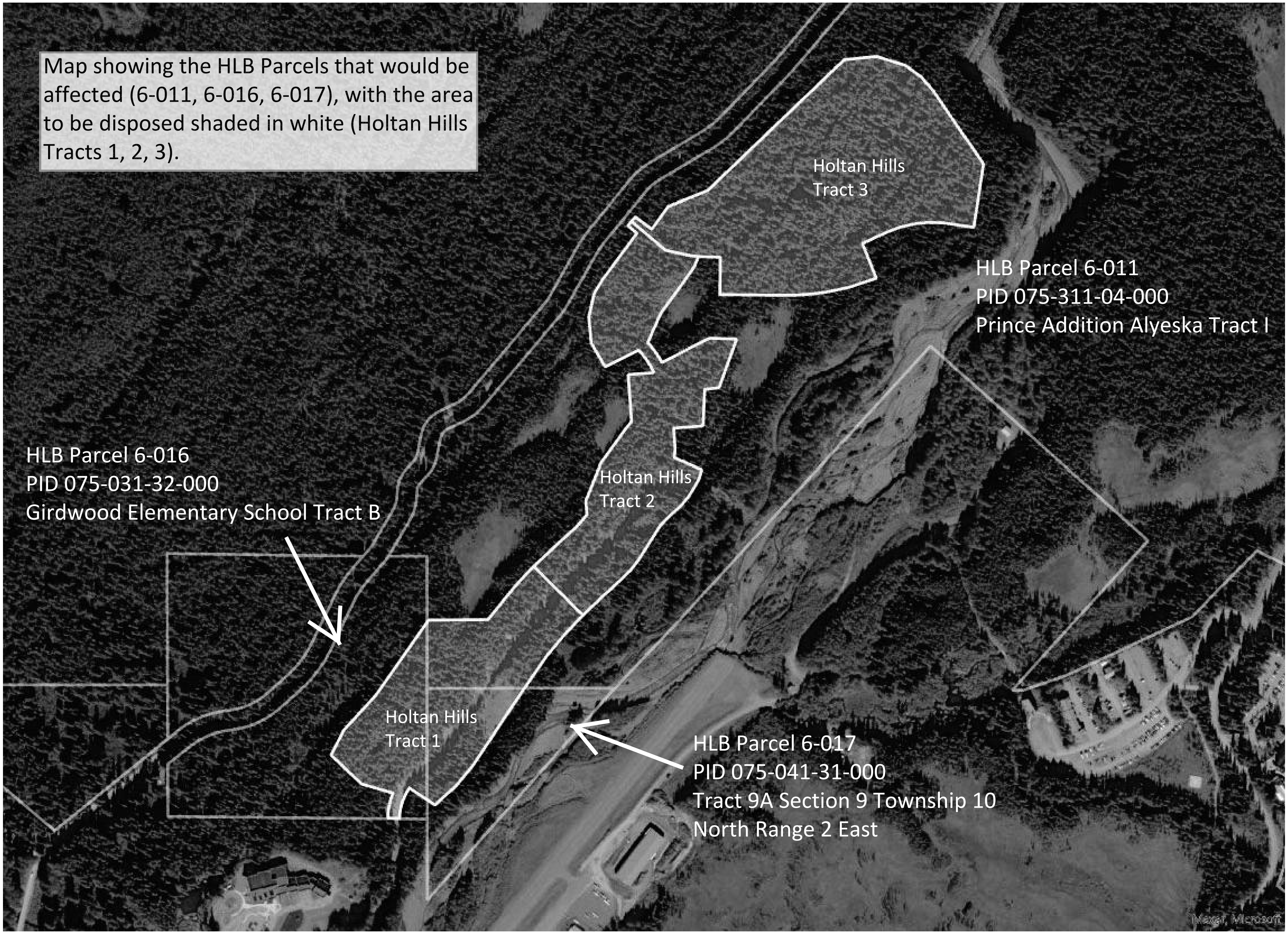
**I request your support for the ordinance.**

Reviewed by: Assembly Counsel’s Office

Respectfully submitted: Meg Zaletel, Assembly Vice Chair
District 4, Midtown

**Appendices:**

**Appendix A: Tract Map**
**Appendix B: Development Agreement**
**Appendix C: HLBAC Resolution 2022-09(S)**




Appendix A

Appendix A

Appendix B:

# **DEVELOPMENT AGREEMENT**

This DEVELOPMENT AGREEMENT, ("**Agreement**"), effective as of April 29, 2022, 2022 ("**Effective Date**") is made and entered into by and between MUNICIPALITY OF ANCHORAGE AND ITS HERITAGE LAND BANK, an Alaskan Municipal Corporation, whose mailing address is *P.O. Box 196650, Anchorage, Alaska 99519* ("**Owner**"), and CY INVESTMENTS, LLC, an Alaska limited liability company doing business as GIRDWOOD LIFE, whose mailing address is *561 E 36th Avenue, Suite 200, Anchorage, Alaska 99503* ("**Developer**").

WHEREAS, Owner owns the vacant land described in Exhibit A, attached hereto and made part hereof (the "**Property**"), located in Girdwood, Alaska;

WHEREAS, Owner desires to develop the Property so as to create increased housing opportunities within Girdwood consistent with the goals of the Girdwood Area Plan and the Crow Creek Neighborhood Land Use Study;

WHEREAS, Owner published a Request for Proposal dated April 6, 2021 (the "**RFP**"), soliciting proposals from developers with interest in residential development of the Property and other property;

WHEREAS, a development team consisting of CY Investments, LLC and Pomeroy Property Development, Ltd., as financial partners, and Seth Andersen, P.E. (the "original development team"), submitted a joint response to the RFP (the "RFP Response") and were awarded the RFP;

WHEREAS, the original development team has agreed that Developer shall separately develop that certain portion of the Property as shown on Exhibit B, attached hereto and made part hereof, subject to any minor modifications as may be required in the platting and approval process (the "**Subject Property**");

WHEREAS, Owner has agreed to permit Developer to develop the Subject Property, and agrees that the other property chosen for development in the RFP Response may be developed by Pomeroy Property Development, Ltd. pursuant to a separate agreement for such development;

WHEREAS, the development of the Subject Property will create economic, fiscal, employment and other tangible public benefits, including increased tax revenue to the Municipality of Anchorage (e.g. real property taxes) and local employment opportunities during development and construction;

WHEREAS, Owner and Developer desire to set forth the agreed terms for the development of the Subject Property in this Development Agreement regarding the land development and sale of the Property;

NOW, THEREFORE, Owner and Developer hereby agree as follows:

ARTICLE 1. **Definitions**

1.1 *Definitions.* The following terms shall have the respective meanings indicated:

"Change Orders"--Written orders changing the construction, cost or time for performance of the Project issued after the execution of a construction contract for the Project.

"Construction and Design Documents"--The architectural, design, engineering, consulting, and construction contracts and agreements entered or to be entered into by Developer for the development of the Subject Property, and the plans, drawings, specifications, renderings, studies, budgets, forecasts, and schedules developed, and to be developed, with respect to the Project. For purposes hereof, each Construction and Design document shall be deemed to include all modifications and amendments thereto made from time to time, and all documents, drawings, specifications, conditions, addenda, budgets, and other matters produced in connection therewith or incorporated by reference therein.

"Construction and Design Professionals"--Any and all contractors, subcontractors, architects, engineers, surveyors, technical or professional consultants, and other specialists engaged by Developer for the development of the Project.

"Development Phases"--The period commencing on the Effective date and continuing until the closing of the sale by Developer of the last residential Lot in the each of the three phases of the Project.

"Extraordinary Circumstances" – A circumstance not normally encountered during construction in Southcentral Alaska which creates an effect which significantly increases costs beyond reasonable expectations for a similar project. For example: a sinkhole in the roadbed, a landslide over the project site, or unanticipated permafrost.

"Force Majeure"--Labor disputes, fire and other casualties, unusual delay in transportation, adverse weather conditions, unavailability of labor, materials, or services, contractor defaults, governmental restrictions including restrictions arising out of a pandemic, or other causes beyond Developer's reasonable control which cause delay in the progress of the Project.

"Lot"-- A unit of land within a subdivision that is described and fixed on the most recent plat of record as approved by the Municipality of Anchorage under Title 21 of the Anchorage Municipal Code ("AMC"), including a "tract" or "unit lot" as defined in AMC 21.15.040.

"Person"--Any individual, partnership, corporation, trust, or other entity.

"Project"--The construction, development, marketing, and sale of a three-phase residential land development and subdivision project, to be known as "Holtan Hills

Subdivision," which will consist of single-family Lots, low-density multi-family Lots, and multi-family Lots, as generally described in the RFP Response.

"Project Budget"--The budget setting forth the anticipated cost of construction and development of the Project, as may be amended from time to time.

"Project Costs"--A collective term for all direct and indirect costs of the Project, as more particularly described in Article 8 of this Agreement.

ARTICLE 2. **Engagement of Developer**

2.1 *Engagement of Developer.* Owner hereby engages Developer to provide all of the development services described herein, it being understood that such employment shall commence as of the Effective Date and will continue through the Development Phases.

2.2 *Acceptance by Developer.* Developer agrees to use reasonable diligence and its best efforts to cause prompt development of the Subject Property and the sale of residential Lots within the Subject Property, subject to delays owing to market forces and Force Majeure. In connection with the performance of its duties hereunder, Developer shall employ its skills and resources to expedite the Project, to guard Owner against unnecessary costs and expenses, to control costs and to reduce costs where practicable in connection therewith, and shall maintain close communication and coordination with Owner's consultants or designated representatives.

2.3 *No Restrictions.* Nothing contained in this Agreement shall be construed so as to prohibit Developer, or any affiliate of Developer, from owning, operating, or investing in any real-estate development not owned or operated by Owner, wherever located, including any portion of the Subject Property. Owner agrees that Developer or any affiliate of Developer may engage in, or possess an interest in, another business venture or ventures of any nature or description, independently or with others, including but not limited to the ownership, financing, leasing, operating, management, syndication, brokerage, and development of real property, and Owner shall not have any right by virtue of this Agreement in and to said independent ventures or to the income or profits derived therefrom. Owner acknowledges that Connie Yoshimura owns Dwell Realty, LLC, which provides professional management services to homeowners' associations. Owner further acknowledges and agrees that Dwell Realty, LLC may act as manager of the homeowners' association to be created for the Project.

Notwithstanding the foregoing, Developer and Owner shall only be permitted to purchase Lots within the Subject Property at fair-market value and only after such Lot has been offered for sale to the public for a period of at least ninety (90) days.

2.4 *Specific Developer Duties.* The duties of Developer hereunder shall include the following duties:

(a) The selection of all Construction and Design Professionals, and the negotiation of the agreements under which they are retained, including those retained for creating and preparing Construction and Design Documents.

(b) Supervise the preparation of preliminary and final Construction and Design

Documents.

(c) Prepare and submit to Owner preliminary cost estimates and projections of cash requirements covering the Project Costs during the Development Phases. Developer shall keep Owner advised of material changes in cost estimates included in the Project Budget from time to time, to always provide Owner with current information regarding actual and anticipated Project Costs.

(d) Prepare a monthly report on the Project that shall include a copy of Developer's statement submitted to the construction lender in connection with the draw for the preceding month, and a budget covering all Project Costs, in comparative form, showing any deviations from budgets previously furnished to the Owner.

(e) Coordinate and supervise all phases of the construction of the Project, monitoring Construction and Design Professionals for performance in accordance with their respective agreements.

(f) File or cause to be filed all required documents for the approval of all governmental authorities having jurisdiction over construction of the Project; secure, or cause to be secured, all necessary governmental permits and authorizations for such construction (excepting the obligation of Owner as set forth in Section 4.5.2 of this Agreement); and otherwise cooperate with Owner in taking all steps necessary to ensure compliance with all applicable zoning laws, ordinances and regulations, environmental impact laws, ordinances and regulations, and any other laws, ordinances and regulations of any governmental body having jurisdiction over the Project.

(g) Review requests for compensation by the Construction and Design Professionals.

(h) Attend all Project meetings and review and comment on reports delivered by others therein.

(i) Prepare and submit to Owner Developer's statement and/or reports to be submitted to the construction lender in connection with requested draws, coordinating its activities with requests for payments from the Construction and Design Professionals; and review such statements, affidavits, and waivers of lien as may be required by Owner or any construction lender in connection with the construction of the Project, and shall obtain any invoices, contracts, or other supporting data required by Owner or the construction lender.

(j) Review and approve Change Order requests originated by the Construction and Design Professionals.

(k) Obtain insurance (in form, on terms, in substance, and issued by responsible insurance carriers acceptable to Owner) to be carried in connection with the Project, including general public liability insurance in favor of the parties hereto, worker compensation insurance to the extent required under Alaska law, completed operations insurance, and other forms of insurance as required by Owner pursuant to this Agreement.

(l) Monitor compliance with insurance requirements of all Construction and Design Professionals supervised by Developer hereunder.

(m) Cause to be prepared for review and approval by Owner all documentation necessary for formation of a homeowners' association for the Project and all other documentation necessary for the sales of each of the individual residential Lots within the Project.

(n) Conduct the advertising and sales program for the sales of the Lots within the Project.

(o) Act as Declarant of the homeowners' association for the Project.

(p) Work with the Construction and Design Professionals in coordinating and supervising the performance of work done under warranties provided to Owner.

(q) Advise and assist Owner as necessary in connection with any other aspect of the Project.

2.5 *Financing.* Developer will secure and negotiate the construction financing required for the development of the Project, including interest rates, interest charges, loan fees, and renewal or extension fees.

ARTICLE 3. **Pre-Conveyance Rights and Obligations**

3.1 *Existing Records.* Within thirty (30) days from the Effective Date of this Agreement, Owner shall make available to Developer the following materials related to the Property to the extent such materials are in the possession or control of Owner: (i) a copy of all title reports on the Property; (ii) a copy of all plans and specifications related to the possible development of the Property, including any development, building permits or applications for the same; (iii) all prior surveys of the Property; (iv) all environmental reports, wetlands reports, zoning reports and geotechnical reports for the Property; (v) all inspection reports in the Owner's possession completed by outside consultants with respect to the Property; (vii) details of any litigation affecting the Property; and (ix) any site plans, licenses, authorizations, permits or other governmental approvals, or similar information relating to the Property.

3.2 *Boundary Survey of Subject Property.* Within thirty (30) days from the Effective Date of this Agreement, Developer shall obtain and provide to Owner a boundary survey of the three phases that are contemplated for the Subject Property, which shall be depicted as three individual tracts on said survey (the "**Tract Survey**"). The costs and expenses for preparation of the Tract Survey shall be split equally between Owner and Developer.

3.3 *Wetlands Survey*. Within thirty (30) days from the Effective Date, Owner shall obtain and provide to Developer a current wetlands survey of the Subject Property for Phases 1, 2, and 3. The cost and expenses for the preparation of the wetlands survey shall be paid by Owner.

3.4 *Appraisal of Subject Property*. After the Effective Date, Owner shall promptly obtain and provide to Developer a current appraisal of the Property, with the value of the Property appraised as an undeveloped tract of land for Phases 1, 2, and 3. The cost and expenses for the preparation of the appraisal shall be paid by Owner.

*3.5 Necessary Approvals for Conveyance*. Promptly after the appraisal of the Property is complete, Owner shall obtain all approvals from the Heritage Land Bank Advisory Commission and from the Municipality of Anchorage as may be necessary for the conveyance of the Subject Property from Owner to Developer.

3.6 *Developer's Inspection and Approval Period*. The parties specifically agree that Developer's obligations under this Agreement are conditioned upon the satisfaction of each of the following conditions during the time periods specified below (any of which conditions may be waived by Developer upon giving notice thereof to Owner):

(a) Developer is granted a one hundred eighty (180) day period beginning on the Effective Date (the "**Inspection and Approval Period**") to determine if the Property is usable by Developer for Developer's intended use. This Inspection and Approval Period grants Developer time to investigate all reasonable issues to ensure the purchase satisfies Developer for Developer's proposed development and use of the Subject Property. Owner acknowledges and agrees that Developer's decision as to whether it will terminate this Agreement at the end of this period is left to Developer's sole discretion. On or before the final day of the Inspection and Approval Period, Developer will notify Owner of Developer's intention either to proceed with the Project or terminate this Agreement. This Inspection and Approval Period may encompass all aspects of Developer's concerns for ensuring the Property meets its intended use to include, but not be limited to: (i) economic and feasibility studies, (ii) appraisals, (iii) site inspections, (iv) studies, (v) testing, (vi) surveys, (vii) utility locates, (viii) utility easements, and (ix) property access.

(b) Notwithstanding anything to the contrary in this Agreement, Developer may extend the Inspection and Approval Period, at no additional cost to Developer, for an additional sixty (60) day period beyond that stated in Section 3.6(a) for engineering, soils and environmental inspections. In the event Developer's engineering, soils or environmental inspections identify a material problem with the Subject Property, Owner will be granted forty-five (45) days to correct such issue at Owner's cost. Owner's failure to correct the issue within the forty-five (45) day period will provide Developer the right to terminate this Agreement or negotiate a modification to this Agreement to provide for the development and sale of such portion(s) of the Subject Property as can be profitably developed and sold.

(c) At any time on or before the final date of the Inspection and Approval Period (as such Inspection and Approval may be extended as contemplated in Section 3.6(b) above), Developer may notify Owner that Developer, in Developer's sole judgment, has elected to terminate this Agreement. If Developer does terminate this Agreement, then this Agreement shall be deemed to be null and void and of no further force or effect, and Developer and Owner shall have no further rights, obligations, or liabilities under this Agreement, except for any provisions which are expressly stated to survive the termination of this Agreement. If Developer does not terminate before the end of the Inspection and Approval Period, then Developer may only terminate this agreement in the event of a Seller default, or a failure of a condition precedent identified in Section 4.6 of this Agreement.

3.7 *Project Budget.* Within one hundred twenty (120) days after the Effective Date, Developer shall provide Owner with an initial Project Budget based on information reasonably available to Developer.

3.8 *Preliminary Commitment for Title Insurance.* Within ninety (90) days after the Effective Date, Developer, at Owner's expense, shall use commercially reasonable efforts to obtain a standard form Owner's Title Commitment (the "**Title Commitment**") covering the Property and issued by Fidelity Title Agency of Alaska, LLC (the "**Title Company**"), together with copies of all instruments, if any, referred to in the Title Commitment as exceptions to title. Developer shall have ten (10) days after Developer's receipt of the Title Commitment, together with copies of all documents constituting exceptions to title, to review and approve the Title Commitment. If any exceptions appear in the Title Commitment, other than the standard pre-printed exceptions (which shall be totally deleted in the Policy, as defined in Section 4.3 herein, except that the survey exception may except shortages in area), which are objectionable to Developer, Developer shall, within such ten (10)-day period, notify Owner in writing of such objection. Upon the expiration of said ten (10)-day period, Developer shall be deemed to have accepted all exceptions to title as shown on the Title Commitment, except for matters to which notice under the preceding sentence has been given by Developer, and such exceptions shall be included in the term "**Permitted Exceptions**" as used in this Agreement. Owner shall, within ten (10) days of receipt of said notice, clear the title of the defects and objections so specified. In the event that Owner is unable through the exercise of its good faith best efforts (which shall include the payment of money with respect to any mortgages, liens or other matters that can be removed by the payment of money) to cure to Developer's satisfaction, any defect or objection so specified within such ten (10)-day period, then at Developer's option Developer may either (i) take title to the Subject Property despite the existence of such defects, or (ii) terminate this Agreement, in which event this Agreement shall be null and void and of no further force of effect and neither Developer nor Owner shall have any further liabilities, obligations, or rights with regard to this Agreement, except as otherwise provided herein.

## ARTICLE 4. **Conveyance of Subject Property**

4.1 *Conveyance of Subject Property.* Provided that this Agreement has not been terminated under the provisions of Article 3, Owner agrees to convey to Developer, by Statutory Warranty Deed in a form acceptable to Developer (the "Deed"), marketable fee simple title to the Subject Property, free and clear of all encumbrances, subject only to the Permitted Exceptions. The Conveyance of the Subject Property from Owner to Developer is referred to in this Agreement as the "**Closing.**"

4.2 *Timing of Conveyance.* Within thirty (30) days after Owner has obtained the necessary approvals for the conveyance under Section 3.5 of this Agreement and written request by Developer, Owner shall convey Phase 1 and Phase 2 of the Subject Property to Developer. Phase 3 of the Subject Property will be conveyed to Developer only at such time as is necessary to obtain financing for development of that phase to begin. Owner shall not be responsible for delays in conveyance caused by title company or lender.

4.3 *Title Insurance.* At Closing, Developer shall obtain, at Owner's expense, a standard form Owner's Title Insurance Policy (the "**Policy**") issued by the Title Company, insuring marketable fee simple title to Developer in the full amount of the appraised value of the Subject Property (as determined pursuant to the Appraisal required in Section 3.4) and containing no exceptions or conditions other than easements and the Permitted Exceptions as provided in Section 3.8 of this Agreement.

4.4 *Costs of Closing.* Each party shall pay their own attorney's fees. All other costs of Closing shall be paid as follows:

(i) Owner shall pay the following closing costs:
- (A) Title Commitment and Owner policy of Title Insurance
- (B) ½ recording fees;
- (C) ½ document preparation fees;
- (D) ½ escrow closing fees; and
- (E) Warranty deed.

(ii) Developer shall pay the following closing costs:
- (A) ½ recording fee;
- (B) ½ document preparation fees; and
- (C) ½ escrow closing fees.

4.5 *Municipal Applications.* The parties shall promptly and diligently seek the following approvals from the appropriate departments of the Municipality of Anchorage:

4.5.1 *Developer Applications.*

(i) Developer shall apply for and take all actions necessary for approval of an Area Master Plan for the Subject Property, which may include requests for approval of a Planned Unit Development or Conditional Use Permit, upon terms and conditions satisfactory to Developer; and

(ii) Developer shall apply for and take all actions necessary for approval of a phased Plat for subdividing and creating individual Lots within the Subject Property in three separate phases, upon terms and conditions satisfactory to Developer.

4.5.2 *Owner Applications.*

(i) Owner shall apply for and take all actions necessary to have the portion of Tract B of Girdwood Elementary School Subdivision, according to Plat 85-38, that is within the contemplated boundaries of the Subject

Property, rezoned from the GIP/PLI zoning district to the gR-3 zoning district. The costs and expenses of this rezoning shall be the sole responsibility of Owner.

(ii) Owner shall apply for and take all actions necessary to vacate the Section Line Easement that currently exists within the boundaries of the Subject Property. The costs and expenses of vacating the Section Line Easement shall be the sole responsibility of Owner.

4.6 *Developer Conditions.* Developer's obligations under this Agreement shall be conditioned upon the satisfaction of each of the following on or before July 1, 2025:

(a) Developer obtaining all necessary approvals for an Area Master Plan for the Subject Property, which may include requests for approval of a Planned Unit Development or Conditional Use Permit, upon terms and conditions satisfactory to Developer;

(b) Developer obtaining a phased Plat approval for subdividing and creating individual Lots within the Subject Property in three separate phases, upon terms and conditions satisfactory to Developer;

(c) The recording of a subdivision plat that subdivides the Subject Property into three tracts, in a form satisfactory to Developer, and also satisfying the requirements of any applicable Area Master Plan, Planned Unit Development or Conditional Use Permit;

(d) The rezoning of that portion of Tract B of Girdwood Elementary School Subdivision, according to Plat 85-38, that is within the contemplated boundaries of the Subject Property, from the GIP/PLI zoning district to the gR-3 zoning district, and the vacation of the Section Line Easement that currently exists within the boundaries of the Subject Property;

(e) Obtaining all necessary approvals for construction of the Offsite Improvements, including the extension of the road, pedestrian pathway, and water, sewer, electric, gas, telephone, and internet utilities, from Hightower Road to the first phase of the Subject Property;

(f) Satisfaction of any platting requirements imposed by the Municipality of Anchorage, other than those that may be required by the future subdivision of the Subject Property into individual Lots;

(g) Obtaining all necessary approvals from Owner or the Municipality of Anchorage to proceed with the Project and this Agreement; and

(h) Obtaining the Municipality of Anchorage's approval of appropriations matching or exceeding the general contractor lump sum fixed price amount (further described in Section 5.2(b) below) and the Project Management Fee (further described in

Section 5.4 below) (collectively the "Offsite Improvement Costs") for the Offsite Improvements, including the road and improvements in the rezone area if necessary.

4.7 *Developer's Notice; Right to Terminate.* At such time as all conditions set forth in Section 4.6 have been satisfied, Developer shall provide Owner with a written notice indicating Developer's intention to proceed with the Project (the "**Notice of Satisfaction of Conditions**"). Developer shall provide Owner with a written notice thirty (30) days prior to beginning construction for a Development Phase (Notice to Proceed with Phase).

4.8 *Payment of Real Estate Taxes.* From the time of Closing to the time that Developer gives its Notice to Proceed with Phase, Owner shall pay and be responsible for all real estate taxes that may be assessed against the Subject Property. After Developer gives its Notice to Proceed with Phase, Developer shall be responsible for all real estate taxes that may be assessed against the Subject Property. Owner acknowledges that Developer will seek the exemption provided in AMC 12.15.015.E.6. If Developer's ownership of the Subject Property exceeds the maximum five (5) years of exemption allowable under AMC 12.15.015.E.6, Owner shall be responsible for paying any increase in the real estate taxes assessed against the Subject Property as a result of the expiration of the exemption.

4.9 *Failure of Developer Conditions.* If any of the conditions set forth in Section 4.6 have not been satisfied on or before July 1, 2025, then Developer may terminate this Agreement at its sole discretion. Upon showing by Developer, to the reasonable satisfaction of Owner that the action or inaction of Owner, resulted in the failure to obtain the necessary approvals to satisfy the conditions in Section 4.6, Owner shall be required to reimburse Developer for all actual costs and expenses incurred by Developer in connection with the Project from the Effective Date to the time of termination, plus an additional amount equal to the commercial rate of interest on Developer's most recent active development loan. Upon Developer's receipt of such reimbursement from Owner, Owner shall convey the Subject Property back to Owner, and this Agreement shall be deemed to be null and void and of no further force or effect, and Developer and Owner shall have no further rights, obligations, or liabilities under this Agreement.

## ARTICLE 5. **Offsite Improvements**

5.1 *Construction of Offsite Improvements.* Developer and Owner agree that Developer, on behalf of Owner, shall act as Project Manager for the construction of the following improvements from Hightower Road to the first phase of the Subject Property: Road, Pedestrian Pathway, Water, Sewer, Electric, Gas, Telephone, Internet (the "Offsite Improvements").

5.2 *Retention of General Contractor.* Developer, as Project Manager for the Offsite Improvements, shall select and retain a general contractor for the construction Offsite Improvements, subject to the following:

(a) Developer shall solicit three (3) competitive bids from qualified and currently licensed contractors for completing the Offsite Improvements.

(b) Bids must include a lump sum fixed price for completing the construction of all Offsite Improvements.

(c) Developer's selection of the general contractor shall be subject to the approval of Owner, and the terms and conditions of the contract with the general contractor must be reviewed and approved by Owner.

(d) The general contractor shall provide a bond and warranty for the Offsite Improvements as required by any department of the Municipality of Anchorage.

(e) When the Offsite Improvements are complete the general contractor shall call for final inspection by Municipality of Anchorage officials. The general contractor shall have one opportunity to complete all punch list items and call for a reinspection. If all punch list items are not completed and approved by the Municipality of Anchorage upon reinspection, the general contractor shall pay a $5,000 penalty per each required re-inspection.

5.3 *Cost of Offsite Improvements*. Owner shall approve and pay for all costs as described in the contract with general contractor for the planning, design and construction of the Offsite Improvements, in accordance with this Section 5.3.

(a) Upon the Municipality of Anchorage's approval of appropriations for the Offsite Improvement Costs, Owner shall deposit the funds to pay for the Offsite Improvement Costs into an escrow account ("Escrow Account") with an Escrow Agent to be determined under an agreement ("Escrow Agreement") with Developer and Escrow Agent.

(b) Escrow Agreement shall become an addendum to and an integral part thereof this Agreement.

(c) If the Municipality of Anchorage has not approved appropriations for the Offsite Improvement Costs by August 1, 2022, then Developer shall be entitled to terminate this Agreement pursuant to Section 4.9, and Owner shall be required to reimburse Developer for all actual costs and expenses incurred by Developer in connection with the Project from the Effective Date to the time of termination, plus an additional amount equal to the commercial rate of interest on Developer's most recent active development loan.

(d) All Offsite Improvements Costs shall be paid for by Owner from funds in the Escrow Account.

(e) Requests shall be delivered to Owner by Developer on a monthly basis for the purpose of paying the Offsite Improvement Costs. All such costs shall be certified and approved by Developer's engineer of record and by Owner. Once both the engineer of record and Owner have certified the Offsite Improvement Costs subject to the request, Owner shall pay Developer from the Escrow Account.

(f) In the event that the general contractor encounters any Extraordinary Circumstances that are anticipated to result in an increase in the lump sum fixed price for the construction of the Offsite Improvements, Developer shall promptly notify Owner of such circumstances, and the amount of any additional costs shall be certified by Developer's engineer of record. Owner shall approve any such additional costs to the extent that such additional costs are necessary for the completion of the Offsite Improvements.

5.4 *Project Management Fee for Offsite Improvements.* Owner shall pay to Developer a project management fee equal to 3.5% of all costs of completing the Offsite Improvements (the "Project Management Fee"), including the cost of the general contractor and all costs of planning, designing, developing, and managing the construction of the Offsite Improvements. The Project Management Fee shall be due monthly and paid for by the 10th day of every month.

5.5 *Completion of Offsite Improvements.* The construction of all Offsite Improvements shall be completed within one (1) year from the Date that Developer's Notice to Proceed is given under Section 4.7, unless another date is agreed to in writing by the parties.

## ARTICLE 6. **Subdivision Improvements and Developer Fees**

6.1 *Compliance with Municipal Requirements.* Improvements to be constructed by Developer within the Subject Property ("**Subdivision Improvements**") shall be constructed in accordance with all requirements or conditions of approval imposed by the Municipality of Anchorage.

6.2 *Construction and Design Documents.* At the request of Owner, Developer shall promptly provide Owner with Construction and Design Documents related to the construction of any Subdivision Improvements.

6.3 *Phased Construction.* Developer will not commence construction of Improvements within Phase 2 of the project until (a) Developer has obtained construction financing for the Phase 2 Improvements on terms satisfactory to Developer and Developer's lender(s), (b) Developer's lender(s) have approved the release of funds from the construction financing to commence construction, and (c) Owner has approved commencement of construction based upon notification by Developer of conditions (a) & (b) above. Developer will not commence construction of Improvements within Phase 3 of the project until (a) Developer has obtained construction financing for the Phase 3 Improvements on terms satisfactory to Developer and Developer's lender(s), (b) Developer's lender(s) have approved the release of funds from the construction financing to commence construction, and (c) Owner has approved commencement of construction based upon notification by Developer of conditions (a) & (b) above.

6.4 *Site Plan Approval.* Prior to the construction of any Subdivision Improvements within a specific phase of the Project, Developer shall provide Owner with a site plan showing the location of all proposed Subdivision Improvements within that phase of the Project, and the dimensions and intended use of any Lot to be created within that phase of the Project ("Site Plan"). Provided that the Site Plan complies with the requirements of the Municipality of Anchorage and is consistent with the RFP Response, and provided that Owner is satisfied with the lot absorption rate in the prior phase of the Project, Owner shall promptly provide Developer with written approval of the Site Plan.

6.5 *Crow Creek Road Secondary Access*. During the development of the first phase of the Project, Developer will spend up to $125,000 on planning and design documents for constructing a secondary fire apparatus access to Crow Creek Road. The secondary fire apparatus access connection to Crow Creek Road will not be constructed until the development of the second phase of the Project, after Developer completes all Subdivision Improvements within the first phase of the Project. If the Municipality of Anchorage or the State of Alaska Department of Transportation requires Developer to upgrade any portion of Crow Creek Road that is currently in existence, then all costs to upgrade the existing Crow Creek Road shall be paid for solely by Owner.

6.6 *Wetland Mitigation Credits*. Should Compensatory Mitigation be required for a Fill Permit from the U.S. Army Corps of Engineers (USACE) in any phase of the Project, Owner will provide Developer with Credits as required by the Compensatory Mitigation Plan through Permittee Responsible Mitigation at a fee of not more than 35% of the average area cost of similar Credits as quoted by In-Lieu Fee Programs within the Anchorage watershed such as Great Land Trust and the Alaska Railroad Corporation. Financial Assurances must be approved by the USACE, so this amount may be adjusted as required by USACE. This fee will cover the cost of establishing the value of the Credits (delineation), preparing a Long-Term Management Plan and getting the Credits and the Plan approved. Most importantly, this fee must cover the first five (5) years of monitoring to ensure the stability of the ecological value of the Preserved Wetlands, as well as caring for the Preserved Wetlands in perpetuity.

6.7 *Sales of Lots*. Upon completing all Subdivision Improvements within a specific phase of the Project, Developer shall use its best efforts to promptly market and sell all residential Lots created within that phase of the Project. Developer may not market or sell a Lot for less than the fair market value of the Lot. Notwithstanding the foregoing: (a) upon obtaining the Municipality of Anchorage's approval of an Area Master Plan and Preliminary Plat for the Subject Property, Developer may market residential Lots and enter into reservation agreements that require refundable reservation deposits; and (b) Developer may convey to a homeowners' association any Lot that is designated as a common element under AS 34.08 *et seq*. Owner and Developer acknowledge and agree that the homeowners' association shall only be responsible for maintaining those portions of the Subject Property that are designated and conveyed to the homeowners' association as common elements.

6.8 *Developer Fee and Administrative Fee*. As consideration for Developer's obligations to administer and develop the Project, Developer shall receive a developer fee ("**Developer Fee**") equal to 3.5% of all costs identified in Section 8.3(a) through (h), and an administrative fee ("**Administrative Fee**") equal to 1% of all costs identified in Section 8.3(a) through 8.3(h). Because Developer's construction loan(s) will not pay for these fees, fifty percent (50%) of the Administrative Fee shall be paid by Owner on a monthly basis upon invoicing by Developer. The Developer Fee and remaining fifty percent (50%) of and Administrative Fee shall be considered Project Costs for purposes of calculating the amount of Net Profits to be paid to Owner under Article 8. The prepaid Administrative Fee shall not be considered under Section 8.2 as a revenue received by Developer for the calculation of Net Profits.

6.9 *Marketing Fee.* As consideration for Developer's obligations to market and sell Lots within the Project, Developer shall receive a marketing fee ("**Marketing Fee**") equal to 3% of the sales price of each Lot sold within the Subject Property, plus closing costs to include escrow fees, closing fees, title insurance, and document preparation fees charged by a title company. The Marketing Fee shall be paid to Developer from proceeds generated by the sale of Lots within the Subject Property, and shall be considered a Cost for purposes of calculating the amount of Net Profits to be paid to Owner under Article 8.

6.10 *Common Element and Development Expenses (CEDE).*

(a) No CEDE shall be charged in connection with Subject Property.

## ARTICLE 7. **Cooperation and Approvals**

7.1 *Cooperation.* Each Party shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may reasonably be necessary or appropriate to give full force and effect to the terms and intent of this Agreement. At Developer's request, Owner shall promptly furnish Developer with any and all information and documents available to Owner and reasonably required by Developer in fulfilling its obligations in connection with the development of the Project.

7.2 *Subordination of Owner's Interest.* Owner acknowledges that Developer will seek to obtain a construction loan for financing the cost of planning, designing and constructing the Subdivision Improvements. Owner hereby agrees to promptly execute any and all documents necessary to subordinate Owner's interest in the Subject Property and/or in the profits from the sale of Lots, to any construction loan that Developer acquires for the purpose of planning, designing or constructing Subdivision Improvements. The subordination of Owner's interest in the Subject Property will be accomplished at such time as Owner and Developer's construction lender have agreed upon the terms of a commercially reasonable inter-creditor agreement.

7.3 *Owner Approval for Substantial Matters.* Notwithstanding the powers and duties given to Developer under this Agreement, without the consent of Owner, no act shall be taken, or sum expended or obligation incurred for and on behalf of Owner with respect to any of the following:

(a) The selection and retention of Construction and Design Professionals;

(b) Any expenditure not contemplated in the most recent Project Budget that exceeds more than three percent (3%) of the total Project Budget;

(c) The execution of Change Orders, except that Developer may, without the consent of Owner, authorize Change Orders affecting the construction or cost of the Project provided that the Change Order, or series of Change Orders dealing with the same subject, does not result in a cost increase of more than ten percent (10%) of the amount budgeted for such item(s) in the most recent Project Budget.

(d) The letting of any contract or contracts for the completion of any portion of the Project that was previously covered by a construction contract, if the proposed contract, or series of contracts with respect to the same item(s), would result in a cost increase of more than ten percent (10%) of the amount budgeted for such item(s) in the most recent Project Budget.

(e) Any arrangement for the financing of the Project, and any instruments evidencing or securing the resulting indebtedness, or any modifications therein.

Whenever Owner approval of the previous matters is required, such approval or notice of its refusal to grant approval shall be rendered promptly so as to minimize any interference with the timely completion of the Project.

7.4 *Emergencies.* Notwithstanding anything contained in Section 7.3 to the contrary, in any emergency affecting the safety of persons or property, or which is likely to result in a substantial construction work stoppage, Developer shall be authorized to act in a manner intended to mitigate or prevent threatened damage, injury, or loss, and shall be entitled to make expenditures in connection therewith. However, Developer shall authorize only such acts and shall make only such expenditures reasonably required to stabilize the emergency. In addition, Developer shall authorize such acts and make such expenditures only after Developer has made a reasonable attempt (if circumstances permit) to inform Owner of the cause of such emergency, Developer's proposed course of action in connection therewith, and the likely amount of such expenditures.

## ARTICLE 8. **Compensation to Owner**

8.1 *Compensation to Owner.* In consideration for Owner's conveyance of the Subject Property to Developer, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, Developer shall pay to Owner fifty percent (50%) of the Net Profits generated from the sale of Lots within each phase of the Project, which Net Profits shall be determined and calculated in accordance with this Article 8.

8.2 *Net Profits.* The Net Profits to be paid to Owner pursuant to Section 8.1 shall mean all revenues received by Developer from the sale of Lots within the Subject Property, less any and all Project Costs incurred in connection with the Project. The prepaid Administrative Fee as described in Section 6.8 shall not be considered a revenue received by Developer under this section.

8.3 *Costs Included.* For purposes of determining Net Profits under Section 8.1, Project Costs shall include, but are not necessarily limited to, the following:

(a) All fees and expenses billed to Developer by the Construction and Design Professionals;

(b) All costs of planning, designing, developing, and managing the construction of Subdivision Improvements including the cost of outside consultants other than the construction and Design Professionals necessary to secure the entitlements, to the extent that such costs are not billed directly to Developer by the Construction and

Design Professionals;

(c) All fees and expenses required by the Municipality of Anchorage or the State of Alaska for applications, permits, inspections, engineering, platting, and review and approval of an Area Master Plan, Planned Unit Development and/or Conditional Use Permit, including any fees charged to Developer for wetland mitigation credits under Section 6.6;

(d) Legal fees incurred by Developer in connection with the Project, including administrative appeals and legal fees necessary for formation of a homeowners' association for the Project;

(e) All costs of insurance maintained by Developer in connection with the Project;

(f) Developer's financing costs, to include construction loan interest, loan fees and costs, and loan renewal fees and costs;

(g) Real estate taxes assessed against the Subject Property and payable by Developer; and

(h) Developer's general and administrative expenses incurred in connection with the Project, to include monthly accounting fees, tax professional fees, and office supplies but excluding office space rental costs.

In addition to the foregoing, the term Project Costs shall include the Developer Fee and remaining fifty percent (50%) of Administrative Fee as set forth in Section 6.8, and the Marketing Fee as set forth in Section 6.9. Proposed costs beyond items (a-h), the Developer Fee, Administrative Fee, and Marketing Fee specifically enumerated above require approval by Owner prior to inclusion in Project Costs for purposes of determining Net Profits under Section 8.1.

8.4 *Costs Excluded.* Notwithstanding the provisions of Section 8.3, for purposes of determining Net Profits, the Project Costs shall not include the following:

(a) Costs and expenses associated with the Offsite Improvements, which shall be paid for pursuant to Article 5.

(b) The costs and expenses for preparation of the Tract Survey, wetlands survey, or appraisal, which shall be paid for pursuant to Sections 3.2, 3.3 and 3.4.

(c) The costs and expenses of rezoning any portion of the Property from the GIP/PLI zoning district to the gR-3 zoning district.

(d) The costs and expenses of vacating the Section Line Easement that currently exists within the boundaries of the Subject Property.

8.5 *Net Profits Determined Per Phase.* The Net Profits to be paid to Owner pursuant to Section 8.1 shall be determined on a "per phase" basis, after all residential Lots within a particular phase have been sold by Developer. Within thirty (30) days of the closing of the sale of the last residential Lot within a particular phase, Developer shall provide Owner with an accounting of the Net Profits for that particular phase. Upon receipt of such accounting, Owner shall have seven (7) days to provide written notice of any objection that Owner may have to any aspect of the accounting. If no objection is received within said seven (7) day period, then Owner shall be deemed to have waived any right to dispute the accounting of Net Profits. If Owner provides written objection to the accounting of Net Profits within said seven (7) day period, then Owner and Developer shall promptly and diligently work together to resolve any dispute over the accounting.

8.6 *Reconveyances.*

If approvals under Section 4.6 are not obtained by July 1, 2025, Developer shall return all tracts originally conveyed via Warranty Deed with no restrictions, other than those Permitted Exceptions and any restrictions that may be imposed pursuant to any approvals obtained under this Agreement, no later than July 15, 2025.

## ARTICLE 9. **Indemnification and Insurance**

9.1 *Indemnification.*

(a) Owner shall indemnify and hold Developer harmless from and against any and all actions, suits, claims, penalties, losses, liabilities, damages, and expenses (collectively "Claims"), arising out of Developer's performing the services to be performed by Developer under this Agreement, except Claims based upon Developer's negligence, willful misconduct, failure to act in good faith, or action beyond the authority granted to Developer by this Agreement.

(b) Developer shall indemnify and hold Owner harmless from and against any and all Claims that Owner may suffer, sustain, or incur arising from or in connection with Developer's negligence, willful misconduct, failure to act in good faith, or action beyond the scope of the authority granted to Developer by this Agreement.

(c) Each indemnitor under this Section 9.1 shall reimburse each indemnitee for any legal fees and costs, including reasonable attorney's fees and other litigation expenses, reasonably incurred by such indemnitee in connection with investigating or defending against Claims with respect to which indemnity is granted hereunder. If Claims are asserted or threatened, or if any action or suit is commenced or threatened with respect thereto, for which indemnity may be sought against an indemnitor hereunder, the indemnitee shall notify the indemnitor in writing as soon as practicable after the indemnitee shall have actual knowledge of the threat, assertion, or commencement of the Claims, which notice shall specify in reasonable detail the matter for which indemnity may be sought. The indemnitor shall have the right, upon notice to the indemnitee given within fourteen (14) days of its receipt of the indemnitee's notice, to take primary responsibility for the prosecution, defense, or settlement of such matter, including the employment of counsel chosen by the indemnitor with the approval of the indemnitee, which approval shall not be unreasonably withheld, and payment of expenses in connection therewith. The indemnitee shall provide without cost to the indemnitor all relevant records and information reasonably required by the indemnitor for such prosecution, defense, or settlement and shall cooperate with the indemnitor to the fullest extent possible. The indemnitee shall have the right to employ its own counsel in any such matter with respect to which the indemnitor has elected to take primary responsibility for prosecution, defense, or settlement, but the fees and expenses of such counsel shall be the expense of the indemnitee.

9.2 *Insurance.*

A. Any contractors or subcontractors hired for the Project shall maintain in good standing, for the entire period of the contact, the insurance described in subsection B of this section. Before rendering any services under this contract, the Contractor shall furnish the Administrator with a Certificate of Insurance in accordance with subsection B of this section in a form acceptable to the Risk Manager for Anchorage.

B. The contractors and subcontractors shall provide the following insurance:

1.) $500,000 Employers Liability and Workers Compensation as required by Alaska Law.

2.) Commercial Automobile Liability in the amount of $1,000,000 combined single limit to include: owned, hired, and non-owned.

3.) Commercial General Liability including:

$2,000,000 General Aggregate
$2,000,000 Products/Completed Operations
$1,000,000 Personal & Advertising Injury
$1,000,000 Each Occurrence
$5,000 Medical Payments

4.) Developer shall provide Professional Liability Insurance with limits of not less than $5,000,000 per occurrence and in the aggregate that shall be effective from and after the conveyance of Phase 1 and Phase 2 of the Subject Property.

5) Cyber/Privacy Liability insurance with limits not less than $1,000,000. The Cyber Coverage shall include, but not be limited to, claims involving invasion of privacy violations (including HIPPA), information theft, and release of private information. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses.

C. Policies written on a "claims-made basis" must have a two (2) year tail of coverage, or an unbroken continuation of coverage for two (2) years from the completion of the contract requirements.

D. Each policy of insurance required by this section shall provide for advance notice to the MOA/Contract Administrator prior to cancellation in accordance with the policy. IF the insurer does not notify the MOA on policy cancellation it shall be the contractor's responsibility to notify the MOA of such cancellation.

E. With the exception of Workers Compensation and Professional Liability each policy shall name The Municipality as an "additional insured" and the actual policy endorsement shall accompany each Certificate of Insurance.

F. General Liability, Workers Compensation, and Automobile policies shall be endorsed to waive all rights of subrogation against the Municipality of Anchorage by reason of any payment made for claims under the above coverage. This policy endorsement shall accompany each Certificate of Insurance.

G. All policies for general liability shall be primary and noncontributing with any insurance that may be carried by the Municipality.

H. If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Municipality requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Municipality.

I. Contractor shall require and verify that all subcontractors maintain insurance meeting all requirements stated herein, and Contractor shall ensure that the Municipality is an additional insured on insurance required from subcontractors.

## ARTICLE 10. **Rights Upon Default**

10.1 *Rights Upon Default.* If either party shall fail to keep, observe, or perform any material covenant, agreement, term, or provision of this Agreement to be kept, observed, or performed by such party, and such default shall continue for a period of sixty (60) days after notice thereof by the other party, then the non-defaulting party shall have all rights and remedies available at law or in equity, up to and including termination of this Agreement.

10.2 *Curing Defaults.* Any default by Developer or Owner under Section 10.1 that is susceptible of being cured shall not constitute a basis for termination if the nature of such default will not permit it to be cured within the grace period allotted, provided that within such grace period Developer or Owner, as the case may be, shall have commenced to cure such default and shall proceed to complete the same with reasonable diligence.

## ARTICLE 11. **Owner's Representations; Liability for Hazardous Substances**

11.1 *Owner's Representations*. Owner represents and warrants to Developer as follows:

(a) Owner is the fee simple owner of the Property and has authority to execute this Agreement and will, as of Closing, have authority to convey to Developer all of Owner's right, title, and interest in and to the Subject Property in accordance with this Agreement.

(b) Owner has no Knowledge (defined to include any actual or imputed knowledge of any representative or agent of Owner) of any currently pending or threatened taking or condemnation of the Property or any portion thereof.

(c) Except as disclosed on the Title Commitment, there are no unrecorded leases, licenses, contracts, agreements, easements, encumbrances, service contracts or occupancy agreements currently affecting any portion of the Property which will be binding on Developer following the Closing.

(d) Neither the entering into of this Agreement nor the consummation of the transactions contemplated hereby will constitute or result in a violation or breach by Owner of any material judgment, order, writ, injunction or decree issued against or imposed upon Owner.

(e) Owner has no Knowledge of any actual or threatened action, litigation, or proceeding by any organization, person, individual or governmental agency against the Property, or against Owner or any representative or agent of Owner regarding the Property.

(f) Owner has no Knowledge of any violations of state, federal or municipal law, (including laws relating to the environmental condition of the Property) with respect to the Property.

(g) To Owner's Knowledge, there are not now any Hazardous Substances in, on or under the Property. For purposes of this Article 11, "Hazardous Substances" shall mean all man-made or naturally occurring toxic or hazardous substances, materials, products, by-products or wastes, including radon, urea-formaldehyde, asbestos, petroleum or petroleum products, petroleum additives or constituents, and including mold at such concentrations or under such conditions as to inhibit or impair customary use of the Property, or any other waste, contaminant or pollutant regulated under or for which liability may be imposed by any federal, state or local law or regulation.

(h) To Owner's Knowledge, there are not now any underground storage tanks, oil wells, groundwater monitoring wells, injection wells, asbestos containing materials, lead-based paint, PCB containing equipment (such as lamps, transformers or hydraulic lifts), equipment containing freons regulated under the Clean Air Act, landfills, waste piles, fill materials, or solid waste or hazardous waste, existing in, on or under the Property.

11.2 *Liability for Hazardous Substances*. Developer shall be financially responsible and liable for any Hazardous Substances that Developer brings to the Subject Property, and for the negligent handling of any Hazardous Substances which may exist or be determined to exist on the Subject Property. In the event Developer discovers Hazardous Substances that existed on the Subject Property prior to the Effective Date of this Agreement, then: (a) Developer shall immediately stop work in the affected area and notify Owner; (b) Owner shall promptly respond to and remediate such Hazardous Substances in accordance with the requirements of applicable law; and (c) Owner shall defend, indemnify and hold harmless Developer from all demands, claims, fees, fines, penalties, judgments, awards, costs, damages, losses, obligations, and liabilities that in any way arise out of, result from or are based upon any legal obligation to respond to, remediate and/or dispose of such Hazardous Substances.

ARTICLE 12. **Miscellaneous**

12.1 *Assignments.* Developer shall have no right to assign or transfer all or any part of its rights or powers, nor delegate any of its duties or obligations hereunder without the prior written consent of Owner, except that Developer may assign and delegate all of its rights, powers, duties, and obligations to an affiliate of Developer.

12.2 *Sale or Assignment by Owner.* In the event that Owner shall, at any time during the term of this Agreement, sell or otherwise dispose of its interest in the Project, Owner shall have the right to assign its rights hereunder to the purchaser thereof, provided that such purchaser shall assume the obligations of Owner hereunder.

12.3 *Successors and Assigns.* Subject to the provisions of Sections 12.1 and 12.2 above, this Agreement shall be binding on, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

12.4 *Developer's Representative.* Developer has appointed *Connie Yoshimura* to act as its representative for the Project ("**Developer's Representative**"). Developer's Representative shall monitor and coordinate all on-site phases of the development of the Project. As the Project proceeds, Developer shall have the right to designate a different Developer's Representative and to designate one or more full-time assistants to Developer's Representative.

12.5 *Notices.* All notices, demands, requests, consents, approvals, and other communications (herein collectively called "**Notices**") required or permitted to be given hereunder, or which are to be given with respect to this Agreement, shall be in writing sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the party to be so notified as follows:

Owner: Attn: Land Management Officer
Municipality of Anchorage, Heritage Land Bank
P.O. Box 196650
Anchorage, Alaska 99519

Developer: Attn: Connie Yoshimura
CY Investments, LLC
561 E 36th Avenue, Suite 200
Anchorage, Alaska 99503

and shall be deemed received three (3) days after the mailing thereof. Such notices, demands, requests, consents, approvals, and other communications may also be delivered by hand, or by special courier, and shall be deemed received when receipt is acknowledged or refused by the addressee. Either party may at any time change the address for notice to such party by mailing a Notice as aforesaid.

12.6 *Entire Agreement; Amendment.* This Agreement and the referenced Exhibits, if any, contains the entire Agreement between the parties with respect to the subject matter hereof, and supersedes all prior understandings, if any, with respect thereto. There are no understandings, oral or written, which in any manner change or enlarge what is set forth herein. This agreement may not be modified or amended except in writing and signed by the parties hereto.

12.7 *No Waiver.* The failure of a party to enforce at any time any provision of this Agreement will not be construed to be a waiver of such provision, nor in any way to affect the validity of this Agreement or any part hereof or the right of such party thereafter to enforce each and every such provision. No waiver of any breach of this Agreement will be held to constitute a waiver of any other or subsequent breach.

12.8 *Severability.* If any term, provision or condition in this Agreement shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement (or the application of such term, provision or condition to persons or circumstances other than in respect of which it is invalid or unenforceable) will not be affected thereby, and each term, provision and condition of this Agreement will be valid and enforceable to the fullest extent permitted by law.

12.9 *Governing Law.* The terms and provisions of this Agreement will be governed by and construed in accordance with the laws of the State of Alaska without regard to its conflicts of laws provisions.

12.10 *Arbitration of Disputes*. The Parties shall cooperate in good faith to resolve any differences or disputes arising out of or relating to the Subject Property or this Agreement. Any controversy, claim or dispute of whatever nature arising between Owner and Developer, including but not limited to those arising out of or relating to the construction, interpretation, performance, breach, termination, enforceability or validity of this Agreement, shall be determined by arbitration, by one arbitrator in Anchorage, Alaska, governed and administered by the American Arbitration Association under its Commercial Arbitration Rules. The arbitrator shall award the prevailing party reasonable expenses and costs, including reasonable attorneys' fees, plus interest on the amount due. The arbitrator's decision shall be final and binding, and judgment may be entered thereon in any court having jurisdiction.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

| OWNER: | DEVELOPER: |
| --- | --- |
| By: Amy Demboski | By: Connie Yoshimura |
| Title: Municipal Manager | Title: Owner |

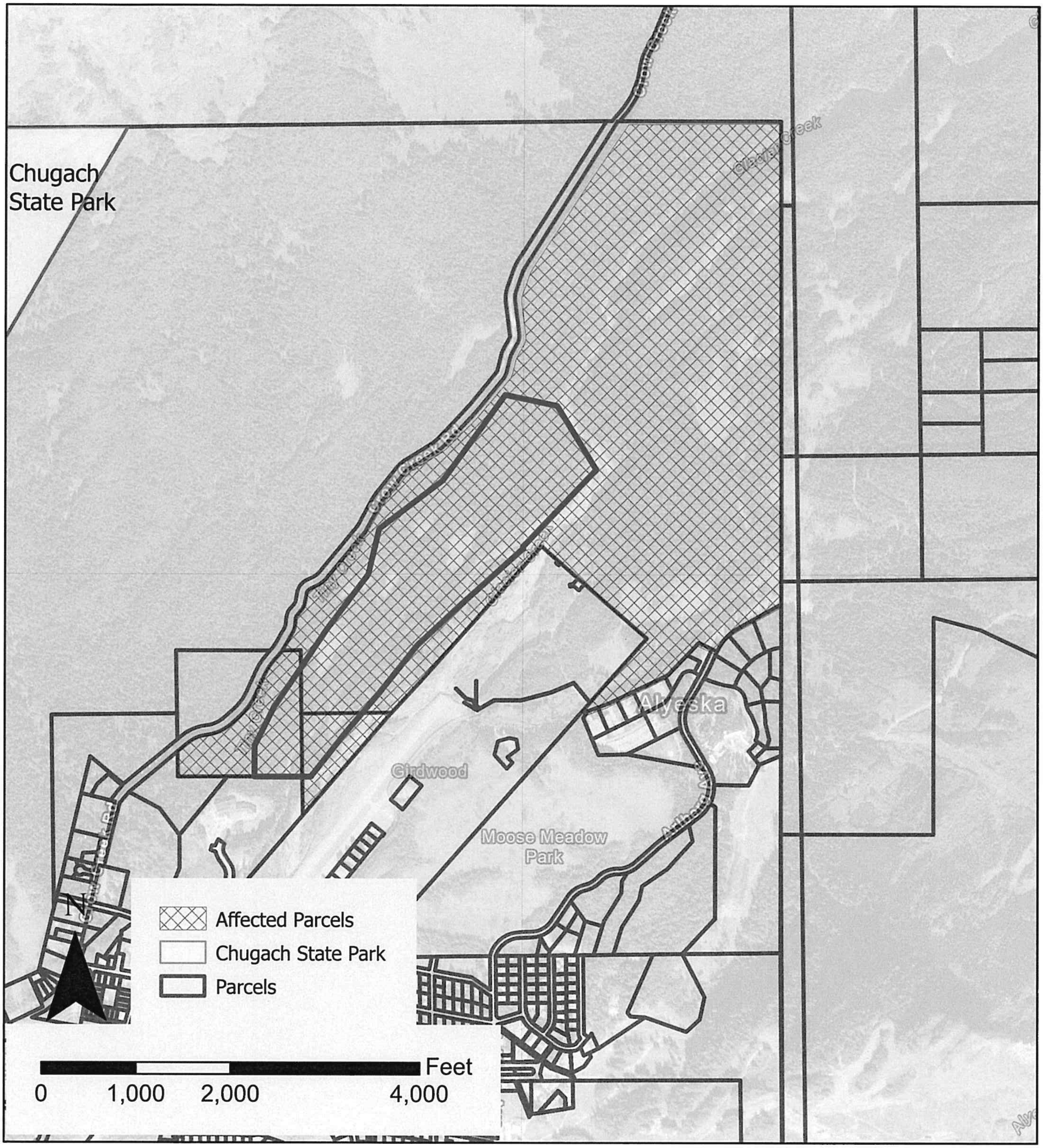
## Exhibit A

Tract I Alyeska Subdivision Prince Addition (Plat 87-131) (PID 075-311-04-000);

Tract B Girdwood Elementary School Subdivision (Plat 85-38) (PID075-031-32-000); and

Tract 9A Section 9 T10N R2E (Plat 73-220) (PID 075-041-31-000)

# Exhibit B




HLB Parcels 6-011, 6-016 & 6-017 - Holtan Hills,
Approximate area of development shown.

**Appendix C:**

HERITAGE LAND BANK ADVISORY COMMISSION
HLBAC Resolution 2022-09(S)

A RESOLUTION OF THE HERITAGE LAND BANK ADVISORY COMMISSION RECOMMENDING ASSEMBLY APPROVAL OF THE COMPETITIVE DISPOSAL OF PORTIONS OF HLB PARCELS 6-011, 6-016, AND 6-017, LEGALLY DESCRIBED AS TRACT I PRINCE ADDITION ALYESKA SUBDIVISION (PLAT 87-131)(PID 075-311-04-000), TRACT B GIRDWOOD ELEMENTARY SCHOOL SUBDIVISION (PLAT 85-38)(PID 075-031-32-000), AND TRACT 9A SECTION 9 TOWNSHIP 10 NORTH RANGE 2 EAST (PLAT 73-220)(PID 075-041-31-000), TO CY INVESTMENTS LLC AS DESCRIBED IN THE DEVELOPMENT AGREEMENT BETWEEN THE DEVELOPER AND THE MUNICIPALITY OF ANCHORAGE DATED APRIL 29, 2022, AND AMEND THE HLB 2021 ANNUAL WORK PROGRAM.

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WHEREAS, pursuant to AMC § 25.40.010, the Heritage Land Bank (HLB) was established to manage uncommitted municipal land and the HLB Fund in a manner designed to benefit the present and future citizens of Anchorage, promote orderly development, and achieve the goals of the Comprehensive Plan; and

WHEREAS, HLB developed and adopted the Crow Creek Neighborhood Land Use Plan (April, 2006) which further defines the development of HLB Parcels 6-011, 6-016, and 6-017; and

WHEREAS, pursuant to AMC § 25.40.025A, the HLB Advisory Commission (HLBAC) shall hold a public hearing, with public notice as specified in this chapter, prior to making a recommendation to the Mayor and Assembly regarding the disposal of HLB land or an interest in land. Land disposals under this chapter include land sales, land exchanges, leases, and easements; and

WHEREAS, HLB issued a Request for Proposals consistent with AMC 25.40.025H; and

WHEREAS, the successful proposer was identified, and a Development Agreement was drafted and entered into on April 29, 2022 between CY Investments, LLC and the Municipality of Anchorage; and

WHEREAS, the *Heritage Land Bank 2021 Annual Work Program & 2022 – 2026 Five-Year Management Plan* did not anticipate this disposal, and pursuant to AMC 25.40.020B, sale activities require an amendment; and

WHEREAS, HLB posted the property and conducted public notice; and

WHEREAS, the HLBAC held public meetings on September 22 and October 27, 2022 ; and

WHEREAS, the HLBAC finds the disposal, subject to conditions, in the best interest of the Municipality and consistent with the HLB purpose and mission; now therefore,

BE IT RESOLVED:

THE HLBAC RECOMMENDS ASSEMBLY APPROVAL OF THE COMPETITIVE DISPOSAL OF PORTIONS OF HLB PARCELS 6-011, 6-016, AND 6-017, LEGALLY DESCRIBED AS TRACT I PRINCE ADDITION ALYESKA SUBDIVISION (PLAT 87-131)(PID 075-311-04-000), TRACT B GIRDWOOD ELEMENTARY SCHOOL SUBDIVISION (PLAT 85-38)(PID 075-031-32-000), AND TRACT 9A SECTION 9 TOWNSHIP 10 NORTH RANGE 2 EAST (PLAT 73-220)(PID 075-041-31-000), TO CY INVESTMENTS LLC AS DESCRIBED IN THE DEVELOPMENT AGREEMENT BETWEEN THE DEVELOPER AND THE MUNICIPALITY OF ANCHORAGE DATED APRIL 29, 2022, SUBJECT TO THE FOLLOWING CONDITIONS:

1. All developers must submit applications for land use entitlements to the Girdwood Board of Supervisors (GBOS) for review prior to seeking official action by the designated decision-making body.
2. CY Investments LLC will restrict the use of any property in Holtan Hills, Phase I, to not include short-term rentals less than 30 days in duration, with a sunset provision eliminating this restriction when local ordinance is adopted otherwise regulating short term rentals.
3. Construction access through Hightower Road is prohibited.
4. CY Investments LLC will restrict twenty-five percent (25%) of the developed multi-family units to be identified and set apart for rental development and not sold individually.
5. The Developer continues to engage with the Girdwood Holtan Hills Housing Advisory Committee as the project progresses.

AND THE HLBAC RECOMMENDS ASSEMBLY APPROVAL OF THE AMENDMENT OF THE HLB 2021 ANNUAL WORK PROGRAM.

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PASSED and APPROVED on this, the 27th day of October 2022.

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|---|---|
| Approved: | Attest: |
| Tamera R Oswald | Lance Wilber |
| Tammy Oswald, Chair | Lance Wilber, Executive Director |
| Heritage Land Bank Advisory Commission | Community Development |