

**ANCHORAGE, ALASKA
AO No. 2012-59**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER**
2 **3.90 REGARDING CONFIDENTIALITY OF RECORDS RELATED TO THE 49th**
3 **STATE ANGEL FUND AND PROVIDING FOR A RETROACTIVE EFFECTIVE**
4 **DATE.**

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6
7 WHEREAS the Municipality has received \$13,168,350 ("Allocated Funds")
8 pursuant to the State Small Business Credit Initiative ("SSBCI") established by the
9 Small Business Jobs Act of 2010, Public Law 111-240, 124 Stat. 2568, 2582;

10
11 WHEREAS the Allocated Funds are to be used by the Municipality under the 49th
12 State Angel Fund ("49SAF") to make equity investments in eligible small
13 businesses within the Municipality;

14
15 WHEREAS the 49SAF is being administered by the Municipality's Finance
16 Department which will solicit and receive applications for funding under the SSBCI,
17 screen those applications, then refer them to a 49SAF Advisory Committee for
18 recommendations to the Mayor and Chief Fiscal Officer for final selection;

19
20 WHEREAS the period for receiving applications to the 49SAF opened May 14,
21 2012;

22
23 WHEREAS in order to protect the confidentiality of certain information submitted
24 by applicants to the 49SAF under municipal and state public record provisions,
25 see Anchorage Municipal Code ("AMC") 3.90 and Alaska Statutes ("AS") 40.25, so
26 as not to put applicants to the 49SAF at a competitive disadvantage; and

27
28 WHEREAS in order to otherwise promote the purposes of the 49SAF; now,
29 therefore,

30
31 **THE ANCHORAGE ASSEMBLY ORDAINS:**

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33 **Section 1.** Anchorage Municipal Code section 3.90.040 is hereby amended to
34 read as follows (*the remainder of the section is not affected and therefore not set*
35 *out*):

36
37 **3.90.040 Exemptions for particular records.**

38
39 This chapter shall not be construed to require disclosure of:

40
41 * * *

42 * * *

43 * * *

Q.

- 1
2 1. The following records provided to the municipality by a person
3 requesting an award from the 49th State Angel Fund:
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5 a. income tax returns;
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7 b. financial statements, profit-and-loss statements, or
8 cash flow projections;
9
10 c. business plans;
11
12 d. credit reports from consumer reporting agencies or
13 other credit information obtained from banks, creditors,
14 or other credit reporting entities;
15
16 e. trade secrets, including confidential proprietary
17 information or confidential information about products,
18 pricing, or manufacturing or business processes;
19
20 f. appraisals;
21
22 g. market surveys or marketing strategy information;
23
24 h. third party financing and similar data required to be
25 reported by the municipality to the federal government;
26 or
27
28 i.[h.] terms and conditions of any award, except "boilerplate",
29 company name, interest rate, if applicable and total
30 principal amount of the award.
31
- 32 2. Information compiled by the municipality from records,
33 documents or information described in subsection 1 shall be
34 kept confidential unless disclosure is authorized by the person
35 providing the information.
36
- 37 3. Disclosure of a confidential record to an advisory committee
38 shall not constitute a waiver of confidentiality by the person
39 submitting the record or by the municipality, nor shall it
40 constitute a conversion of the record to a public record.
41 Committee discussion of confidential information shall occur
42 only in executive session.
43
- 44 4. Nothing in this section shall prevent an assembly
45 member from reviewing information otherwise
46 confidential under this section if the assembly member
47 has a valid legislative purpose for reviewing the
48 information and if the assembly member agrees to
49 maintain the confidentiality of the information.
50

(AO No. 77-50A; AO No. 91-7(S-1); AO No. 91-173(S); AO No. 92-18; AO No. 96-102, § 1, 8-6-96)

Section 2. This ordinance shall be effective retroactive from May 14, 2012.

PASSED AND APPROVED by the Anchorage Assembly this 10th day of July, 2012.

Ernie Ball
Chair of the Assembly

ATTEST:

Barbara A. Jones

Municipal Clerk

MUNICIPALITY OF ANCHORAGE

ASSEMBLY MEMORANDUM

No. AM 383-2012

Meeting Date: June 19, 2012

1 **From: MAYOR**

2
3 **Subject: AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE**
4 **CHAPTER 3.90 REGARDING CONFIDENTIALITY OF RECORDS**
5 **RELATED TO THE 49th STATE ANGEL FUND AND PROVIDING**
6 **FOR A RETROACTIVE EFFECTIVE DATE.**
7

8 The Municipality has been allocated approximately \$13.2 million by the United
9 States Department of Treasury's State Small Business Credit Initiative program to
10 invest in Anchorage start-up and small businesses that need additional capital for
11 growth. The program is being administered by the Municipality's Finance
12 Department under the 49th State Angel Fund ("49SAF") which has been accepting
13 applications for funding since May 14, 2012. Applicants are required to submit
14 actual and forecast financial information including balance sheets, profit and loss
15 statements, and strategic and business plan information. During the application
16 process, applicants may also be required to submit income tax returns, banking and
17 credit information. The ordinance seeks to protect the confidentiality of such
18 information by the addition of an exclusion for such documents from public records
19 disclosure.
20

21 The ordinance is based on a similar exclusion under state law for financial
22 documents submitted to the Alaska Industrial Development and Export Authority
23 (AIDEA), also an entity charged with evaluating loans and investments. See AS
24 44.88.215. In order to protect the confidentiality of information submitted by
25 applicants to the 49SAF under municipal and state public record provisions, see
26 Anchorage Municipal Code ("AMC") 3.90 and Alaska Statutes ("AS") 40.25,
27 additional provisions to AMC 3.90.040, comparable to those applicable to programs
28 administered by the Alaska Industrial Development and Export Authority, are
29 necessary.
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31 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 3.90**
32 **REGARDING CONFIDENTIALITY OF RECORDS RELATED TO THE 49th STATE**
33 **ANGEL FUND AND PROVIDING FOR A RETROACTIVE EFFECTIVE DATE.**
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35 Prepared by: Joe Morrison, Program Manager, 49th SAF
36 Approved by: Lucinda Mahoney, CFO
37 Concur: Dennis A. Wheeler, Municipal Attorney
38 Concur: George J. Vakalis, Municipal Manager
39 Respectfully submitted: Daniel A. Sullivan, Mayor