

SAMPLE RESOLUTION AND NON-CODE ORDINANCE FOR ACQUISITION OF MUNICIPAL LANDS



This chapter provides samples of the legal means through which a local government can accept land.

Prior to the passage of the Alaska Native Claims Settlement Act (ANCSA), many municipalities acquired title to undeveloped property through the state land grant program, which allowed municipalities to select up to 10% of the vacant unappropriated state-selected land within the municipal boundary. The objective of this program was to provide for public and private settlement and for the development of local land. Most of the land located within municipal boundaries has been selected by local village corporations under ANCSA and is no longer available for state selection under the Statehood Act for potential municipal reconveyance; thus most municipalities incorporated shortly before or after the passage of ANCSA cannot benefit from land acquisition through the land grant program. The acquisition of undeveloped land for many municipalities has come directly from the federal government pursuant to the Alaska Native Townsite Act (ANTA), or as a result of the federal obligation imposed by ANCSA on village corporations to reconvey certain land to municipal corporations. Although the ANTA was repealed in 1976, it still serves as a

source of undeveloped land for municipalities. Municipal jurisdictions that include land selected by an ANCSA village corporation are authorized under Section 14(c)(3) of the act to select land for community expansion, public rights-of-way and for "other foreseeable community needs." Some municipalities have received land grants from other sources, such as the Railroad Townsite Act and the Presidential Townsite Act. The provisions of these acts are similar to ANTA. For more information on municipal land acquisition in Alaska, refer to Appendix 2B of this handbook, "Municipal Land Acquisition and Disposal in Alaska" by Timothy E. Troll.

Two examples are provided in this chapter for municipalities to use in the acquisition of land:

- 1) A sample resolution that a municipality can use to accept lands. This method of accepting lands can be used in most situations.
- 2) A sample non-code ordinance that a municipality can use to accept the final settlement of ANCSA 14(c)(3) lands.



Mekoryuk Boat Harbor, Commerce/DCRA

SAMPLE RESOLUTION FOR THE ACCEPTANCE OF MUNICIPAL LAND



RESOLUTION NO. _____

A RESOLUTION authorizing the City of _____ to acquire certain lands as provided for in Title _____ of the Municipal Code.

WHEREAS: The City has the authority, in accordance with Title ____, Chapter ____, Section ____, of the _____ Municipal Code, to acquire, manage and dispose of real property or interest in real property, and;

WHEREAS: The city has identified those lands described as (legal description) _____
_____ as suitable for acquisition by the City, and;

WHEREAS: The City and _____ (the land owner) _____ have agreed on the conveyance of the land to the City, and;

WHEREAS: The City has budgeted for the acquisition costs in Ordinance # ____.

NOW THEREFORE LET IT BE RESOLVED THAT: The Mayor of _____ is hereby directed to negotiate and execute any and all documents required to obtain that land as identified in paragraph 2 of this resolution. Title shall be held in the name of "City of _____, Alaska."

PASSED AND APPROVED BY THE _____ City Council
on _____, 20____ .

IN WITNESS THERETO:

By: _____ (Chief Administrative Officer)
Signature and Title

Attest: _____ (City Clerk)
Signature and title



CHECKLIST FOR REQUIREMENTS OF 14(c)(3) AGREEMENTS

ANCSA Corporations, incorporated cities and unincorporated communities must follow proper procedures when they enter into 14(c)(3) agreements. The checklist below allows ANCSA village corporations to perform a quick check to determine whether proper procedures have been followed. This checklist addresses major procedural formalities that must be followed for a 14(c)(3) agreement to be valid and binding on both parties. Any agreement that meets these requirements is likely to be valid. Failure to meet these requirements does not necessarily mean that the agreement is invalid, but does indicate that a potential problem may exist. In such an event,

corporations are recommended to contact their attorney for a more detailed review of the procedure used to approve the agreement.

NOTE: A 14(c)(3) agreement that meets the requirements of the checklist will probably not be invalid because of a failure to meet procedural requirements. However, because this checklist is not designed to address all potential problems or issues that may arise, the checklist should not be solely relied upon to determine legal validity of a 14(c)(3) agreement. Any formal opinion as to the validity of a 14(c)(3) agreement can only be made by the attorney for the corporation, after a review of the individual facts of the situation.

SAMPLE CHECKLIST FOR 14(c)(3) AGREEMENTS

ALL MUNICIPALITIES:

- _____ Was the agreement approved by either ordinance or resolution?
- _____ Did the municipality follow all requirements established in the city’s charter and ordinances?
- _____ If the ordinance or resolution required execution (signing) of the agreement, was the agreement executed, and in the method established by the ordinance or resolution?
- _____ Did the municipality follow the municipal code’s conflict of interest requirement as written in AS 29.20.10?

GENERAL LAW MUNICIPALITIES, AGREEMENT APPROVED AFTER JANUARY 1, 1987 (ADDITIONAL REQUIREMENTS)

- _____ Did the municipality by ordinance establish a procedure for the 14(c)(3) agreement process?
- _____ Was the established procedure followed?
- _____ Did the municipality follow the steps outlined above?

VILLAGE CORPORATIONS

- _____ Was the 14(c)(3) agreement validly approved by the corporation’s board of directors by resolution at a proper meeting?
- _____ If the resolution required execution (signing) of the agreement, was the agreement executed, and in the method established by the resolution?
- _____ Did the corporation follow all procedures and requirements established by its Articles of Incorporation and Bylaws?

UNINCORPORATED COMMUNITIES

- _____ Did the corporation board approve the offer by resolution?
- _____ Did the Municipal Land Trustee (MLT) review and decide whether the offer will be accepted?
- _____ Was the offer supported by resolution by the Appropriate Village Entity (AVE)?
- _____ Was the written decision published in a newspaper of general distribution in the region?
- _____ Did the AVE follow all MLT procedures outlined in their regulations?



SAMPLE ORDINANCE FOR THE ACCEPTANCE OF MUNICIPAL LAND

CITY OF _____, ALASKA
ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY TO ACQUIRE CERTAIN LANDS AS PROVIDED FOR IN SECTION 14(c)(3) OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF _____, ALASKA:

- Section 1: Classification
- Section 2: Authority to acquire lands
- Section 3: Amount to be reconveyed
- Section 4: Survey of land
- Section 5: Acknowledgement of satisfaction of the requirements of ANCSA Section 14(c)(3)
- Section 6: Acquisition for the City by the Mayor
- Section 7: ANSCA 14(c) Map of Boundaries

Section 1. Classification.

This is a non-code ordinance.

Section 2. Authority to acquire lands.

The City is authorized to acquire lands in accordance with Title _____, Chapter _____, Section _____, of the _____ Municipal Code. Under the provisions of Section 14(c)(3) of ANCSA the City is entitled to receive 1,280 acres of surface estate from the _____ Native Corporation, unless a lesser amount is agreed to in writing by the City and the _____ Native Corporation.

Section 3. Amount to be reconveyed.

The City and the _____ Native Corporation mutually agree that approximately _____ acres of _____ Native Corporation land as identified in the ANCSA 14(c) Map of Boundaries of this ordinance is to be reconveyed to the City. The City finds that this amount is sufficient for the existing and foreseeable community needs of the City of _____ and by this ordinance relinquishes the right to an additional _____ acres of _____ Native Corporation land. (The real property to be reconveyed by the _____ Native Corporation is compatible with accepted land uses as described in the City of _____ Comprehensive Development Plan.)

Section 4. Survey of land.

The City and Native Corporation acknowledge that the ANCSA 14(c)(3) lands as shown on the ANCSA 14(c) map of boundaries can not be conveyed to the City until surveyed in accordance with 43 CFR and the policies of the Bureau of Land Management Cadstral Survey. The City is authorized to participate in the staking, survey instruction review, plat review and the accompanying of the Native Corporation designees and the BLM surveyors during the field surveying of the ANCSA 14(c)(3) lands.



Section 5. Acknowledgement of satisfaction of the requirements of ANCSA Section 14(c)(3).

The _____ Native Corporation, by this reconveyance, meets its legal obligation to reconvey land to the City under Section 14(c)(3) of ANCSA. The reconveyance of this land is in consideration of the requirements of ANCSA Section 14(c)(3) and is without further consideration. The City of _____ acknowledges that this reconveyance is in full and complete satisfaction of the _____ Native Corporation's obligation under Section 14(c)(3) of ANCSA.

Section 6. Acquisition for the City by the Mayor.

Under the authority of Title _____, Chapter _____, Section _____ of the _____ Municipal Code, the Mayor is directed to act on behalf of the City in signing the ANCSA 14(c) Map of Boundaries 14(c) agreement and real property documents related to acquisition of that real property described in the ANCSA 14(c) Map of Boundaries attached to and made part of this ordinance. Such acquisition shall constitute full satisfaction of the requirements of ANCSA Section 14(c)(3).

Section 7. ANCSA 14(c) Map of Boundaries (attached).

Introduction _____
First Reading _____
Public hearing/second reading _____

ADOPTED by a duly constituted quorum of the Council of the City of _____, Alaska, this ____ day of _____, 20__

MAYOR

ATTEST:

CITY CLERK

Sample Resolution ...

