



MUNICIPALITY OF ANCHORAGE

AM No. 28-2021

Meeting Date: January 12, 2021

1 **From: MAYOR**

2
3 **Subject: A RESOLUTION OF THE MUNICIPALITY OF ANCHORAGE, ALASKA,**
4 **APPROPRIATING FUNDS TO SETTLE A DISPUTE RELATED TO THE**
5 **TUDOR/ELMORE DEVELOPMENT PROJECT.**
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7 The attached resolution appropriates the funds required to settle a dispute between the
8 Municipality of Anchorage, Alaska (“Municipality”), and DHHS 1, LLC, an Alaska limited
9 liability company (“Developer”) arising out of the Tudor/Elmore Development Project.
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11 The Municipality entered a Development Agreement in October 2017, as amended
12 October 17, 2019, (the “Development Agreement”) with Developer for:
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- 14 a. Construction of a new 2-story 40,000 square foot building for the Anchorage
15 Health Department (the “New AHD Building”) on vacant land at Tudor and
16 Elmore Roads;
- 17 b. Construction of a new facility for Anchorage School District (“ASD”) buses
18 currently located on the southwest corner of Tudor and Elmore Roads at a new
19 location (the “New Student Transportation Facility”);
- 20 c. Construction of at least fifty (50) units of mixed-income senior housing on the
21 site of the current DHHS at 9th Avenue and L Street (“Senior Housing”); and
- 22 d. Development of approximately (a) Ninety Thousand (90,000) square feet of
23 retail; (b) Fifty Thousand (50,000) square foot of hotel; (c) Eighty Thousand
24 (80,000) square feet of housing; and (d) Eighty Thousand (80,000) square feet
25 of office on the remaining vacant land at Tudor and Elmore Roads.
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27 (collectively, the “Tudor/Elmore Development Project” or “Project”).
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29 The Municipality worked diligently with the Developer and ASD to locate a suitable site
30 for the New Student Transportation Facility, finally selecting undeveloped municipal land
31 at Doctor Martin Luther King Jr. Drive and Tudor Centre Drive. However, the new location
32 increased development costs for the New Student Transportation Facility and that part of
33 the Project had to be terminated.
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35 Additionally, financing for the New AHD Building at Tudor and Elmore Roads was
36 jeopardized by a decision of the Alaska Department of Transportation and Public Facilities
37 denying access to/from Tudor Road until road infrastructure in and around the Project
38 was completed and denying a request by the Developer to install a new traffic signal.

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2 Accordingly, Developer was unable to commence construction of the new AHD building
3 by the Development Agreement-required date of June 30, 2020, and the Development
4 Agreement (and Project) was terminated.

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6 Prior to termination, the Municipality had incurred approximately \$318,054 of expenses
7 on the Project for e.g. platting costs, rezoning costs, and consultant services, and the
8 Developer had incurred approximately \$1.37 million in expenses on the Project for e.g.
9 architecture and engineering (“A/E”) work, traffic studies, permitting, and Developer’s time
10 and travel. A dispute arose as to how much either party owed the other for expenses
11 incurred prior to termination of the Development Agreement.

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13 With the assistance of a mediator, the parties reached a settlement agreement essentially
14 upon the following terms and conditions:

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16 1. The Municipality shall reimburse Developer for expenses incurred on the
17 Project in the amount of \$450,000;
- 18 2. The Municipality shall satisfy the accounts of four local architecture and
19 engineering firms retained by the Developer for work on the Project up to a total
20 amount of \$610,000;
- 21 3. Developer shall assign to the Municipality all rights in and to the plans,
22 specifications, drawings and other A/E work product related to the Project; and
- 23 4. The parties shall mutually release each other for and from any and all claims
24 of any sort whatsoever.

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26 The Administration feels this is a fair settlement for both the Municipality and Developer
27 and recommends approval of the appropriation of the required funds.

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29 **THE RECOMMENDED BUDGETARY DETAIL IS AS FOLLOWS:**

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31 **Revenues:**

Fund-Fund Center-Acct	Description	Amount
101000-122200-305070	Fund Balance – Unreserved	\$1,060,000

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35 **Expenses:**

Fund-Fund Center-Acct	Description	Amount
101000-122200-530180	Legal – Other Settlement/Judgment	\$1,060,000

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39 **THE ADMINISTRATION RECOMMENDS APPROVAL OF THE RESOLUTION.**

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41 Prepared by: Real Estate Department

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43 Approved by: Christopher M. Schutte, OECD Director

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45 Fund Certification: Alexander Slivka, CFO

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101000-305070 \$1,060,000
(Areawide General Fund, Fund Balance)

Concur: Lance Wilber, Director, Office of Management & Budget
Concur: Anna C. Henderson, Municipal Manager
Respectfully submitted: Austin Quinn-Davidson, Acting Mayor