

HB

439

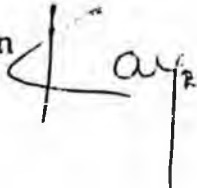
# Representative Kay Brown

ALASKA STATE LEGISLATURE

Legislative Information Office  
3111 C Street #435  
Anchorage, Alaska 99503  
(907) 561-7627

During Session  
State Capitol  
Juneau, Alaska 99801-1182  
(907) 465-4998

TO: Representative Richard Foster  
Chair, House Transportation Committee

FROM: Representative Kay Brown 

DATE: April 16, 1992

RE: Packet for House Bill 439

Thank you for scheduling HB-439, which relates to the development of land owned by the Alaska Railroad Corporation.

In anticipation of the hearing next week, I have assembled background information on the proposal. Attached are:

- HB 439
- Sponsor Statement
- Sectional Analysis of HB 439
- News release from Rep. Kay Brown regarding introduction of HB 439
- Public notice of the Railroad's intention to execute a lease with Ship Creek Crossing Developers, Inc. (for Ship Creek Redevelopment Project)
- Long-Term Lease Policy of the Alaska Railroad Corporation
- Various news articles relating to Ship Creek development
- Testimony of Robert Hatfield, President and CEO of the Alaska Railroad Corporation, at the Anchorage Caucus meeting of February 6

DISTRICT 12

Downtown • Fairview • City View • Bootleggers Cove • Inlet View • South Addition • Thunderbird Terrace  
Eastridge • Penland Park • Airport Heights • Government Hill

4/16/92  
Rep. Kay Brown

## Sponsor Statement

HB 439

### Local government involvement in public land decisions by the Alaska Railroad

HB 439 would provide for local government participation in development decisions made by the Alaska Railroad Corporation where the Railroad proposes to develop its public land holdings for other than transportation purposes.

HB 439 would require the Alaska Railroad, a public corporation of the state, when developing its land for commercial purposes other than Railroad transportation purposes, to obtain from the local governing body with land use regulation powers over the area a public interest finding that the proposed development

- offers beneficial economic development for the area,
- will not unreasonably compete with existing private businesses, and
- is in the best interest of the people of the area.

The bill does not affect the Railroad's authority to develop its land for Railroad transportation purposes.

#### Need for Legislation

Current procedures for disposing of long-term interests in Railroad land do not adequately protect the public interest. The "Long Term Lease Policy" established by the Railroad's Board in 1986 sets policies and guidelines when leasing real property for terms of five or more years. The "Long Term Lease Policy" provides [Section 2.02 (a)]:

(a) Published Notice. Notice will be published in a newspaper of general circulation, serving the community where the property is located, for three (3) consecutive days, *ending fifteen (15) days prior to the effective date of the proposed long-term lease.* The notice will *only* describe the parcel to be leased, the proposed Lessee, date of proposed action, and the name, address, and telephone number of the Alaska Railroad Corporation representative. (emphasis added)

**This provision is not adequate to provide meaningful notice to the public.**

In addition, concerns have been expressed by the business community about activities of the Alaska Railroad that compete with the private sector, such as construction of a new Comfort Inn Hotel near Ship Creek in Anchorage. Because of its status as a public corporation, the Railroad is generally exempt from taxation.

#### Statutory provisions governing land transactions

AS 42.40.285 provides that legislative approval is required for the Railroad to "exchange, donate, sell, or otherwise convey its entire interest in land;" and also to "lease land for a period in excess of 35 years unless the corporation reserves the right to terminate the lease if the land is needed for Railroad purposes."

As 42.40.350 also governs Railroad land transactions. Subsection (d) provides that a lease or disposal of land approved by the legislature under AS 42.40.285 by the corporation to a party other than the state shall be made at fair market value as determined by a qualified appraiser or by competitive bid.

Because of these provisions, the Railroad relies on long-term leases as the mechanism of choice for commercial development of its land.

#### Background

The Alaska Railroad Corporation (ARC) owns approximately 36,000 acres of land that were transferred with the Railroad when the state purchased it from the federal government in 1984.

As an example of the type of commercial development that would be subject to the finding required by HB 439, the Railroad presently is undertaking a major commercial development along the industrial waterfront near downtown Anchorage, called the Ship Creek development.

The Ship Creek project was represented to the Legislature in 1990 and 1991 as a "public-private partnership" involving the Municipality of Anchorage, the Railroad, the Anchorage Economic Development Corporation (AEDC), the legislature, and not-yet-identified private developers.

Within the last two years, the Legislature has appropriated \$8 million for site improvements and upgrades at Ship Creek. Specifically, \$5.5 million was secured last year for access, tideland fill and utility upgrades. This

appropriation was specifically contingent upon the approval by AEDC and the Railroad of a development agreement that includes private investment commitments equal to or exceeding the appropriation.

This public infrastructure investment was needed, the project's backers said, to attract a major developer for the project. It was to be a case of government encouraging business development by affording the opportunity to initiate the project, providing land and support for infrastructure, and then letting a private sector developer develop the project, attracting new private capital, under a development agreement approved by *all* parties.

The Railroad's handling of the public review of its long-term lease with the developer shows the need for changes in its process.

The Railroad Board on March 4 approved a long-term lease with LoPatin, which was rated second of two bidders by the Ship Creek Project Committee. While the public comment period on the lease expired on March 23, the contract was made retroactive to March 1, 1992.

The Railroad was slow to release for review the provisions of the proposed lease. Although the public comment period began March 6, it was not until March 12 that I was able to obtain a copy of this public document. Although I made several requests to the Railroad, I was not able to obtain a copy of the published notice or details about its timing and placement until March 17.

The public comment period closed March 23. Not surprisingly, the Railroad received no public comment.

*Public comment should be taken before, not after, a commitment of this magnitude is approved.*

With no opportunity to review proposed land use plans and lease provisions before the Board approved the contract with LoPatin, neither the Municipality of Anchorage nor the general public was given adequate opportunity to determine whether the proposal was consistent with prior representations, such as commitments for pedestrian access and other public amenities, and whether the proposal was compatible with sensitive environmental areas within the development area.

A court injunction is being sought by Intergroup, the other bidder, against the Railroad and its contract with LoPatin. The suit alleges several violations of procurement rules and a violation of the Constitution relating to public notice and protection of the public interest.

Questions and concerns have been raised about the development: Will the Railroad promote the development of the Ship Creek area solely for its own gain without regard for the desires of the community?

The Alaska Railroad Corporation holds title to 36,000 acres of land in Alaska, of which almost 40% are unused or are leased. Will the Railroad control the fate of these lands for nontransportation purposes without a meaningful public process?

Why give the final decision to the local governing body?

Local interests, as represented by locally elected representatives, should be part of long-range decisions made by the Railroad about commercial development of public lands.

Who better than the local elected body can assess whether a commercial development proposal will benefit the community?

The best interest finding that would be required by HB 439 would ensure a public process, which is presently lacking, on major long-range commercial development decisions made by the Railroad on public lands within the boundaries of local governments.

3/16/92  
Rep. Kay Brown

# SECTIONAL ANALYSIS

## House Bill 439

An Act relating to development of railroad land of the Alaska Railroad Corporation; and providing for an effective date.

### Section 1

Amends Sec. 42.40.250 (8) (General Powers of Alaska Railroad Corporation) to require that the railroad, when developing rail land for commercial purposes other than railroad transportation purposes, obtain a finding from the local governing body with land use regulation powers over the area in which the proposed development is located that the proposed development offers beneficial economic development for the area; will not unreasonably compete with existing private businesses in the area; and is in the best interest of the people of the area unless otherwise expressly authorized by the legislature under AS 42.40.285 as amended by Section 2.

### Section 2

Amends Sec. 42.40.285 (Legislative Approval Required) by adding a new subsection (5) which requires the Railroad, unless otherwise approved by the Legislature, to obtain the local government finding required by Section 1 prior to the development of rail land for commercial purposes (i.e, purposes other than railroad transportation).

### Section 3

Immediate effective date.

# ALASKA RAILROAD CORPORATION



D. Box 107500 • Anchorage, Alaska 99510-7500

## ALASKA RAILROAD CORPORATION

### LONG TERM LEASE POLICY

The Alaska Railroad Corporation (referred to below as "Lessor" and "ARRC") will adhere to the following policies and guidelines when leasing real property for terms of five or more years. The policies and guidelines contained in this statement may be changed from time to time when the Alaska Railroad Corporation determines a change is appropriate.

#### 1. PURPOSE

The purpose of this policy statement is to set forth guidelines and principles upon which the Alaska Railroad Corporation's standard long-term lease will generally be based. This statement is intended to give prospective Lessees and other interested persons information about the ARRC's policy with respect to its land lease program. However, this statement is not intended to provide the precise language that will appear in a lease or to substitute for or override any terms of a lease. It is important for prospective Lessees and other persons interested in a particular lease to carefully review the terms of the particular lease itself, because the lease (and not this policy statement) creates the legal relationship between Lessor and Lessee and defines the rights of each of the parties.

This policy governs new leases entered by the Alaska Railroad Corporation. Section 4 of the policy identifies circumstances under which an existing lease will be replaced by a new lease conforming to this policy statement.

#### 2. PRE-LEASE MATTERS

2.01 COMMITMENTS. Long-term lease agreements require formal approval by ARRC Management. Neither letter proposals nor lease drafts will constitute a formal offer from Lessor. Such documents constitute nonfinal negotiating proposals by Lessor's representative and indicate the terms and conditions the representative is willing to recommend to Management. Lessor becomes bound only upon the execution of the typewritten lease by ARRC.

2.02 PUBLIC NOTICE AND RECORDATION OF LEASE. This provision relates to required public notice and public recording with respect to individual leases. It does not govern publication or relate to Lessor's marketing or leasing policies.

(a) Published Notice. Notice will be published in a newspaper of general circulation, serving the community where the property is located, for three (3) consecutive days, ending fifteen (15) days prior to the effective date of the proposed long-term lease. The notice will only describe the parcel to be leased, the proposed Lessee, date of proposed action, and the name, address, and telephone number of the Alaska Railroad Corporation representative.

(b) Memorandum of Lease. Upon the execution of this Agreement, both parties agree to execute a Memorandum Short Form Lease suitable for recording purposes.

2.03 ADMINISTRATIVE FEE. With Lessee's formal application to lease, Lessee will include payment of an administrative fee of Two Hundred Dollars (\$200.00). The fee will apply to the first month's rental if a lease is executed. If the application is denied, the fee will be retained to defray administrative costs. Lessor may increase the administrative fee from time to time when an increase becomes necessary to cover costs.

2.04 PERFORMANCE OR CONSTRUCTION BONDS. At Lessor's option, Lessee will, before commencing construction of any improvement, including but not limited to subsurface improvements on the premises, deposit with the Lessor a bond or certificate thereof, in a sum not less than the cost of such construction and in form and with surety satisfactory to the Lessors, guaranteeing the completion of such construction free and clear of all mechanics' and materialmen's liens, together with such information and evidence as Lessors may reasonably require to assure that the Lessee is able to and will make all payments required by contract to be made as and when the Lessee is required to do so. The performance assurance, if required, may be in the form of surety, cash, assigned deposit, or irrevocable letter of credit.

2.05 PERMITS. All permits required by municipal, state or federal law are to be secured by and at the expense of Lessee.

2.06 PARCEL MAPS. If a parcel or subdivision map is required by municipal ordinance, it must be approved by the proper governmental body and recorded prior to the execution of the lease or option to lease. The preparation and public recording of parcel or subdivision maps will be the responsibility of the Lessor; however, a nonrefundable deposit may be required of the Lessee to cover the cost.

2.07 CONDITION OF PROPERTY. Lessor will lease property "as is, with all faults", and without any representations or warranties by Lessor as to the characteristics or suitability of the Premises. Prior to execution of the Lease, Lessee will be given an opportunity to independently investigate the Premises, and to assess:

(a) the feasibility of developing the Premises for the purposes intended by Lessee;

(b) the size and dimensions of the Premises;

(c) the availability and adequacy of water, sewage and any utilities serving Premises;

(d) the presence and adequacy of infrastructure or other improvements on, near, or affecting the Premises;

(e) the extent and condition of any grading or other site work already performed or hereafter required for Lessee's possible development of the Premises;

(f) any surface, soil, subsoil or other physical conditions of or affecting the Premises, such as climate, geological, drainage, air, water or mineral conditions;

(g) easements and reservations of record affecting the title;

(h) the existence of governmental laws, regulations, ordinances, restrictions or requirements concerning the use density, location or suitability of the Premises for any existing or proposed development including such matters as zoning, building, subdivision, environmental and other regulations;

(i) the necessity or availability of any rezoning, zoning variances, conditional use permits, building permits, environmental impact reports, parcel or subdivision maps, public reports and any other governmental approval;

(j) the necessity or existence of any dedications, taxes, fees, charges, costs or assessments that may be imposed in connection with any regulation or authorization or the obtaining of any required Permits; and

(k) all matters concerning the condition, use and development of the Premises.

2.08 RELOCATION OF FACILITIES. Any necessary or desired relocation of Lessor's facilities will be made at the sole expense of Lessee. Lessee must communicate any request for relocation of Lessor's facilities before the lease is entered.

2.09 STORAGE OF HAZARDOUS MATERIALS. No leases will be granted for storage of hazardous materials (including gasoline and diesel fuel) unless Lessee first exhibits full compliance with municipal, state, and federal environmental laws and regulations, produces proof of satisfactory liability insurance naming Lessor as co-insured, and agrees to indemnify

and save Lessor harmless from claims related to storage of such materials. Lessee is required to advise Lessor of intended storage of such materials before a lease is entered or extended. Lessee will schedule a pre-lease conference with Lessor to discuss the proposed storage, safety questions and compatibility of the proposed storage with adjoining land use; Lessee must furnish to Lessor copies of all permit applications, permits issued, denials of permits, and other actions on permit applications. Lessee whose use or storage of small quantities of hazardous materials is only incidental to business operations will be required to indemnify and save Lessor harmless from claims related to storage of such materials.

### 3. TERMS OF LEASES

3.01 PRINCIPLES GOVERNING RENT DETERMINATION. The following general principles govern rent determination by Lessor.

(a) Rent at Fair Market Value. Rent will be established at fair market value as agreed to by Lessor/Lessee and determined by a qualified appraiser or by competitive bid.

(b) Protection Against Inflation. Lessor will be protected against inflation by periodic revision of rent. Lessee will be protected against unforeseeable inflation by maximum rent revision limits.

(c) Predictability of Rent. Rent revision should be accomplished in a manner that permits Lessee to engage in reasonable business planning and provides sufficient predictability to facilitate financing of Lessee's activities.

(d) Recognition of Value Contributed by Lessee. Permanent value contributed by Lessee to Lessor's ownership interest (such as nondepreciable improvements) should be recognized through appropriate amortization methods, including but not limited to credits against rent. Depreciable structures ordinarily will not represent such value, as the Lessee will be expected to amortize the full value of such structures over the Lease Term.

### 3.02 DETERMINATION OF RENT.

(a) Establishment of Initial Rent. Initial rent will be established at fair market value as agreed to by Lessor/Lessee and determined by a qualified appraiser, or by competitive bid, at Lessor's option. The initial rent will be adjusted during the term of the lease in the manner specified and prenegotiated in the lease. The standard long-term ground lease is for a period of thirty-five (35) years. However, lease terms that extend beyond the thirty-five (35) year period may be negotiated.

(b) Rent Revision Parameters. The long-term master lease will incorporate the following parameters establishing upper and lower limits for revision of rent.

(i) Minimum Revised Rent ("Rent Floor"). The new rent established by the rent revision procedure for a particular period will not be less than the prior period rent period.

(ii) Maximum Revision Rate ("Rent Cap"). A percentage rate establishing a maximum rate of rent revision (rent cap) to apply at the time of each revision will be predetermined and incorporated in the long-term lease.

(iii) Rental Rate and Rent Caps. ARRC's Board of Directors will periodically review the rental rate and rent caps. The rental rate will remain constant throughout the original Lease Term and will be stated in the lease.

(c) Rent Revision Process.

(i) Appraisal. The rent will be revised at a minimum every five (5) years or as otherwise negotiated in the lease. Lessor shall obtain a fair market value appraisal from an independent qualified appraiser. Appraisal instructions for each reopen period will be defined in the master lease document. At the end of the original Lease Term, the property is to be appraised at the highest and best use compared with similar properties within the community.

(ii) Arbitration. An arbitration clause will be incorporated into the lease to provide an equitable means of resolving disputes concerning the appraised value of the premises. The arbitrator's decision with respect to a rent revision shall be final.

(iii) Determination of Fair Market Value Rent By Use of Fixed Rental Rate. The rental rate used for rent revision under a lease will remain fixed during the term of the lease and the same rate will be employed in connection with all revisions. The rental rate will be based on an independent study of relevant Alaska markets to be periodically commissioned by ARRC and reviewed by the ARRC Board of Directors. The revised rent will be determined by applying to the appraised value a percentage representing the general return or rental rate in effect for ARRC properties on the date the lease is executed.

3.03 RENT CREDITS. Rent credits or rental offsets may be negotiated PRIOR to the installation of certain nondepreciable improvements. Upon installation, these improvements immediately become the property of the Lessor and are to be considered in any future rent modification. Examples of nondepreciable improvements include, but are not limited to, excavation, backfill, and gravel.

3.04 EFFECTIVE DATE OF RENT ADJUSTMENTS. Until any increase in the original rent rate (called the "Base Rent") is determined, Lessee shall pay the same Base Rent as was applicable the previous year. When an adjustment of Base Rent has been determined and Lessee notified, such adjusted Base Rent as so determined shall be due and payable to Lessor, retroactive to the commencement of the lease year for which such rental adjustment is made, and any deficiency resulting from such rent adjustment shall be payable within thirty (30) days after the giving of such notice to Lessee. Lessee will be responsible for NO MORE THAN NINETY (90) days of unbilled retroactive rent at the increased level.

3.05 PUBLIC ENTITIES. As a public corporation, the Alaska Railroad Corporation is exempt from taxation by local governments. In recognition of the Alaska Railroad Corporation's position as a participating member within each host community, the Alaska Railroad Corporation may lease its lands to the State and its political subdivisions at less than fair market value. Specific requests will be negotiated on a case-by-case basis. (The Alaska Railroad Corporation will also institute a fee-use permit system for municipalities for various kinds of land use that do not require leases. This program is not covered by this policy.)

3.06 TAXES AND ASSESSMENTS. Lessee will (a) pay all taxes on Lessee's improvements directly to the taxing authority, and (b) all assessments agreed to in the lease. The benefits of assessments not agreed to in the lease for public improvements levied against the property shall be paid for by Lessor.

3.07 INDEMNIFICATION AND LIABILITY INSURANCE.

(a) Indemnification. Lessee will be required to defend, and hold Lessor harmless against all liability, damages, costs, losses, and expenses arising out of Lessee's use or occupancy of the Premises.

(b) Liability Insurance. Lessee will, at his own expense, obtain and maintain in effect, during the whole of the Lease Term, comprehensive general liability insurance in respect to the leased premises, under policies naming Lessor as additional assureds, issued by an insurance company authorized to do business in Alaska with minimum limits of not less than the amounts specified by Lessor. Satisfactory evidence of insurance will be furnished to the Lessor prior to the execution of the lease. This evidence will provide for thirty (30) days prior notice to Lessor of any written cancellation, nonrenewal, or material change in the policy.

3.08 TRACKAGE.

(a) Use of Lessee-Owned Trackage. A separate, standard form of track agreement will cover the installation, maintenance, and operation of trackage.

(b) Use of Lessor-Owned Trackage. Where Lessee desires use of Lessor-owned trackage, the lease form will provide such rights. Use of Lessor-owned trackage may be restricted to the extent Lessor deems necessary. The rental rate will be a standard, system-wide charge which may be revised by Lessor, from time to time. The current charge is \$6.00 per track foot, per annum.

3.09 ENVIRONMENTAL AND OTHER LAWS AND REGULATIONS. Lessee, at its own expense, will comply with all laws, regulations, rules and orders applicable to its property and operations, regardless of when they become or became effective, including, without limitation, those relating to health, safety, noise, environmental protection, waste disposal, and water and air quality.

Should any discharge, leakage, spillage, emission, and pollution of any type occur upon or from the premises due to Lessee's own use and occupancy including subleasing and uses by others, Lessee, at its expense, will be obligated to clean the premises to the satisfaction of Lessor and any governmental body having jurisdiction thereover.

(Note:—Lessor's ENVIRONMENTAL POLICY prohibits new leases for gasoline service stations or assignment of existing service station leases from the present Lessee to a third party having a substantially lesser net worth. Use of underground storage tanks for any purpose requires Lessor's specific approval. Oil and gasoline bulk plant leases will be written with Lessor's commercial lease indemnity and insurance provisions.)

3.10 USE OF PREMISES. Lessee's failure to commence use of the premises for the purposes specified in the Lease, or discontinuance of such use for a period to be specified in the lease, will constitute an event of default.

3.11 SUBORDINATION. Lessor will not agree to subordinate its legal title to land; however, Lessee may assign the lease to an institutional lender as security for a loan to finance development, subject to the provisions of Paragraph 3.14.

3.12 ASSIGNMENT. Assignment of the Leased Premises for any reason will require Lessor's prior written consent. Lessor will consent to an assignment only when Lessor is satisfied that Lessor's interests will not be adversely affected. Requests for consent to assignment of the Lease are to include the proposed assignee's current and complete financial statement as prepared by a certified public accountant in accordance with generally accepted accounting principles or the prior two (2) years' tax returns. An administrative fee will be charged by the ARRC to cover the cost of processing a request for assignment. The financial considerations of the assignment need not be disclosed to the ARRC. Approval of assignment will not be unreasonably withheld by the ARRC.

3.13 SUBLEASING. Lessor's written consent to a sublease is required before the Lessee enters the sublease. Copies of any sublease approved must be filed with Lessor and will be subject to the terms of the Master Lease relating to the terms and subleases. Any financial considerations can be "blocked out" by the Lessee and is not required to be disclosed to the ARRC.

3.14 OWNERSHIP OF SUBSURFACE IMPROVEMENTS. Tenant improvements to the subsurface estate, including excavation and backfill, become the property of Lessor upon installation and will be considered in all future rental modifications. Rental credits or offsets may be negotiated for certain nondepreciable improvements in accordance with Paragraph 3.03, above. Means and methods of construction must be of mutual benefit to Lessee and Lessor; for example, the economics of excavation and fill may be weighed against the economics of alternative piling construction methods. The type of improvement and method of installation must be approved by Lessor in advance.

3.15 REMOVAL AND OWNERSHIP OF ABOVE-SURFACE IMPROVEMENTS. Ownership of such above-surface improvements at the end of the Lease Term will be governed by the terms of the lease. The appropriate disposition of above-surface improvements as specified in the lease at the end of the Lease Term will depend on the circumstances surrounding a particular lease, including the length of the lease, the nature and value of the improvement contributed by the Lessee, the likelihood that the Lease will be renewed, and Lessor's assessment of the best use of the property following the expiration of the Lease.

3.16 LESSEE'S OBLIGATIONS WITH RESPECT TO IMPROVEMENTS. The Lessee will agree not to remove, destroy, waste or substantially modify improvements on the Premises without Lessor's prior written authorization. This policy is intended to protect the Lessor's security interest in the improvements on the Premises and to enhance land-use planning. Approval of improvements will not be unreasonably withheld by ARRC.

#### 4. REPLACEMENT OF CERTAIN EXISTING LEASES

The Alaska Railroad Corporation will honor the binding terms of existing leases it acquired from the Federal Government. However, it is the policy of the Alaska Railroad Corporation, to the extent feasible, to bring existing leaseholds under the new standard long-term lease reflecting the principles set forth in this statement. This policy is adopted to implement the legislature's determination that fair market value should be obtained for leases, to make the administration of the leasing program more efficient and equitable as a whole, to promote uniformity, and to eliminate unnecessary controversy and uncertainty concerning the terms of leases issued by the

Federal Government before the sale of The Alaska Railroad to the State of Alaska. To implement this policy, the following actions, among others, will be taken:

(a) If a Lessee desires extension of a Lease Term, and Lessor is agreeable to such extension, the existing lease will be terminated and a new lease consistent with this policy statement will be issued.

(b) If Lessee desires to change the area under lease by increasing or decreasing acreage, and Lessor is agreeable to such change, the existing lease will be terminated and a new lease consistent with this policy statement will be issued.

(c) All existing leases containing a provision allowing Lessor to terminate a lease upon ninety (90) days notice will be terminated after providing the required notice to the Lessee, and, at the time notice of termination is given, Lessor will offer Lessee an opportunity to enter a new lease consistent with this policy statement.

(d) Existing Lessees, at their option, will be given the opportunity to terminate their current leases and enter into the new Alaska Railroad Corporation long-term lease contract.

In appropriate cases, as determined by Lessor, an existing lease may be amended and restated, rather than replaced, by substitution of terms consistent with this policy statement. For example, Lessor will offer Lessee an amended lease in lieu of a new lease in cases where termination of the existing lease would cause the Lessee's note to become due and payable at the time of termination.

##### 5. RENEWAL OF LEASES

It is the policy of the Alaska Railroad Corporation to approve a Lessee's request for renewal of a lease made no less than six (6) months prior to the end of the Lease Term when:

(a) The Lessee has faithfully complied with the requirements of the existing Lease;

(b) The Lessee's continuing use of the property is consistent with surrounding land use, any relevant land-use or development plans of Lessor, and the highest and best use of the property; and

(c) Lessor does not require the property for Railroad purposes.

The rental terms and renewed leases will be adjusted to incorporate the then-prevailing fair market rental value and will include rent revision requirements, in accordance with

the lease policy and relevant provisions of law in effect at the time of renewal. To the extent terms of the existing lease are inconsistent with policy or law in effect at the end of the Lease Term, or are otherwise obsolete, the renewed lease will be modified to eliminate such inconsistent obsolete provisions.

6. REGULATORY AUTHORITY OF ALASKA RAILROAD CORPORATION

Under Section 390 of the Alaska Railroad Corporation Act (AS 42.40-390), the Board of Directors of the Alaska Railroad Corporation is given governmental authority to adopt exclusive rules governing use of Railroad lands by Lessees and others having interest in such lands. The terms of leases issued by the Alaska Railroad Corporation do not limit the Board's authority to adopt land-use rules governing activities on the leaseholds. Lessees will be given reasonable advance notice of any rule proposed to or under consideration by the Board that might affect activities on leasehold property or impose an obligation on Lessees.

The foregoing terms and conditions constitute, in part, guidelines and standards on which Lessor's long-term industrial lease is based. Many terms are not negotiable, and applicants are urged to study them very carefully. Please address all questions to Lessor's representative at the outset of negotiations:

Manager, Real Estate  
Alaska Railroad Corporation  
P.O. Box 107500  
421 West First Avenue, Ste 201  
Anchorage, AK 99510-7500  
(907) 265-2465 (telephone)  
(907) 265-2579 (fax)

ARRC Board Approved 09/30/86

Anchorage Caucus Minutes  
February 6, 1992

Mr. Robert Hatfield, President & CEO, Alaska Railroad Corporation: I come here today primarily to answer the questions of this Caucus, and I certainly appreciate the opportunity to be here to clarify those things that have been done and the direction that we're heading at the moment. I was favored with a copy of some questions that I know are foremost in the minds of several of you, and to the extent that they are answerable I'm in a position to try to answer those.

I think that many of us, including myself, are now seeing the first time the announcement that was in the paper this morning about the Board's action yesterday. Yesterday morning or yesterday afternoon the Board of Directors of the Alaska Railroad Corporation approved a resolution which authorized Railroad management to continue on negotiating with LoPatin to become the master developer of the Ship Creek Project. The basic tenet of the lease were set forth as an attachment to that resolution, and we are now charged with the responsibility of going forward and putting the legal language in place that will ultimately be approved by the Board for a second time. This is a similar step that we took with one of the other projects that we did earlier in the year so that we get a good sense of the Board and there are two opportunities for the Board to hear public comment before the lease is actually finalized and ok.

We are quite pleased with the depth of the capabilities of the LoPatin group and the vision that they seem willing to bring to the project. And, of course, as time goes forward their master plan will be presented to the Ship Creek Committee, which many of you know consists of Heather Flynn (Anchorage Assembly), Mayor Tom Fink, Ken Gain (AEDC), and Marvin Yetter (ARRC). In speaking of the Ship Creek Committee, I believe it was Monday or Tuesday, we met and reviewed the basic tenets of the lease and the response to some of the input. We changed some of the foundation of the lease and they in turn, will also have another opportunity to review this in subsequent meetings between now and the time the Board meets to actually ok and finalize the lease.

Because it's unclear to me exactly what each of you may be specifically interested in with regard to the Ship Creek Project, which I understand is the focus of this meeting, I don't know if it's limited to that or not. At this point, I'm ready to simply answer questions, if that's appropriate. Now that's not exactly what you had in mind, I know. So perhaps I'll just leave it back to you.

Sen. Collins: Did you plan to address the questions that were presented to you?

Hatfield: They appear to me to be an outline and I thought that in all probability that they would be asked again of individual Representatives or Senators, so I have no specific agenda myself.

Sen. Collins: What might be easier, in terms of focusing our questions and maybe be more efficient with our time, if you would address the questions that were posed to you at this time. And the members of the Caucus, after Mr. Barnett has made his statement, if they have any follow up questions they can ask them of you. So if you would please go through the questions, we'd appreciate it very much. I think that would help to focus the group.

Hatfield: Fine, I will do that. One of the things that would be most useful for me to do that would be to have a list of the questions.

*The first question is why were negotiations with Intergroup, the top ranked respondent to the RFP, severed? Did any negotiations actually occur? Were the Railroad's procurement regulations followed?*

The reason that we severed negotiations with Intergroup was because we felt that the proposals that had been put forth by Intergroup in our subsequent discussions and negotiations, that their proposal was far too expensive for the Railroad to undertake.

The first proposal indicated that the Railroad should take the entire Ship Creek property and make it available for development. We would then pay the Intergroup people a fee and I don't know if its important at the moment to go into specific number, I can certainly do that. But to pay Intergroup in excess of \$20,000 fee per month plus development fees and all the rest, and then share whatever profits were gained equally with Intergroup. We thought that was a little bit expensive and would probably subject us to severe criticism to using the assets of the Corporation in that regard.

We attempted to set up a basis for development that called for the Railroad in essence, paying a commission to Intergroup and that was of concern to the Ship Creek Committee, specifically those that we spoke to. We met with AEDC, they felt that the Railroad was then in the position of being the developer and would have too much at risk in that type of development.

We then sought to develop a fee proposal. The fee proposal that was brought about was a great deal more expensive than that. It required us to pay a fee similar for the first one plus some all of the overhead, the office fees, vehicles, and all the rest. We felt that with no commitment of any assets or any performance on the part of Intergroup. We felt that, and I said this earlier today as you were all getting a sense of me because I don't know many of you,

in the course of negotiations we get a sense of who our partner is to be and we felt that the need for such upfront funds were of some cause to us or gave us pause.

So what we did at the time was we convened the Ship Creek Committee, told them that we were in effect, suspending negotiations with Intergroup until such time as we went over to speak to the other respondent to the RFP, which was LoPatin, to see if we got similar circumstances and numbers from LoPatin. We negotiated with LoPatin back and forth for a period of time and subsequently came up with the foundation of the agreement that the Board authorized us to finalize, to put in final form yesterday.

I think it would be important for me to add that throughout the process that was designed to bring about a master developer for the Ship Creek development. It was contemplated all the way along that the Alaska Railroad would be responsible for negotiation of the lease, the final master lease.

I think that was for two reasons. One, of course, it is Railroad land that is being considered, that makes us the ultimate equity holder if you will in the process. And the other is negotiations are difficult enough when two people are negotiating, when more than that are involved in negotiations they can become rather unfocused rather quickly.

We're pleased with the arrangement that we have with LoPatin, it certainly upon examination will not make us abundantly wealthy in the short term. Frankly, its a fairly based, I would say a needs based lease with some income coming to the Railroad for lease land, a very small amount with just about an equal amount of money going from the Railroad to the lease holder for their fees and services.

... I will quickly then say that our legal department has said that the situation that we have right now with LoPatin is in accordance with our procurement regulations.

I will quickly run through the basic tenants of the lease, if I may. The lead architect will be Helmoth, Obotto and Castlebaum (sp?). The management company that will manage the facilities is Ogden Corporation. They are the same people that manage the Egan Center and the Sullivan Arena. The effective date is open. This says Feb. 21, but obviously it will not be effective until such time as we have the final oks. The area includes the 120 gross acres. Those 60 that the Municipality of Anchorage has control of through a lease from us and the 60 upstream acres, the lease term is 5 years with two 35 year options. The base annual rent is \$1,000 per acre. The developer's incentive is such that the developer will receive a 5% fee for public amenity projects, one time only. And the rest will be those things that the developer can get from the buildings as they are put up. No fees will be

paid to the developer until such time that whatever it is that is built, gets a certificate of occupancy. There will be rent credits to the developer not to exceed \$150,000 per year. Those will only be for expenses, those are not going to be soft expenses such as individual's time. Those will only be hard expenses that can be deemed in compliance with Internal Revenue Code Section 195. Some of you may know frankly, you may know a lot more about Internal Revenue Code 195 than I do, but essentially it is only hard costs, development costs, travel related things. Directly related to the construction of the building. As far as the long-term annual rent, the Alaska Railroad Corporation will receive the minimum fair amount ground rents for each component. The Railroad will have a project by project option for an equity participation. Existing rents on two parcels that are over in the corner will be made available, will be assigned to LoPatin.

Our legal department has reviewed the agreement as it stands now and has approved it. The development agreement is to be completed by March 15, 1992. The general master plan to be completed by April 15, 1992.

This last paragraph that I'm going to read to you is important because we discussed this at length with the Ship Creek Committee earlier this week. This says intended use but we intend to have this language incorporated into the lease to give everybody a level of comfort. It says: The project will include the public amenities such as a world class aquarium or planetarium, highlighting the natural wonders of Alaska. Other likely uses include a petroleum visitor center, a conference center, tourist-orientated speciality shops, commercial offices, and a residential component. The development will carefully integrate current Alaska Railroad Corporation projects and the Ship Creek Point property. The intent and thrust of this master plan is not to reshuffle existing tenants but to develop new markets for both tourists and residents of Alaska. That will be in the lease.

*The time line for completion of negotiations?*

I think it would be prudent for me to read to you a copy of a memo that came to us yesterday from Ken Gain and it basically summarizes the understanding that we have with the Ship Creek Committee. Which again is Assemblymember Heather Flynn, Mayor Tom Fink, Marvin Yetter and Ken Gain.

As to what we decided the time line will be for closing this particular set of negotiations. This says: The suggested activities and approximate time frame to complete these activities are as follows: 1) Finalization of development and agreement between the Alaska Railroad and LoPatin - early March. 2) Meeting with LoPatin and Municipality Director of Public Works to review list of proposed improvements and hopefully reach agreement as soon as possible. 3) LoPatin will prepare a master plan for the project spelling

out development concepts in early to mid April. 4) Schedule of a presentation to interested legislators, Assemblymembers and other interested parties, approximately mid April. 5) After completion of items 1-5 above, sign off on the final agreement for distribution of the grant money, if that is deemed appropriate.

*Has LoPatin been "tentatively selected" as the master developer? If so, what are the major elements of the agreement?*

I think I've covered that, if you all agree. That they have, yes, then tentatively selected, subject to Board approval. And I've just, of course, read the basic components of the agreement.

*Will the proposal review committee, the AEDC Board, the Anchorage Assembly and the public have an opportunity to review the final proposal before the Railroad makes binding commitments?*

I've read to you the time line we have set up for that process.

*What are the specific elements (including mix and location of commercial, residential and public use areas) of the Ship Creek development plan proposed by LoPatin? How many and which acres are included in the LoPatin plan?*

The first part, I've summarized in the final paragraph of the pillar. If that is good enough for the moment, for the purposes of my statement right now, I would go on to say then that the acreage that is to be included comprises the gross acreage. The 60 acres, the upstream portion of the Railroad's property that is south of Ship Creek and the 60 acres that includes that portion of the Railroad's land that is leased to the Municipality. It does not include those portions of the Ship Creek Point that have the boat dock and other amenities that were put out there a few years ago by the Municipality.

*What equity investment will LoPatin make in the project? What parties will share the "upside risk" in the project, and in what proportions?*

LoPatin will take an equity position in each of the projects that is developed down there. How much, I think, is going to end up, of course, being subject to how strong they feel the project is and how many investors they can bring to the table. That will be a typical investment decision that would be made by any business person. As I've said, it may very well be that if it's appropriate that the Alaska Railroad Corporation might take an equity position if its appropriate.

The "upside risk" in the project, I don't know what "upside risk" is. Upside usually says good, and risk I'm not sure what that means. But as far as the risk is concerned, it is largely held by the developer. Cash risk. The cash at risk will be that of the developer. Obviously the real estate that's at risk is ours. But if the developments fail, they then because it's on lease property, the lease improvements become the first call of the Railroad. All of our leases are structured in that way.

*What prior experience has LoPatin had with similar development projects? What is the size and reputation of the company?*

I only have a couple of these and I'll pass them out later. They're brochures. Frankly a brochure tells you what the brochure author would like you to read. But LoPatin has been in business for 40 years. They've built some very large buildings and projects, raceways in Michigan. They've been involved, built and developed the Riverside Raceway in California. Buildings in several locations around the world. We feel that they have not only the deep pockets but deep experience enough to come to this development and bring with them the types of amenities that we want to see in place. I think it's important to add that they have been chosen in processes much like this for several projects around the country. Not all of them are underway. Some of them have been held up because of environmental reasons or other legislative or municipal reasons. But nevertheless, in a competitive bidding process, they have been selected the developer. Most of their work has been done in the Michigan area, which does include some cold climate experience as well.

*Does the LoPatin proposal depend upon the availability of the \$5.5 million state appropriation or future appropriations? Have private sector investments equal to or exceeding \$5.5 million been obtained?*

Does our arrangement with LoPatin specifically depend on the \$5.5 million? I think not. Would it be important to further the development of the property? I think it is.

Have private sector investments equal to or exceeding \$5.5 million in place? As you know there are several projects that are currently underway down there at Ship Creek. One is a joint venture with the Alaska Railroad, the other are facilities the Railroad has cause to have built. And there is a restaurant and a brew pub and a number of other things. Those are appropriate to count when we have the other investment in place.

*Does the project as now conceived deviate from the original scope of the project as presented to the Legislature in support of the \$5.5 million state appropriation?*

We think it does. It brings to the project every element that was originally conceived by the original appropriation.

*Exactly what land is to be traded for what land? Why is a land trade deemed necessary or desirable at this time? How does the trade effect ongoing negotiations to secure a master developer for the project? If the trade is not completed, will the waterfront acreage be included in the master developer's plan?*

Many of you are probably very well aware that the Municipality of Anchorage has a lease from the Railroad for 60 gross acres of land and that includes land that needs to be filled in order to be constructible. That lease calls for payments of \$300,000 to be made to the Railroad starting in 1997. What the land that's swapped proposal calls for is the land at Ship Creek Point other than that land that has been improved. As I understand it, about \$12 million has been spent to build a boat dock out on the Point and some fill in the parking area. That is not included in the land swap. That remains with the Municipality. The net remaining land is to be swapped for 98 acres that is north of the Point. It is largely tide lands that the Port of Anchorage wants for further expansion. Another component of the land swap is because the Railroad will in essence be forsaking \$300,000 per year in projected income, we also will be exchanging (and these are lease exchanges by the way, not actual title exchanges). The Railroad will get a lease for 25 acres of municipal land that is off of Reeve Blvd. So if everybody is with me on that. That is the basis of the land that is being swapped. Why is the land trade deemed necessary or desirable at this time? Quite simply it's easier to develop the property and make commitments when you know exactly what the ownership situation is with one parcel of land vis-a-vis the next.

*How does the trade effect ongoing negotiations to secure a master developer for the project?*

It obviously is of importance to us to have the land swap. We did not or could not assume that it was going to take place, which is why the way we originally spoke to, until we met with the Ship Creek Committee the other day, our original discussions were to set up a lease for that land that the Railroad could commit a lease to with an option to include the 60 acres that were in the control of the Municipality. It was contemplated all along that the 60 municipal-controlled acres could be or would be included in the lease, if under that circumstance the Municipality was willing to commit to the inclusion of that property.

*If the trade is not completed, will the waterfront acreage be included in the master developer's plan?*

The answer to that question is, for the most part, yes. We have contemplated that, I go back to what I just said, it was an option available or built into the lease so that they would be or could be included in the event that that's what the Municipality wanted to do.

*Under the land trade proposal being considered, would the Railroad gain control of the acreage at the Ship Creek Point where about \$12 million of public money (local G.O. bonds) has been spent on improvements?*

No. I think I already the next question.

*Does the Railroad view itself as a financial "developer" that will make equity investments and shoulder the resulting risks? Will the Railroad assume this role in the Ship Creek development?*

I don't mind having a small equity piece in these types of developments. There are two reasons for that. One, it's the fact that if the Railroad has a small equity piece, we don't want a majority of anything, and I'm thinking more in terms of 10% or less of an equity piece. It does two things. One, it affords us the opportunity to increase our lease otherwise lease income which is of benefit not only to the Railroad but also benefits the community in other ways. The other thing is when you're going out or when folks are going out for financing for a project, they feel a heck of a lot better when there are more than one equity holder in the project. When the land holder actually has an equity position and the land holder believes in the project enough to invest some money in it then it does give the financiers a little bit more of a level of comfort that this is a project that has some support.

The risk that we would be shouldering under that circumstance would be merely that that we would be contributing to the equity. And of course, as an example, if we had a 10% share we would share also equally, we would share 10% of whatever the failure might be as well. And that comes right along with the positive, unfortunately.

*Will the Railroad assume the developer's role in the Ship Creek development?*

No. We don't intend for the Railroad to shoulder the development role. We intend for the developer to shoulder the developer role. That's why we got them.

*What efforts, if any, has the Railroad made to avoid undue competition with the private sector? Does the Railroad think this is a problem?*

The efforts that we've made to avoid competing unfairly, which is really the issue of the private sector, are fairly easy to document. The most visible example of this was what I refer to as our hotel adventure down in Ship Creek. This is where we took the net present value of a 35 year lease and applied that as equity towards the operation, construction and ownership of the hotel. As partners, in the joint venture, that is building and operating this hotel, will pay all applicable taxes. That includes the bed tax and it also includes property taxes. Our performance figure that we will pay is something just short of \$200,000 in taxes in the first year. And roughly \$240,000 in taxes of various types in years thereafter. All taxes that should be paid to the federal government or anybody else that's involved will be paid before the Railroad gets any share, that we hope will be substantial, of income from the hotel operation.

We are borrowing money. The Railroad has an opportunity to borrow money at pretty attractive rates because of the financial soundness of the organization. We are borrowing money for this particular project, the partnership is borrowing its mortgage money at 9 1/2 %. I just shopped for a mortgage and I did better than that.

What I'm trying to communicate here is that we did not use any leverage that we might have to bring a lower operating cost for the project to the project.

Yes, obviously, should the project fail the faith and credit of the Alaska Railroad Corporation is on the line. Obviously that gives the lender a level of comfort that may not otherwise be there. But, that is something that frankly we're somewhat proud of, it's something we can bring to bear because of the way the property has been managed since transfer. But, the money that we're borrowing is at market rates from a market institution.

Further, I know it was a topic of some discussion for which I probably should take more responsibility that some recognize, was our effort to be included in the RFP for the city hall. The only reason I bring up that topic again, is to say that we had baked into our figures for the city hall a fair market lease of \$180,000 a year for the property. I probably shouldn't have said that number. But anyway, for the property, so as to be sure that, and we had intended to sell that project or turn it over to a developer. The time line that was in play for the RFP for city hall mandated that we start before we can turn it over to a developer. But it was our intent to turn it over to a developer to do. And in order to do that, obviously, we couldn't make it so tight that the developer would not be interested. So we had baked in the fair market value of the lease.

I tell you these things only because we do, we think that we're very sensitive to the issue of competing unfairly in the market place. We think we do a responsible job of operating our transportation company without being predatory as the term of the transportation industry. We take very little advantage of our situation, well, not little, we don't take any advantage of the situation. Rates, probably many of you know in the transportation industry, are dictated by the market. Our track record there is quite good.

*Does the Railroad view its lands as publicly-owned lands that should be managed in accordance with principals of public land management (e.g., opportunity for public comment on proposed actions)?*

Good question. The Railroad and its Board of Directors, its management and ultimately its Board of Directors is charged with the responsible management of the real estate assets of the Alaska Railroad Corporation.

In the course of any lease real estate activity that we set forth, and I believe the State Constitution also has a play in this, there is a recognized structure for public announcement of the lease. There is, I think, a 15-day (I hope I'm correct, it's at least 15 but it may be more) of holding period for public comment. No lease in excess of 3 years without the blessing of the Board of Directors and public comment to the Board, and I can tell you when the Board of Directors is approached on the basis of a lease, they do react. Some have been changed some have been expanded. It's not a rubber stamp process.

We also, of course, are subject to as anyone else is, planning and zoning processes in the various municipalities. Permitting is another thing that we all have the privilege of going through and that is a long arduous process, as many of you know. In the development of our land we not only do we have the public process involved in comment but we also have to go through the same sorts of requirements or regulations as any private land owner does for land development.

*Has the Railroad's legal counsel determined that corporation is exempt from local bed taxes under AS 42.40.910?*

Let me put that one in context. There was a letter that was written, I believe to a motel to Fairbanks, some months ago that offered an opinion by our people that the Railroad crews, when they were staying at what we call the away from home terminal (these are locomotive engineers, conductors, maintenance, others), when they were at their away from home terminal, that the Railroad was not subject to a bed tax for those people while they were working for the Alaska Railroad. It had absolutely nothing to do with our hotel down at Ship Creek. As I mentioned earlier the hotel at Ship Creek will

pay (I think it's \$8) for bed tax for every guest that stays in the hotel. So we have determined that when it's a hotel business that we do pay it. If you're going to ask me to the answer to the other one, I'm afraid I don't know how that turned out. Thank you for your help.

Sen. Collins: I appreciate you going through the questions on an item by item basis. Probably by doing so, have answered many of the questions that members of the Caucus had.

Jim Barnett (from Anchorage): Jim Kubitz (Assembly), Vivian Hamilton (ARI C), Rhonda Roberts (Sen. Rodey) and Jerry McCutcheon are present in Anchorage. Thank you for convening this meeting. I'm sure it's been very productive. ... We understand the land trade will be before the Assembly by mid March... The key to the thing, I guess I'd recommend to the Legislature that the Railroad and LoPatin work with the Legislature and the Assembly on the deal as it progresses to ensure that there is a long-term developed agreement for the whole 120 acres. That \$5.5 million is proposed to be spent -- to that plan. I think if those things are done, the Assembly will be quite satisfied with the project...

Rep. Brown: My question is for Mr. Hatfield and it goes to the sequence of events that we can anticipate happening this spring. It's my understanding from our discussion earlier today as well as from the material that's in the newspaper that it is the plan of the Railroad Board to finalize a land lease in mid March. My concern, sir, is that the master plan concept that we thought we'd be getting as part of the original RFP will not yet have been prepared until after we've made this binding commitment with the bidder.

As I shared with you earlier, representing neighborhoods around this area, we are quite concerned about the specifics of what this proposed development is going to look like. I think it's entirely reasonable that we see something more definite before a final commitment is made to proceed with this.

My question is why are we not insisting that the winning bidder prepare a conceptual master plan as the RFP required before a commitment is made to them?

Hatfield: This was a scenario, a time line, that was approved by the Ship Creek Committee. There was a level of comfort among all of them that there would be enough specificity in the lease. Because as I've said we were going to include in the lease language some specificity about the types of things that would be developed and all the rest. That there would be a level of comfort

with that master plan. I think it was contemplated all the way along that in order for the real commitment, the release of the appropriated money, the Ship Creek Committee would have to approve of the master plan.

I cannot sit here and unilaterally change that. I suspect that the developer will say, fine if you want to wait until April 30 to sign your lease go ahead. I cannot say that, that was not what was developed, that was not what we said. As the four entities agree as to what they'd do. So I can't unilaterally change it. The reasons were I'm sure that the developer, to put in a real bona fide master plan is expensive. It's more that just taking a drawing and putting things on it. It has a good deal more that goes with it. I'm not sure how they would react to a change. I think everybody's comfortable enough with one another so that we could do that. I cannot make that unilateral change. Obviously we can discuss it with the committee and see what happens.

Sen. Pearce: Mr. Hatfield, in this morning's *Anchorage Times*, which I've suspect you've seen, there was an editorial about the legislators leaving the Railroad alone. They took a few shots at us as they often do. But the timing of these editorials has been quite interesting. Each time the Legislature has had a meeting scheduled to talk about the Ship Creek and the Railroad, there's been an editorial. The last paragraph kind of interests me, it once again brings up the idea of selling the Railroad, which as the Times says they think they out to do. Frankly, over past years I've always kind of thought so too. Before your tenure the Alaska Railroad were the ones to come to the Legislature and ask us to change the legislation. The Statutes of 1988 and delete the requirement that the Railroad actually be put up for sale. Has there been a change in the policy by the Railroad Board? Is the Railroad now interested in becoming completely autonomous and being sold by the State?

Hatfield: First, I have not seen that editorial until Representative Brown showed it to me this morning. .... As far as the Railroad being sold is concerned, as I understand it the requirement that a formal report be made to the Legislature was such that in order to do that in a bona fide way, it's very expensive. You've got to get investment bankers in. You have to have virtually every bit of your assets appraised and audited and all the rest. It costs probably, to do that right (I've been involved in the sale of a railroad) about \$500,000 a year.

Does the Governor have any point of view about the sale of the Railroad? I'm certainly in no position to answer that question. I don't know.

Would the Board of Directors entertain an effort to sell the Railroad? First of all, we're legally required to do it. We're legally required to report any offer of sale or purchase to the Legislature. Yes, we would bring it to the Board and immediately it would be communicated to you all.

I'm not sure, Senator Pearce, if I'm answering your question. Should the Railroad be sold? I don't know. That's not my decision to make. I have an opinion that as such I think it would be difficult (tape change) to work a sale through with as much public interest that there is in the Railroad. I'm not sure that the people really would want to have it sold. If they do, it wouldn't surprise me if the employees stood up to buy it.

It's a very broad question and it's difficult for me to answer it because I haven't really been exposed to that effort as some had in the part of the state ownership. I hope I answered your question.

Rep. Ellis: Mr. Hatfield you gave an explanation earlier in your comments about what came to pass in dropping the one respondent. From my reading of the points scored by the Committee was vastly superior to the developer that you've now settled on. You gave something of an explanation there. From people that are close to the project and have been following this closely, we've appropriated the money with the concept of a master developer, the entire 120 acres down there. Things were moving forward. You had that concept and that fit very well with our goals of having the private sector incentives involved in this. Private risks taking involved in making this project go.

Then the Railroad got the idea of wanting to be the developer. Whether you believe that's the case or not, that's what everyone tells us. That you all felt that you could develop the land and you weren't interested in going with the master developer concept.

Now after Intergroup has dropped, you're back to the master developer concept with the second respondent that appears to be, I mean, didn't stake up well in the point scoring. I guess I would ask you how you got through that. We're glad that you're back to the master developer concept because the right incentives are built into this project to make it go. I've never thought government agencies did a very good job of economic development, left to their own devices. When you have the private sector, that things have a better chance of working out successfully. I guess I won't ask for your comment on that unless you care to make it about how you went through that process. It looked like a way to drop Intergroup and to go with LoPatin.

Now the second part of my question is what do you really know about LoPatin? You have the brochure there that I'm interested in looking at. But I'm wondering if you or the Board have personally looked into the background of this developer?

Hatfield: Let me try to answer both of your questions in order. The negotiations with Intergroup, the first proposal was financially unworkable. We were trying to figure out a way to make Intergroup work, which is what brought us to the commission aspect that everybody said wouldn't fly as far as the development of the property was concerned because that would have in essence made the Railroad the developer. So we backed away from that. Then we went to another concept. Frankly, there were a number of things that concerned us and the details probably discussed in a smaller group. But they were so expensive and so weighted towards Intergroup with the Railroad having little or no benefit for many years to come, we worried about the motives that were driving the developer.

The next question was what do we really know about LoPatin? We have interviewed them, the Board of Directors, our Chairman, has interviewed them in the Lower 48. We know that they have worked with the Hyatt Group and they check out alright over there. We've done the cursory checks that tell us that the projects they have done or have been assigned to have all been in large part, first rate projects. We are also subjecting them to the same sort of scrutiny, background check and all the rest that we did with Intergroup. It's not done yet. We're not going to sign the lease until it is. But they are undergoing the same kind of checks and if we find a problem, then we an't going to sign up with them.

Rep. Ellis: In closing, I just encourage you to look at their resume and find out about if what they say in the resume is true. Because if it's not, you're going to have a blowup on your hands, in the media, among all the people concerned about this project being successful. So please check it out.

Hatfield: We'll do that.

Rep. Brown: I just wanted to bring up the \$5.5 million in private matching investment that is supposed to be there as a condition of the \$5.5 million state appropriation. I understood you to say that you are counting the Railroad headquarters and the Railroad hotel as part of that. Are you going to have new, different commitments other than things the Railroad is doing? The brew pub, of course, was part of the first \$2.5 million (state money) and shouldn't be counted either. At least, that was my understanding that we were looking for new equity investment coming in, not counting things the Railroad itself was doing. Could you clarify that?

Hatfield: Well, there has been in the last 12-14 months about \$30 million worth of construction down there in Ship Creek. As far as we're concerned, what does or does not count is in the eye of the beholder. If the Railroad headquarters is not counted, there's still ample to trigger the matching funds. If, on the other hand, if that work that has been brought into the Ship Creek development, which frankly, we've worked hard to do some of that, if that doesn't count, then it may be that the \$5.5 million cannot be committed. Because there is nothing on the horizon from any developer that would have that in by April 30. But it was our understanding that the Ship Creek Committee had come up with a list of the projects that met the prerequisites of the legislative group. I'm sorry, I just don't have that list in front of me. Everybody had agreed that those projects would be included.

Rep. Brown: Well I think we'll need to have some more discussion on that point and review of the record.

Sen. Collins adjourned the meeting.

# News Release

Alaska Legislature  
P.O. Box V  
Juneau, AK  
99811-3100



For Information Contact:  
Rep. Kay Brown  
D-Anchorage  
(907) 465-4998

For Immediate Release

Representative Kay Brown

Feb. 3, 1992

## Brown's Railroad Bill Calls For Local Government Involvement

JUNEAU, Alaska -- Local governments would have to approve commercial development proposals on land owned by the Alaska Railroad under a bill introduced in the State House Monday.

HB 439 would require the state-owned Alaska Railroad to obtain from the local governing body a finding that a proposed commercial development will not unreasonably compete with existing private businesses and is in the best interest of the people of the area.

HB 439 is sponsored by Rep. Kay Brown, D-Anchorage.

"Railroad land is public land, and the public should have a say in what kind of development will occur there," Brown said. "Local interests must be represented in these decisions. Local government involvement is essential to ensure that local concerns are addressed."

Concerns have expressed by the business community about activities of the Alaska Railroad that compete with the private sector, such as construction of a new Comfort Inn Hotel near Ship Creek in Anchorage.

The bill would not affect the Railroad's authority to develop its land for railroad transportation purposes.

HB 439 is co-sponsored by Representatives Johnny Ellis, Larry Baker, Gene Kubina, Dave Donley, Max Gruenberg, Bettye Davis, and Dave Choquette.



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Anchorage Daily News

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PUBLIC NOTICE

PROPOSAL TO LEASE

The Alaska Railroad Corporation proposes to execute a lease to Ship Crank Crossing Developers, Inc. of real property located within the Anchorage Recording District, Third Judicial District, State of Alaska, as described below:

An unshared parcel of land located within the Anchorage Recording District, Third Judicial District, State of Alaska and further described as follows:

beginning at the southeast corner of the abutment of the pedestrian bridge over Ship Creek and along the True Point of Beginning. Thence in a southerly direction to the northeast corner of Lot 21 on Warehouse Avenue; thence southwesterly along the north lot line common to Lots 22, 21 and 20 to the southwest corner of Lot 20; thence south along the west lot line of Lot 20 to the north lot line of Lot 2; thence west along the north lot line of Lot 2 to the northwest corner of Lot 2; thence south along the west lot line of Lot 2 to the north permit line for First Avenue; thence west along the north permit line of First Avenue to the southeast corner of 2400' Central Land Use Permit for Anchorage Cold Storage, ARRC Contract No. 6347; thence north along the east permit line of permit Contract No. 6347 to the north east corner of permit Contract No. 6347; thence west along the north permit line of Contract No. 6347 to the northwest corner of permit Contract No. 6347; thence north to a point 20 feet south and perpendicular to the ARRC mainline track; thence west 20 feet south and parallel to the ARRC mainline to a point adjacent to the point of switch for Team Track No. 1; thence north to a point 20 feet north and perpendicular to the ARRC mainline track; thence west 20 feet north and parallel to the mainline track to a point adjacent to the ARRC mainline track; thence west 20 feet north and parallel to the mainline track to the southeast corner for lease Contract 4270 to the southeast corner for lease Contract No. 4270; thence southeasterly along the southeast lease line for Contract No. 4270 to a point on the east lease line of ARRC lease Freightways Terminal, Contract No. 1464; thence south along the east lease line for lease Contract No. 1464 to the ARRC Terminal Reserve south boundary; thence west along the south boundary of the Terminal Reserve to a point 50 feet west and perpendicular to the ARRC mainline track; thence northeasterly 50 feet west and parallel to the ARRC freight main track to the southwest corner of Track A of the Ship Creek Terminal Subdivision; thence northeasterly along the southwesterly boundary of Track A approximately 775 feet; thence northeasterly

to a point on the northeasterly boundary of Track A; thence southeasterly along the north boundary of Track A approximately 1,230 feet to the northeasterly corner of Track B; thence along Track B 48' 2 1/2" W, 247.42 feet to a point on the south bank of Ship Creek; thence along Track B S 44° 54' 44" E, 407.49 feet to a point 50 feet north and perpendicular to the ARRC freight main track; thence perpendicular to the ARRC freight main track and the north lot line of Lot 2; thence east along the north lot line of Lot 2 to the south bank of Ship Creek; thence northeasterly easterly along the normal high water mark of the south bank of Ship Creek to the True Point of Beginning at the east line of the south abutment of the pedestrian bridge across Ship Creek.

This file (excluding privileged or proprietary information) is available for inspection during regular business hours, Monday through Friday, at the office of the Manager of Real Estate, Alaska Railroad Corporation, 421 West First Avenue, Suite 201, Anchorage, Alaska. Comments may be submitted in writing to Manager, Real Estate, P.O. Box 107500, Anchorage, Alaska 99510-7500 and must be submitted on or before March 23, 1992. Questions may be directed to Manager of Real Estate

Dated March 6, 7, 8, 1992

79 99

## PUBLIC NOTICE

## PROPOSAL TO LEASE

The Alaska Railroad Corporation proposes to execute a lease to Ship Creek Crossings Developers, Inc. of real property located within the Anchorage Recording District, Third Judicial District, State of Alaska, as described below:

An uncutdivided parcel of land located within the Alaska Railroad Anchorage Terminal Reserve within Section 18, Township 13 North, Range 3 West, Seward Meridian situated in the Anchorage Recording District, Third Judicial District, state of Alaska and further described as follows:

Beginning at the centerline of the south abutment of the pedestrian bridge over Ship Creek and being the True Point of Beginning. Thence in a southerly direction to the northeast corner of Lot 33 on Warehouse Avenue; thence southwesterly along the north lot lines common to Lots 32, 31 and 30 to the northwest corner of Lot 30; thence south along the west lot line of Lot 30 to the north lot line of Lot 2; thence west along the north lot line of Lot 2 to the northwest corner of Lot 2; thence south along the west lot line of Lot 2 to the north permit line for First Avenue; thence west along the north permit line of First Avenue to the southeast corner of ARRC Special Land Use Permit to Anchorage Cold Storage, ARRC CONTRACT NO. 6347; thence north along the east permit line of permit Contract No. 6347 to the northeast corner of permit contract No. 6347; thence west along the north permit line of Contract No. 6347 to the northwest corner of permit Contract No. 6347; thence north to a point 20 feet south and perpendicular to the ARRC mainline track; thence west 20 feet south and parallel to the ARRC mainline to a point adjacent to the point of switch for Team Track No. 1; thence north to a point 20 feet north and perpendicular to the ARRC mainline track; thence west 20 feet north and parallel to the mainline track to a point on line with the ARRC lease to Dresser Industries, ARRC Contract No. 4270, east lease line; thence south along the east lease line for lease Contract No. 4270 to the southeast corner for lease Contract No. 4270; thence southeasterly along the southeast lease line for Contract No. 4270 to a point on the east lease line of ARRC lease to Freightways Terminal, Contract No. 1664; thence south along the east lease line for lease Contract No. 1664 to the ARRC Terminal Reserve south boundary; thence west along the

south boundary of the Terminal Reserve to a point 50 feet west and perpendicular to the ARRC mainline track; thence approximately 50 feet west and parallel to the ARRC freight main track to the southeast corner of Track A of the Ship Creek Point Subdivision; thence northwesterly along the southwesterly boundary of Track A approximately 775 feet; thence northeasterly across Track A and Track B approximately 1,000 feet to a point on the northeasterly boundary of Track B; thence southeasterly along the north boundary of Track B approximately 1,200 feet to the northeasterly corner of Track B; thence along Track B, S 18° 49' 27" W, 447.65 feet to a point on the south bank of Ship Creek; thence along Track B, S 44° 51' 41" E, 407.40 feet to a point 50 feet north and perpendicular to the ARRC freight main track; thence south to a point 50 feet south and perpendicular to the ARRC freight main track and the normal high water mark of the south bank of Ship Creek; thence meandering easterly along the normal high water mark of the south bank of Ship Creek to the True Point of Beginning at the centerline of the south abutment of the pedestrian bridge across Ship Creek.

This file (excluding privileged or proprietary information) is available for inspection during regular business hours, Monday through Friday, at the office of the Manager of Real Estate, Alaska Railroad Corporation, 421 West First Avenue, Suite 201, Anchorage, Alaska. Comments may be submitted in writing to Manager, Real Estate, P.O. Box 107500, Anchorage, Alaska 99510-7500 and must be submitted on or before March 31, 1992. Questions may be directed to Manager of Real Estate at 265-2465.

Pub: March 6, 7 & 8, 1992

# ALASKA RAILROAD CORPORATION



P.O. Box 107500 • Anchorage, Alaska 99510-7500

FACSIMILE COVER SHEET

FAX" (907) 265-2595

TO:

Rosemary  
Rep. Kay Brown's Office

FROM:

Bill Oldham

Real Estate Department  
Alaska Railroad Corporation

DATE:

3-17-92

NUMBER OF PAGES (including cover sheet):

3

If you have any questions/problems with transmittal, please call (907) 265-2465.

OPERATOR:

K. Lewis

## Ship Creek project goes to LoPatin

By IMRE NEMETH  
TIMES BUSINESS WRITER

The Alaska Railroad Corp.'s board of directors on Wednesday approved Michigan-based LoPatin & Co. as the master developer for an envisioned \$250 million tourist/office complex on the banks of Ship Creek.

The real estate deal, possibly Anchorage's most ambitious, is designed to transform a former industrial yard just north of downtown into the city's hottest attraction. Officials say the development could include an aquarium, planetarium, shops, restaurants, office buildings and a brewery.

"LoPatin & Co. is an excellent company, and I think they'll do an excellent job with Ship Creek," said Loren H. Lounsbury, chairman of the railroad board. He said he was satisfied with LoPatin's presentation to the board Wednesday.

The project and the LoPatin selection largely met with approval from city leaders, though many wanted more details than

either the railroad or Southfield, Mich.-based LoPatin were willing to reveal.

LoPatin's vision of Ship Creek also must clear the Anchorage Economic Development Corp.'s board of directors before a \$5.3-million legislative appropriation for roadways and other improvements can be released. The money is tagged for road improvements integral to the project.

"We all want this to happen," said Tennyis Owens, an AEDC board member and owner of Artique Ltd. of Anchorage. "It's just how it will happen" that is at question.

LoPatin's plan must pass three requirements set forth by the AEDC board. It must have potential for tapping new tourism markets, integrate the city's water-



LoPatin

See LoPatin, back page

## LoPatin

Continued from page A1

front into its plans and create overall economic development for Anchorage, Owens said.

Also pending is a bill sponsored by state Rep. Kay Brown, D-Anchorage, that would require all commercial railroad real estate development to be approved by local governments. In the case of Ship Creek, approval of railroad projects would be granted by the Anchorage Assembly.

Brown said her bill is not envisioned as an obstacle to Ship Creek development, but more as a formula for "getting (the project) back on track." She said she wants the project to succeed and plans to question Robert S. Hatfield Jr., the railroad's president and chief executive, when he meets with Anchorage legislators today in Juneau.

"We're still in the 'let-us-find-what's-going-on' frame of mind," she said.

Vivian Hamilton, railroad spokeswoman, said LoPatin's plans for the 120-acre parcel of railroad-owned land would not be revealed until the board approves a final Ship Creek land lease at its next meeting in March. She said the master plan, including various details and names of companies to be included in the development, is expected to be unveiled by LoPatin in early April.

Lounsbury said LoPatin will begin working on its master plan as soon as the lease is signed.

LoPatin has agreed to lease 62 acres of developable land for \$1,000 per month, or about \$750,000 a year, as soon as the lease is signed, she said. About 58 acres of railroad land is wetlands or is already being used for new railroad projects not associated with the master developer.

Sixty of the 120 acres are now being leased from the railroad by the city.

Ongoing projects include the state-owned railroad's new \$5-million headquarters building, a

\$6-million Comfort Inn, both under construction, and a brewery scheduled this spring to break ground by Anchorage entrepreneur Mark Wilson.

Lease payments on the Ship Creek land would revert to "fair market value" when a certificate of occupancy is issued for each particular building completed in the project, Hamilton said.

Recent meetings with Mayor Tom Fink and Anchorage Assembly members convinced the railroad board to include the 60 acres leased by the city in LoPatin's lease, she said.

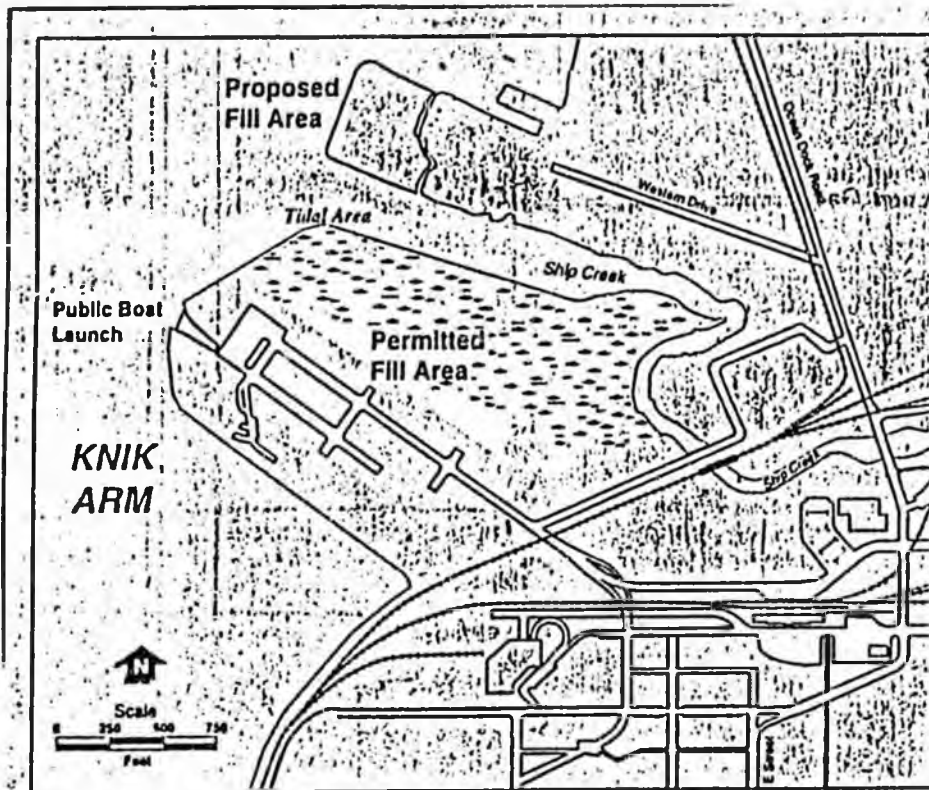
Fink said he wants to exchange the city's current lease for an adjoining 98-acre parcel of waterfront that would be used to expand the Port of Anchorage. He said the city would retain a \$12-million boat launch and ship staging area and trade the rest of its land to the railroad.

"The city and the railroad are totally in sync," he said. "I'm not sure why the AEDC wants to review these things. It may come out OK, but it's not over because (AEDC) has not walked away like they should have."

AEDC, under contract to the railroad, was responsible for locating potential developers. That contract expired at the end of last year, but the AEDC board still must sign off on the project for it to receive the \$5.5-million legislative appropriation.

Assemblywoman Pat Abney said she is concerned about LoPatin's ideas for incorporating the waterfront land on which the city has invested \$12 million in municipal bonds to build the boat launch and make other improvements. She said she would like to see a portion of the coastline and mud flats developed to enhance the natural attributes of nature, much like Potter Marsh has been enhanced with boardwalks.

"To me, when we develop Anchorage, we should be developing those assets we have, rather than trying to change them," she said. "I'm hoping we can all work together to develop a plan for downtown."



## Ship Creek plan crowds mud flats

Port developer would fill 7 acres

By STEVE RINEHART  
Daily News reporter

While part of the city government talks up tourism at Ship Creek — a place people can watch whales, waterfowl and salmon — another arm is pushing to fill in tidelands that help bring the creatures back each summer.

A private firm, with support of city port authorities and Mayor Tom Fink, is seeking a permit to fill in about 7 acres of mud flats along the north bank at the mouth of the creek for an ocean-going cargo loading area. The project, discussed for years, is in line with the city's port-development efforts, according to Roger Graves, city port project coordinator.

One abiding fact of Anchorage port expansion is that land is scarce, Graves said. "We have to build the land first," he said, then build on it.

Douglas Management Co. has proposed dumping about 450,000 cubic yards of gravel fill onto the flats,

Please see Page B-3, SHIP CREEK

## SHIP CREEK: Developer wants to fill in 7 acres

Continued from Page B-1

moving dry land about 500 feet farther out to sea.

But there is another, less obvious fact, state biologists and city planners said. Douglas' fill would cover part of the shallow bay formed where the tide runs into the creek. The bay provides important habitat for fish, whales and birds.

"There are a lot of fish that use that area. They have significant value," said Lance Trasky, Fish and Game's regional habitat supervisor.

The state has spent years building king and silver salmon runs in the creek. The fish runs — drawing thousands of anglers and on-lookers — have highlighted Ship Creek's elevation from an industrial ditch to a centerpiece of Anchorage tourism.

According to Fish and Game, the adult salmon returning to Ship Creek mill about in the shallows before finning upstream. Juvenile salmon rest and eat in the estuary, getting used to their new saltwater environment.

Belugas concentrate there to eat the fish. Shorebirds and waterfowl forage there.

Given all that, Fish and Game last fall recommended that, as a condition of its fill permit, Douglas stay at least 175 feet from the low-water creek bank. The company otherwise could fill to within 25 feet of the creek, city and state officials said.

The city initially recommended a buffer similar to that proposed by Fish and Game, based on new amendments to its coastal land plan that the Anchorage Assembly approved last fall. The city later withdrew its specific buffer recommendation, because the state had not formally accepted the new city plan.

Still, it was clear "that Ship Creek is a rather important stream and that what's left of the lower channel needed some protection," said Thede Tobish, the city's coastal zone planner.

In addition, planners noted that the city has a permit to fill tidelands on the south side of the stream. Without a buffer, the side-by-side fills would squeeze the creek into

a channel and eliminate the estuary, they warned.

The agencies' environmental concerns, according to the city's file and those involved, launched a furious round of letters and meetings over the past two months.

City Port Director Glen Glenzer sent Fink a note warning that a buffer requirement could cripple the development. Fink weighed in with a letter to the state in January, saying he thought his planning department's comments had been "too biased toward preservation of the natural environment and do not reflect the need" for port expansion.

If the government required a buffer, it should buy the land to protect it, Fink said.

The company rejected the proposed buffer, and appealed the decision under state rules that kick such questions to a higher level of state government.

Last Friday, Paul Rusanowski, director of the state Division of Governmental Coordination, ruled on the appeal. He suggested Doug-

las stay 105 feet away from the creek's defined low-water channel. That way, he said, the top of the sloping underwater fill would end up about 175 feet from the creek. The rock rubble riprap covering the slope would improve the habitat, helping make up for the smaller area protected, he said.

Compromise was inevitable, and justifiable, Rusanowski said.

"We are looking at multiple and best uses. We are not just looking at habitat," he said.

The environmental concerns go beyond Ship Creek, he said: Denying the port room to expand where it is may increase the pressure to build a new port on Fire Island.

In any event, the compromise may prove temporary. The company has indicated it will appeal again, Rusanowski said, pushing the decision to the commissioners of Fish and Game, Environmental Protection and Natural Resources.

Company representatives could not be reached for comment.

# Developer, railroad start negotiations

## Michigan-based firm imagines 'must-see' Ship Creek complex

By WESLEY LOY  
Daily News business reporter

The Alaska Railroad has settled on a Michigan real estate development firm to lead a makeover of its industrial Ship Creek land on the north edge of downtown Anchorage.

The railroad's board of directors this week authorized railroad executives to try, by March, to finalize a deal with LoPatin and Co. of the Detroit suburb of Southfield.

LoPatin chairman Lawrence LoPatin toured the site Thursday, a day after telling the railroad board he hopes to create a tourism, business and convention mecca that will be a "must-see for the world traveler."

Preliminary plans call for LoPatin to sign a five-year lease with the railroad with

options for two subsequent 35-year leases. It would pay annual rent of \$1,000 an acre on the 62-acre site, and the railroad would have the option of buying a stake in whatever is built on the land.

LoPatin's role will be to attract companies to build such projects as a hotel and convention center, offices, an oil industry museum, tourist-oriented specialty shops, a residential complex and a "world-class aquarium or planetarium highlighting the natural wonders of Alaska," according to a resolution passed by the railroad board.

LoPatin has undertaken numerous projects in Michigan, including industrial parks, Detroit-area hotels and shopping centers, mo-

Please see Page C-6, SHIP

## SHIP CREEK: Negotiations with developer beginning

Continued from Page C-1

bile home parks, auto speedways and a north Michigan golf and boating resort.

A portion of the Ship Creek land slated for development is under lease to the city, so the deal will need final approval from the Anchorage Assembly as well as the railroad board.

That sits well with a state lawmaker, Rep. Kay Brown, D-Anchorage, who is pushing a bill that would restrict how the state-owned railroad goes about developing its land in Anchorage and other Alaska towns.

Brown's bill would require the railroad to "obtain from the local governing body a finding that a proposed commercial development will not unreasonably compete with existing private businesses and is in the best interest of the people of the area."

Brown said Thursday she filed the bill after hearing complaints that the city and the Anchorage Economic Development Corp., which solicited LoPatin and other developers, were being "cut out of the process" by the

railroad. She said projects on railroad land that don't involve running trains — like hotels or tourist attractions — need scrutiny by local government to ensure they don't clash with existing businesses or city plans.

"My feeling is that railroad land is 'fundamentally public land,'" said Brown. She noted, however, that an address to the Anchorage delegation Thursday by railroad President Robert Hatfield had reassured her about the Ship Creek project.

Asked about Brown's bill, railroad spokeswoman Vivian Hamilton said Thursday: "We don't think that kind of legislation helps." The fear is that such a law could needlessly complicate the way the railroad develops its land holdings, she said, adding the train line has a policy of bringing its projects before local planning and zoning boards, anyway.

The railroad already has begun work on two independent projects on the scruffy Ship Creek land — a 96-room Comfort Inn and a new headquarters building, behind the old depot.

# LoPatin often lays the groundwork for others to build

BY MATT ROUSH  
and JEAN HALLIDAY

*CRAIN'S DETROIT BUSINESS*

If Southfield developer LoPatin & Co. wins final approval this week for a \$250 million, rail-yard redevelopment in Anchorage, Alaska, don't be surprised if the firm changes from lead developer to silent partner about the time the first shovelful of dirt is turned.

Those in the real-estate field say LoPatin is famous for putting developments together, finding financing and securing necessary government approvals, then turning the development over to contractors to build.

That's by design, said Norman LoPatin, vice president for marketing and public relations at the family-owned firm.

While saying that "we do projects ourselves from start to finish," LoPatin also said company managers don't hold themselves out as all-purpose. "We pride ourselves on doing the tough and creative projects."

The Alaska project — for which final negotiations are scheduled this week — fits the "tough and creative" bill. So do two other huge

projects LoPatin is currently working on: the rebuilding of the 110-acre Duns Scotus monastery complex in Southfield into a corporate conference center; and Three Fires Pointe, a Petoskey-area project that could turn an 1,100-acre former cement plant and its five miles of Lake Michigan shoreline into a half-billion-dollar resort.

The Petoskey project has lighted a fire storm in Emmet County's Resort Township, where the land is located. Many of the township's 2,000 or so residents are worried that a development of some 1,500 homes would permanently alter the township's rural nature. There's also dissent concerning a proposed state law — apparently written for LoPatin — that would allow tax-free bonds, repaid by special tax assessments on the development itself.

Norman LoPatin said both the Three Fires Pointe and Duns Scotus projects are on hold because of the current tight financing environment.

Of Duns Scotus, LoPatin said: "Five years ago, there were sav-



**■ We pride ourselves on doing the tough and creative projects. ■**

**NORMAN LOPATIN**

See ALASKA, PAGE 28 ▶

## ALASKA

Continued from PAGE 23

ings-and-loans willing to take on a project of that nature, and inner-institutional investors like insurance companies." Today, he said, there are not.

Of Three Fires Pointe, LoPatIn said. "The biggest cost is reclamation of the site. That's been the biggest hurdle."

Financing is less of a problem for the Alaska project, which involves the redevelopment of a 130-acre waterfront rail yard in downtown Anchorage.

Marvin Yetter, vice president of finance for Anchorage-based Alaska Railroad Corp., said the railroad itself has already begun development of 60 of the 130 acres. And three projects are already committed to the site: a 105-room all-suite Comfort Inn, a new, 40,000-square-foot headquarters for the railroad, and a 16,000-square-foot, retail-restaurant complex.

LoPatIn would develop the rest of the railroad's 60 acres in a mixed-use, office-residential project that also might include tourist attractions such as an aquarium and a planetarium, Yetter said.

Anchorage has a 35-year lease on the other 60 acres of the rail yard and could release the land back to the railroad.

The total project, which he said could take five to 10 years to develop, could total \$250 million in construction costs, Yetter said.

LoPatIn said financing had not yet been secured for the project. But so far, Yetter said, Alaska banks have shown eagerness to participate in the project, with all three buildings rising on the site financed by local banks. Said Yetter of financing: "It's no problem. The people building the hotel had the idea in April 1991, and it was under construction in June."

The idea behind the project is to tap into the Alaska tourist trade, Yetter said. Every summer, the railroad gets about 500,000 tour-

**They're honorable, they're not flashy, they tell it like it is, and they won't promise you things they can't deliver. ♣**

NICK BANDA  
Southfield city planner

ists who ride part of the scenic, 500-mile line from Seward to Fairbanks, he said.

Yetter and Alaska Railroad first negotiated with a Houston developer, Intergroup Development Inc., for the site, but balked when Intergroup demanded fees of \$500,000 to \$700,000 a year to act as a leasing agent for the development and left all financial risk to the railroad. Yetter said LoPatIn is making no such demands.

How did a medium-sized developer in Southfield get hooked up with a project in Alaska?

Norman LoPatIn said the company got wind of the project through a research company LoPatIn was working with on a proposal to build a 100,000-square-foot exhibition hall for Romulus near Detroit Metropolitan Airport.

"One of the research companies we dealt with on that project got an RFP request for proposals from the city of Anchorage," LoPatIn said. "They submitted our name to Alaska. We said 'no' four times to them — we said, 'It's not in our backyard; why should we go there?' Their response was, 'It's a great property — and a great partner in the railroad.'"

And, LoPatIn said, "This is not the first time we've considered Alaska. Companies we've worked with in the past — Toys 'R' Us, Kmart — they're all looking at Alaska, specifically the Anchorage market. We looked at the Anchorage market and found that the economic indicator in Anchorage look pretty darn good compared to the rest of the country."

Studying market conditions

thousands of miles from home in a long way, in more than distance, from the company's origins.

LoPatIn & Co. was founded by Lawrence LoPatIn in 1958, according to Norman LoPatIn, who said his father attended law school after World War II, then went to work for a developer.

"He worked for a real-estate company, managing apartments, supervising construction of home-downriver," Norman LoPatIn said. "Eventually, he discovered that working for someone else was good, but working for yourself is better."

Now, working alongside Norman, his brother, Mark LoPatIn, is vice president of finance for the company.

LoPatIn & Co.'s first subdivision, built in 1959, was Tinquish Village, in what was then Nankin Township, Tully, it's Westland.

In 1961, the company got the contract to build Windsor Raceway in Canada. The company also was a part owner of the track, but was forced to sell in 1967 when Canadian laws were changed to bar foreign ownership of horse tracks.

The LoPatIn family stayed involved in track construction, however, putting together the deal for Michigan International Speedway in Cumbria Junction, 70 miles west of Detroit. Construction began in 1968; the first race was in 1969.

Norman LoPatIn said LoPatIn was a minority owner in the track until 1972. The public company that wound up with majority ownership of MIS and four other race tracks, American Raceways, entered receivership in 1973,

LoPatIn said — and none other than LoPatIn & Co. served as receiver of the track that year.

More recently, LoPatIn helped Southfield turn a decaying neighborhood at Eight Mile and Latorre roads into the Southfield Techno-Center, a 72-acre industrial park whose 805,000 square feet in 19 buildings is currently around 45 percent occupied.

LoPatIn also was behind the One Northwestern Plaza office building and the adjacent Embassy Suites Hotel along Northwestern Highway in Southfield, a \$50 million project.

In both cases, other real-estate companies are now running the developments. LoPatIn remains a general partner in the Techno-Center and a limited partner in the One Northwestern-Embassy Suites development.

Said Southfield city planner Nick Banda: "They put things together and then they get out. They don't purport to be builders."

Banda called the firm "a throwback to the old days — they're honorable, they're not flashy, they tell it like it is, and they won't promise you things they can't deliver."

Don't tell that to some of the folks in Resort Township, where township supervisor Frank Bedard — a former Detroit — said relations with the LoPatIn family have gone downhill lately.

"We had a pretty good relationship with them for a long time," Bedard said. "But things have deteriorated the last couple months."

LoPatIn first proposed Three Fires Pointe in 1984, envisioning a plan of 3,100 residential units, a hotel, a golf course and a marina for 1,000 boats. It would be the biggest resort in the Midwest.

The old Dundee Cement Co. plant along U.S.-31 southwest of Peineke is owned by LoPatIn's partnership, Hay Properties Limited. Other partners are a subsidiary of a Swiss bank, Hulder Bank, which purchased Dundee, and troubled road-building entrepreneur Daniel Holloway, who is planning to sell off the biggest asset of his privately held empire, a gravel-processing plant in Rockwood, to repay defaulted loans and bills worth millions of dollars.

Part of the breakdown in relations, Bedard said, stems from the fact that LoPatIn is delinquent on property taxes on its 300 acres of the 1,100-acre project site. Unpaid taxes will reach \$115,000 on Feb. 15, Bedard said.

But more costly to township-LoPatIn relations, Bedard said, was last November's introduction of S.B. 598 in the state Senate, the proposed land-reclamation and improvement-authority legislation.

The bill would allow the owner of any "blighted area" over 400 acres in size to apply to the state Department of Natural Resources to create a land reclamation and improvement authority. A blighted area is defined as any property rendered unsuitable for residential, recreational or commercial pursuits by past mining or industrial use, but not so bad that it appears on state or federal lists of toxic-waste sites.

The law as introduced restricts such authority to townships only.

The authority would have the power to pay for improvements at the site, which could include "construction, improvement, maintenance, equipping or operation" of buildings. The authority could levy special assessments in the blighted area and issue bonds or raise to finance improvements. Interest

paid to bondholders would be exempt from Michigan income taxes.

Although the bill doesn't specifically mention Three Fires Pointe, Bedard said it's clear the bill was introduced for the project — as evidenced by the fact that Resort Township officials were told of the bill by the LoPatIn's week before its Nov. 12 introduction.

The bill was introduced by state Sen. Paul Wartner, R-Portage. Wartner said he introduced the bill at the request of Senate Majority Leader Dick Posthumus, R-Alto, because the senator from the Three Fires Pointe area, Sen. George McManus, R-Traverse City, is new, "and we didn't know what the political fallout would be." Posthumus and McManus did not return Crain's phone calls.

The fallout has been substantial, Bedard said. The bill would allow landowners to establish authorities without the consent of the local township boards — yet the township would be required to establish special assessment rolls and collect special assessments.

Bedard also said his township and others don't like the fact that authority money could be used for construction, not just cleanup.

"The township board has no problem with the concept of using tax-free bonds for reclamation," Bedard said. "There's a concern that they should only use the tax-free bonds for cleanup — and finance the rest themselves."

John Bauckham, a Kalamazoo-based attorney for the Michigan Townships Association, issued a written critique of S.B. 598 during a public hearing on the bill in Peineke on Jan. 17.

Bauckham said the bill is "absolutely" precedent-setting in that it delegates taxing power and tax-free borrowing status to any landowner who requests it, provided the landowner's site meets the "blighted area" definition.

Wartner said the bill is being revised. Posthumus asked him not to put the bill, in its current form, on the Senate calendar, he said.

LoPatIn, while he acknowledged there are problems in financing Three Fires Pointe, said the project eventually will go through.

"Five and a half miles of Lake Michigan shoreline simply cannot be duplicated," LoPatIn said. "It'll definitely happen some day. It may not be us; it may be the next generation of developers."

As for the objections to S.B. 598, LoPatIn said: "The majority of the concerns that were raised by the township and the township association were highly technical. As I understand it, those concerns will be taken care of, and we certainly have no problem with that."

Currently, northern Michigan's biggest tourist spot is Grand Traverse Resort, at the intersection of U.S.-31 and M-72 in Grand Traverse County's Acme Township, near Traverse City. The 841-unit project was put together through the late 1970s and 1980s by Hinmfield Hills lawyer and developer Paul Nine.

Nine praised Lawrence LoPatIn as "a great guy, a great developer, who seems like a pretty straight shooter." But he also said Three Fires Pointe is "a massive project, and massive projects seem not to happen."

Still, Nine said he won't mind the competition a bit, if Three Fires Pointe is built. "Anything that can build awareness of the whole northwest Michigan area ... would be welcome."

Besides, Nine added with a chuckle, "Everybody who goes to his LoPatIn's place would probably land at Traverse City airport and drive right by mine." □

# If OK'd, project could be Michigan firm's largest

By IMRE NEMETH  
TIMES BUSINESS WRITER

Most of Lawrence LoPatin's grandchildren scamper around the Southfield, Mich., developer's plush offices on the weekend. They stir up static with their feet and giggle much like his two boys did three decades ago.

These days Mark LoPatin, 39, and his brother Norman, 37, fill the role of working parents. As aggressive developers, time at the office often doubles as time with the family.

"We bring a family ethic that carries over into business," Norman LoPatin said. "My father used to bring us everywhere."

Today he and his brother repeat the custom, with three generations of LoPatin's be-



Lawrence LoPatin

ing involved, at least at some level, in projects gaining national attention.

The latest LoPatin & Co. deal appears to be by far the most ambitious in the company's 40-year history. The redevelopment of Ship Creek, now 120 acres of former industrial land, is expected to generate a world-class tourist attraction worth \$250 million in 10 years.

The state-owned Alaska Railroad Corp. holds title to the land just north of downtown Anchorage. It envisions hotels, restaurants, a brewery, an aquarium, a petroleum visitor center, shops, offices and residential units in the city's largest real estate endeavor.

Family-owned LoPatin has recently returned from a decadelong absence from high-profile projects to become one of the most talked-about developers in the Detroit area. Lawrence LoPatin remains active as

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## LoPatin

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president and chairman, while his sons manage day-to-day operations.

Challenge entices the company, Norman LoPatin said. He said Alaska shows tremendous potential, especially with its office occupancy rates higher than the national average and its ability to tap into an international tourist market.

LoPatin has a reputation in Southfield as a developer able to

tackle tough projects and make money, said Joel Feldman, an agent at Detroit-based Nobel Realty Inc.

"They're not one of these flash-in-the-pan type of companies," he said. "Typically they affiliate themselves on a partnership basis with other individuals. They often will have other very affluent businessmen standing behind them. That, to me, is a positive situation."

Feldman said LoPatin turned a blighted section of Southfield into the Southfield Technecenter, a 620,000-square-foot industrial park.

Indianapolis-based Duke As-

sociates, a larger developer, joined them in the fully leased project, he said.

Nik Banda, Southfield's director of planning, said the LoPatin's have caused his city "our share of headaches" on a couple of projects, but said overall the brothers have been relatively easy to work with.

LoPatin's initial Ship Creek proposal listed as its accomplishments a series of auto race tracks across the country, and a Canadian horse track, all built in the 1960s; an Embassy Suites Hotel and Northwestern Plaza, a 13-story office building, both built in Southfield in the late

1980s; and an amusement park in Florida that has since been razed.

A tight market has put the brakes on at least two other LoPatin projects — a planned \$500-million resort/marina/residential redevelopment on a 21,100-acre cement manufacturing plant in Petoskey, Mich., and a \$10 million exhibition center at Detroit Metropolitan Airport.

Marvin J. Yetter, the railroad's vice president of finance, said he hired Richard Starr, vice president of Economics Research Associates of Chicago, to investigate LoPatin.

Starr said, based on modest

review, he found LoPatin to be "reputable." He also said he has worked on at least one project that LoPatin is planning to develop.

Starr's company since has been asked for a more detailed study of all LoPatin's projects, said Robert S. Hatfield Jr., the railroad's president and chief executive.

Although the results of the final review are not yet in, Yetter said he is pleased with the choice. And, predictably, so is Norman LoPatin.

"We're excited about the prospects of working up there," he said.

LoPatin said he believes the foundation for an agreement between his company and the railroad has been reached.

Hatfield said LoPatin's vision for Ship Creek will be released to the public after the railroad's board of directors meeting Wednesday.

The board is expected to approve LoPatin, but reserve its final OK of the lease plan until March, he said.

Norman LoPatin declined to reveal his plan prematurely, but he said it will be big and impressive.

"We always do quality," he said. "We set the standards."

# Railroad to decide developer's role in Ship Creek plan

By IMRE NEMETH  
TIMES BUSINESS WRITER

Tourists stroll among the upscale shops and restaurants of a rejuvenated waterfront, stopping at a brewery and aquarium.

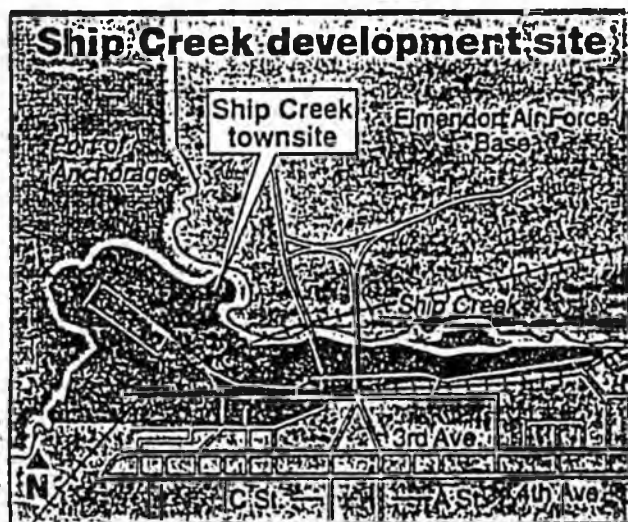
On pleasant streets that crisscross a meandering creek, they rub elbows with locals who live nearby or work in gleaming, bustling office buildings. Shoppers who a decade earlier spent their dollars in outlying malls join the mix in a redefined, revitalized downtown.

A scene from New York, Baltimore, Monterey, Calif., or even Cleveland?

No. It is the Alaska Railroad Corp.'s vision for 21st-century downtown Anchorage.

Railroad officials want to lease 60 acres at Ship Creek to LoPatin & Co., a Michigan-based developer. On Wednesday, the railroad's board of directors is scheduled to vote on LoPatin's involvement, with final approval of the lease to come in March.

But some Anchorage Assembly members say they are offended by what they call the railroad's back-room negotiating style. And a slighted developer is upset that his firm's bid was thrown out after initially re-



Source: Anchorage Economic Development Corp. The Anchorage Times / JAMES HAVENS

ceiving a go-ahead. Still other developers say the state-owned railroad may be moving too quickly and should expand its search for a developer.

The biggest obstacle to the project's future, however, may come in the form of a bill drafted by state Rep. Kay Brown, D-Anchorage, scheduled to be introduced in the House today.

Following the lead of numerous Lower 48 cities, the railroad aims to remake its scruffy Ship Creek waterfront area with a proposed \$250 million tourist/office complex

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# Ship Creek

Continued from page A1

on land just north of downtown. Developers have called it one of the nation's most ambitious land projects.

But the Ship Creek area, now home to old industrial sites, vacant gravel lots and scattered tufts of grass, has set visions dancing in more than one head in Anchorage.

Though opinion is of one mind when it comes to wanting Ship Creek to happen, a growing number of city and state leaders are questioning the path the railroad is taking to development.

Brown's bill would require all commercial development by the railroad anywhere in the state to first be approved by the local government. Brown said the Anchorage Assembly would have the final say in the case of Ship Creek.

"We just have a lot of questions about what's going on there, and we want (the Ship Creek project) to be a successful world-class project," she said.

Rep. Gene Kubina, D-Valdez, one of the bill's seven co-sponsors, said he wants the railroad treated like any other business that must go through the public planning process.

"Sometimes the railroad acts like government, and sometimes it acts like a private employer," said Kubina. "We all need to do things in a responsible manner, and I don't think the railroad is any different."

Rep. Dave Donley, D-Anchorage and another co-sponsor, said he wants the railroad to be held accountable.

Robert S. Hatfield Jr., the railroad's president and chief executive, said he hopes the Brown bill does not allow special interests the power to derail good development projects. He said the railroad makes every effort to coordinate its projects with local government and business groups.

"It seems as though the bill is an attempt to institutionalize what we're already doing," he said.

But Anchorage Assemblyman Jim Barnett said the railroad's handling of the Ship Creek project has confused a lot of people, including himself. He said the major debate concerns whether the railroad can orchestrate the development without input from the city.

"It's hard to know why this project went south," he said. "One way or another, the Assembly has to come to grips with this project. The railroad can't make a decision in a vacuum."

Another 60 acres along Cook Inlet could be included in the development if the railroad is successful in its bid to regain a lease held by the Municipality of Anchorage. Assembly leaders cried foul when the railroad decided to forge ahead alone by separating its portion of the original 120-acre proposal from the city's

leased land.

Assemblywoman Heather Flynn said the railroad is taking a chance going alone.

"They're riding the train on this one," she said.

She and other city leaders have said the railroad negotiated secretly with LoPatin, possibly jeopardizing a \$5.5 million state appropriation for sidewalks, streets and other improvements vital to the project.

Brown shared her concern over the status of the pending legislative grant. She said she and other legislators have invested a lot of political muscle into getting the money approved and do not want to see it lost because the railroad decided on a "piecemeal" development.

But Mayor Tom Fink said there is no problem.

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"The way I see it, there isn't any controversy," he said. "I have no problem with the railroad choosing LoPatin."

Fink also said he expects a transfer of the city's Ship Creek lease to be completed soon, giving the developer control of the entire 120-acre parcel.

Flynn said she also will go along with the railroad. She said her independent investigation of LoPatin revealed the company to be financially sound.

"The ultimate fallout?" she said. "Who's to say?"

Despite its scale and the hardship faced by developers in the Lower 48, the opportunity to take on the Ship Creek project found little interest.

In late 1990 the Anchorage Economic Development Corp. sent about 500 requests for proposals to domestic and foreign-based developers and received con-

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crete responses from seven. That number subsequently dropped to two.

LoPatin beat out Intergroup Development Inc. of Houston, which was the front-runner to get the deal until railroad officials in December deemed the latter's services too expensive. Intergroup had been the choice of AEDC and the city.

Marvin J. Yetter, the railroad's vice president of finance, said Intergroup submitted two proposals, with the second costlier than the first. The railroad began meeting with LoPatin in mid-December after determining Intergroup was not what it wanted, he said, declining to discuss specific figures.

Tandy O. Lofland, Intergroup's president, said the price of his company's services is negotiable and that he was under the impression the railroad had no problem with his terms. Now, he said, his

company is preparing to sue.

"We had gone on the record as saying OK, fine, give us some other parameters," he said. "I have no idea why they shifted gears."

The resulting conflict has drawn to the mayor's office, the Anchorage Assembly and AEDC.

Scott Hawkins, AEDC executive director, said his group thoroughly checked Intergroup's credentials and was pleased with the report. Intergroup's flagship project is Orlando, Fla.'s 195-acre Parkway, a mix of hotels, shops, restaurants and a theme park next to Disney World. The project was Intergroup's largest, capping a couple of hotels and one apartment project.

Flynn said the railroad's choice of LoPatin came as a surprise. She thought Intergroup was still the choice until she learned otherwise at an Assembly meeting in early January. Flynn is a member of the Ship Creek Committee, a group including the railroad, city and AEDC that had worked closely on the project's initial development.

Wayne Doran, treasurer of the Washington, D.C.-based Urban Land Institute and chairman of the Ford Motor Land Development Corp. in Detroit, said he was surprised there were so few bidders for the project.

"A lot of my development friends are starving to death, and I'm asking myself, 'Why aren't they up there,'" he said.

Doran said proposals to developers often do not reach the right hands when sent without proper recommendation.

"You need the boss's attention," he said. Anchorage's location and distance also may have contributed to the poor response, he said.

"People have an unknown image of Anchorage," Doran said. "It's up there, it's cold, it's expensive. You have to lay down the mat so they can walk in easy."

Robert Allborn, president of Robert Allborn Associates, based in Irvine, Calif., said he never received a copy of the Anchorage Ship Creek proposal, but that he would welcome an opportunity to make a bid.

"What I would do is push for a delay and ask for more (developers)," he said. "It's hard to make a call when you only have two to compare."

Jamies M. Norman, president of the Seattle consulting firm The Norman Co., said cities seeking developers must cultivate interest before sending out a proposal.

"In this environment, just sending out a request for a proposal is a mistake," he said. "Real estate development is not something people are rushing out to do."

Norman said the city of Seattle has decided to court developers personally to sell them on its new waterfront project. The cruise ship dock and retail-tourist development is due to begin by mid-summer, he said.

"I would never go in with two (developers)," he said. "You need competition."

## LoPatin & Co. key projects

Project	Year built	Location	Price	Status
Southfield Technecenter	1986	Southfield, Mich.	N/A	LoPatin developed the 620,000-square-foot industrial center with Indianapolis-based Duke Associates. Top of the line office space with successful lease rate. Also worked with city of Southfield.
Seven Mile Crossings	1988	Livonia, Mich.	N/A	Also with Duke Associates. Two office buildings totaling 260,000 square feet. Successful lease rate.
One Northwestern Plaza	1988	Southfield, Mich.	\$20 million	13-story hexagonal office building of 240,000 square feet along I-696. Considered successful.
Embassy Suites Hotel	1987	Southfield, Mich.	N/A	Near One Northwestern Plaza. 11 stories.
Michigan International Speedway	1968	Irish Hills, Mich.	Purchased by owner Roger Penske in 1973 for \$2.9 million	Hosts six major racing events annually. Holds 90,000 spectators. Is Michigan's largest raceway.
Windsor Raceway	1965	Windsor, Ontario	Owned by Tom Joy of Toronto since 1988. Purchase price undisclosed.	Accommodates 12,000 people but averages 2,000. Features harness horse racing.
Pirates World Amusement Park	N/A	Dania, Fla.	N/A	Torn down more than 20 years ago. Says Frank Alder, Dania's city attorney, "It was quite a project in its day."
Three Fires Point		Petoskey, Mich.	\$500 million	Redevelopment of 1,100 acres planned to transform a cement manufacturing yard into a marina and housing development. LoPatin is supporting a bill in the Michigan Legislature that would provide developers bonding for blighted sites.
Duns Scotus Conference Center		Southfield, Mich.	\$40 million	Project proposes the redevelopment of a 1930 Catholic friary into office and convention space. LoPatin retains rights to the property.
Detroit Metropolitan Airport Exhibition Center		Romulus, Mich.	\$10-12 million	Working with the city of Romulus on the convention center. Potentially situated between 20 hotels.
Proposed Development				

A Comfort Inn hotel under construction on Alaska Railroad property along Ship Creek

# Railroad jumps tracks on Ship Creek developer

By WESLEY LOY  
Daily News business reporter

Alaska Railroad Corp., eager to build on its Ship Creek land north of downtown, has severed talks with the top-ranked developer and started negotiating with the runner-up.

That's left the first developer crying foul, and some officials associated with the project saying the railroad seems bent on turning a Cadillac downtown development opportunity into a dull subcompact.

Railroad President Robert Hatfield said Tuesday he had good reason to take up with a new developer. And Anchorage still has a strong chance for a blue-chip tourism mecca on the industrial Ship Creek land, he said.

"There is nothing going on right now that precludes that," he said.

Serious efforts to develop the 120 acres along salmon-rich Ship Creek began almost two years ago when the Anchorage Economic Development Corp. sent

out a nationwide call for a "master developer."

Eventually, so the plan went, the railroad, the AEDC and the city — which holds a long-term lease from the railroad on half the land, at the mouth of the creek — would pick a winner and start negotiations.

A committee from the three entities did just that last fall, choosing Intergroup Development Inc. of

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RAILROAD

## RAILROAD: Ship Creek development changes

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Houston, Texas, over two other bidders.

Intergroup's winning bid envisioned three hotels, restaurants, office and residential buildings, an aquarium and a planetarium — \$233 million worth of projects in all, to be finished by the year 2001. AEDC President Scott Hawkins called it potentially the western end of a grand tourism corridor that, with an expanded Alyeska ski resort to the east, could wake Anchorage out of its traditional winter hibernation.

But Intergroup President Tandy Lofland said Tuesday his company was stiffed by the railroad, which played the lead role in the negotiations. He said he was shocked to hear last week that the railroad had jumped to another development firm, LoPatin & Co. of Detroit.

"The whole thing is mysterious to us," said Lofland, whose parents live in Anchorage. "Our position is here never has been any negotiations. We've turned in two full proposals, and

we've never even been called to a meeting. I can tell you we are extremely upset."

Lofland said his firm has spent "tens of thousands" of dollars on drawing up plans for Ship Creek, and that he's hired an Anchorage law firm to "protect our interests."

Hawkins, of the AEDC, said he is mostly worried about the project's apparently shrinking focus. Originally, the idea was to create a vast and diverse waterfront development, something impressive enough to actually draw new tourists and new dollars into town.

The railroad's plan to develop only the upstream land — the part it owns free and clear — seems to fall far short of that goal, said Hawkins.

Also at issue is \$5.5 million in special funding approved by the legislature last year to fill in some of the waterfront land and improve roads and utilities. That money is available only if the city, the AEDC and the railroad agree on a development plan, and right

now the railroad appears to be driving the train all on its own, Hawkins said.

"Right now we're in the dark," he said. "The railroad is playing very close to the vest with their information."

Hatfield, the railroad chief, said no attempt has been made to shut out AEDC, the Houston company or anyone else. He said Intergroup's terms were simply not favorable enough to the railroad.

According to a Nov. 21 letter to Lofland from Marv Yetter, the railroad's vice president for finance, Intergroup wanted the railroad to pay fees of between \$500,000 and \$700,000 a year to act as a leasing agent to line up projects for the Ship Creek land. Yetter wrote that Intergroup seemed to be leaving all the financial risk to the railroad.

The other company, LoPatin, is not requiring any such fees, and has also agreed to invest its own money in projects lured to the site, Hatfield said.

Hatfield said AEDC, the city or anyone else is wel-

come to present projects that could go on the Ship Creek land, including the 60 acres on Cook Inlet. Just because the whole area might not take shape all at once doesn't mean it will never be a significant new tourism boost for the local economy. "One of the problems in Alaska is everybody thinks the only way to have a megaproject is to start out with a megaproject," said Yetter. "That's why so many of them are failures."

The state-owned railroad already has launched three major buildings on the Ship Creek land. A 96-room Comfort Inn is going up just east of the C Street bridge Government Hill, and a new railroad headquarters building is going up behind the aging depot building on First Avenue. Plans also have been approved for a small brewery, pub and restaurant complex just west of the Ship Creek Dam.

Hatfield said a deal with LoPatin looks likely, but soonest the railroad board could approve it would be February.

# STATE OF ALASKA THE LEGISLATURE

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Mary Van Nimwegen

*House Transportation*

*4-23-92*