

SUBJECT: FY00 Matanuska-Susitna Borough Paving Grant

PREPARED BY: Finance

DATE: February 28, 2000

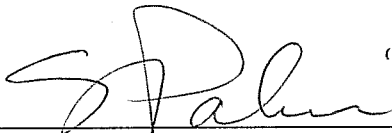
FOR AGENDA OF: March 13, 2000

SUMMARY:

Attached please find Ordinance No. 00-25 to appropriate additional funds to the Capital Fund for the FY00 Matanuska-Susitna Borough grant for reimbursement of expenses incurred on paving projects. The projects include: Spruce Avenue, Mystery Avenue, East Susitna Avenue, Danna Avenue, Tallerica Subdivision, Blind Nick Drive, Wampum Circle, Railroad Avenue and Park Avenue, all within the Highlands Subdivision in the City of Wasilla.

FISCAL IMPACT: ___No XYes, amount requested: \$ 290,228 Fund: 113300033716

RECOMMENDED ACTION: Consideration of Ordinance No. 00-25.



Reviewed by: SARAH PALIN, Mayor

Attachments: Ordinance 00-25
Grant Agreement

Presented with: Ord 00-25
4/10/00
Date: 4/10/00 Verified by: Hy.

GRANT AGREEMENT

between

MATANUSKA-SUSITNA BOROUGH

and

CITY OF WASILLA

This agreement is made and entered into this th 28 day of *January*, 2000, by and between the MATANUSKA-SUSITNA BOROUGH (hereinafter the "Borough") and THE CITY OF WASILLA (herinafter the "Grantee"), for the purposes and subject to the terms and conditions set forth herein.

WHEREAS, the Borough has the authority to enter into this agreement with the Grantee to carry out the purposes contained herein; and

WHEREAS, the Grantee represents and warrants it has the legal capacity to enter into this agreement and carry out the purposes contained herein; and

WHEREAS, the Grantee is willing to comply with the terms and conditions of this agreement and the requirements of the state of Alaska for the purchase of goods and services in compliance with the state purchasing code; and

WHEREAS, the Grantee represents that it has a policy and practice of non-discrimination based on race, color, religion, national origin, sex, marital status, physical disability and age; and

WHEREAS, the Borough has allocated the total sum of \$290,228 as grant funds to carry out the purposes, terms and conditions set forth herein and described in the attached Exhibits "A" and "B".

NOW, THEREFORE, the parties agree as follows:

Section 1. Definitions. In this agreement:

A. The term "grant funds" means the total sum of \$290,228 made available to the Grantee by the Borough for the purposes stated in Exhibits "A" and "B".

B. The term "project completion" means completion of all contract duties by the Grantee under this agreement and acceptance by the Borough.

C. The term "project report" means a complete description of the uses of the funds including, but not limited to, equipment and materials purchased or partially purchased with grant funds, labor paid or partially paid with grant funds, improvements paid with or partially paid with grant funds and any other use of the grant funds.

- D. The term "Grantee" means the City of Wasilla.
- E. The term "Grantor" means the Matanuska-Susitna Borough.
- F. The term "in-kind contribution" means any service and/or materials provided by the Grantee which are not reimbursable under this agreement but may be part of the total project which the Grantee agrees to provide, and includes, but is not limited to, Grantee's regular employees' pay and benefits, overheads, its other ordinary and usual expenses, all administrative staff costs and any expenses or services the Grantee agrees to cover under this agreement.

Section 2. Contract Documents.

A. The documents which make up this agreement between the Borough and the Grantee consist of the following:

- 1. This contract, titled Grant Agreement,
- 2. Scope of Work, labeled Exhibit "A",
- 3. Project Budget, labeled Exhibit "B".

The above documents are a part of and incorporated in this agreement.

B. If any document which is part of this agreement conflicts or is inconsistent with any other, the terms of the main grant agreement shall prevail, followed by the terms of Exhibit "A" and Exhibit "B", in that order.

Section 3. Period of Performance. This contract shall become effective on the date of execution. The unexpended funds for this grant lapse two years from the date of execution if: the project is not substantially underway; upon completion of the project if work is completed prior to the two year anniversary date; or if substantial, on-going work stops after the two year date is reached.

Section 4. Scope of Work. The Grantee shall perform the work of the project in accordance with the scope of work set forth in Exhibit "A" and the Project Budget in Exhibit "B", in accordance with the terms, conditions and provisions of this agreement, which exhibits are incorporated herein by reference and made a part thereof.

Section 5. Payment: Schedule and Progress Report.

A. Subject to the provisions of this agreement the Borough shall pay to the Grantee Two Hundred Ninety Thousand Two Hundred Twenty-eight and no/100 cents (\$290,228) for expenses incurred in the completion of the project described in Exhibit "A". Unless otherwise agreed to in writing by the parties, in advance, only those categories of expenses set out in Exhibit "B" may be reimbursed. Payments to the Grantee shall not exceed the grant funds which are available for this

project. Payments will be made not more frequently than monthly based on invoices submitted to the Grantor not later than the 10th day of any month. The Grantor may approve more frequent payments if it determines request for such payment is appropriate. In-kind contributions are not reimbursable under this agreement and invoices shall not include in-kind contributions by the Grantee.

B. The Grantee shall submit to the Borough a quarterly progress report which shall include a report on activities, a detailed description of costs incurred, and a schedule of activities to be performed during the next quarter.

C. This grant is subject to and shall not exceed funds lawfully appropriated for its purpose.

Section 6. Award of Contracts by Grantee.

A. Any contract which the Grantee enters into involving the expenditure of grant funds shall be in accordance with the requirements of this contract. A copy of this contract shall be attached thereto.

B. Any contract for public construction shall meet the requirements of Alaska Statutes Sections 36.05.010 -- 36.95.010. These requirements include, but are not limited to, requirements for advertising specifications for the contract, minimum wages to be paid to certain employees, withholding of payments as is necessary to pay those employees and necessary bonds. "Public construction" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating buildings, highways, or other improvements to real property of the Borough or State under this contract.

C. The Grantee shall not award a public construction contract involving the expenditure of grant funds unless a reasonable effort is made to obtain the price through a competitive process. No formal competitive bid procedure is required. The Grantee shall keep records of the contractors contacted and proposals received.

D. The Grantee shall not permit the involvement of a person with a financial or other private interest in the contractor or contract to participate in the contract award or supervision. Any conflict of interest arising from the award of a contract shall be disclosed to the Borough prior to the contract award. "Conflict of Interest" is defined as in MSB 2.52.460, as applicable. The Borough shall not be liable for reimbursement to the Grantee for any contract awarded by the Grantee in violation of this subsection.

E. This section is intended solely to ensure that public funds are expended responsibly and in the best interest of the public as a whole. It creates no rights or remedies in persons except for the Borough.

Section 7. Final Project Report. Not later than 30 days after completion of all other contract duties by the Grantee, the Grantee shall submit a final report to the Borough in a sufficient form and with sufficient detailed information so that proper reports can be made by the Borough to any State, Federal or other agency which may request such reports. The final report shall include all actual costs incurred, the in-kind contributions, if any, and the value thereof, describe the work accomplished, and present any findings and recommendations for future consideration. This report shall be in a form satisfactory to the Borough.

Section 8. Payment Conditions. Upon receipt of the statement of actual cost of the project and completion of the project by the Grantee to the Borough in accordance with the terms of this agreement, the Grantee shall submit such documentation as required to the Borough.

Section 9. Operations and Maintenance. Except as otherwise provided in this agreement, the Grantee shall at all times, at its own expense, operate and maintain the project facilities for use by the general public in accordance with the purposes of this project.

Section 10. Inspection and Compliance. The project will periodically be inspected by the Borough for compliance with this agreement. An inspection will take place upon completion of the contract duties of the Grantee and before final acceptance. Should inspection reveal non-compliance with this agreement, the Grantee will be solely responsible for bringing the project into full compliance.

Section 11. Audits, Financial Reports and Records.

A. The Grantee shall utilize recognized professional accounting procedures in expenditure of grant funds and in generating and retaining control documents necessary to allow subsequent audits.

B. The Grantee shall allow, on request, an audit by the Borough of its expenditures of monies made available to the Grantee under this agreement and of transactions related to those expenditures.

Section 12. Indemnification. The Grantee shall indemnify, defend, and hold and save the Borough, its elected and appointed officers, agents, and employees harmless from any and all claims, demands, suits, or liability of any nature, kind, or character, including costs, expenses, and attorney's fees. The Grantee shall be responsible under this clause for any and all legal actions or

claims of any character resulting from injuries, death, economic loss, damages, violation of statutes, ordinances, constitutions, or other laws, rules, or regulations, contractual claims, or any other kind of loss, tangible or intangible, sustained by any person, or property arising from Grantee, or Grantee's officers, agents, employees, partners, attorneys, suppliers, and subcontractors' performance or failure to perform this agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the Borough or its agents which are said to have contributed to the losses, failure, violations, or damage. However, Grantee shall not be responsible for any damages or claim arising from the sole negligence or willful misconduct of the Borough, its agents, or employees.

Section 13. Notice of Delays. The Borough shall be notified should the Grantee encounter or anticipate difficulty in meeting major agreement requirements. The notice shall be in writing, and include pertinent details of the delay provided, however, that this data shall be informational only in character, and that this provision shall not be construed as a waiver by the Borough of any delivery schedule or date or of any rights or remedies provided by law or under this contract.

Section 14. Agreement Changes. The Grantee shall provide the Borough with adequate notice of anticipated major changes to the agreement. The proposed change will describe whether or not the cost or performance time is increased or decreased. The Grantee is responsible for fulfilling the agreement until both the Grantee and the Borough can, in writing, determine what adjustments may be made and, in any case, such changes are subject to the approval of the Borough.

Section 15. Contract not Effected by Oral Agreement. Oral statement of any person shall not modify or otherwise affect the scope of work, or other terms and conditions as herein stated. All modifications to the agreement must be made in writing by the Grantee to the Borough and, in any case, are subject to the approval of the Borough.

Section 16. Defaults.

A. The Borough shall not be responsible and the Grantee shall hold the Borough harmless should the Grantee or any of its subcontractors fail to complete the provisions of this agreement. Upon evidence of breach of this agreement, including but not limited to the failure to complete the project, the Borough may give a notice of default to the Grantee terminating the entire or any part of this agreement 30 days from the date the notice is mailed.

B. Upon termination of the agreement in whole or in part, any unexpended funds may be used by the Borough to settle any claim(s) and/or to complete the project; in doing so, the Borough may procure services similar to those terminated and the Grantee shall be liable to the Borough for any excess costs for such services; provided that the Grantee shall continue performance of this agreement to the extent not terminated by this section.

C. The Grantee will be liable to the Borough for any claim(s) or outstanding liabilities of the Grantee, or of the Borough, as a result of the acts or omissions of the Grantee in default of the agreement, and shall be liable for the return of funds not expended in accordance with the terms of the agreement.

Section 17. Additional Work. No claim for additional funds not specifically herein furnished to the Grantee shall be paid for by the Borough, provided, however, that the Grantee may at its own expense provide such other work as it may deem appropriate and consistent with the purposes and terms of this agreement.

Section 18. Other Grants. In the event grant funds are used for the purpose of providing "matching" funds required in connection with any other project, facility or service of the Grantee supported by other Federal, State or local monies, those grant funds shall be spent in compliance with contracts or grant agreements governing those other projects, facilities, or services in addition to the terms and conditions of this agreement.

Section 19. Jurisdiction; Choice of Law. Any civil action arising from this agreement shall be brought in the Palmer Superior Court for the Third Judicial District of the State of Alaska. The Law of the State of Alaska shall govern the rights and obligations of the parties under this agreement.

Section 20. Non-Waiver. The failure of the Borough at any time to enforce a provision of this agreement shall in no way constitute a waiver of the provisions, nor in any way effect the validity of this agreement or any part thereof, or the right of the Borough thereafter to enforce each and every protection hereof.

Section 21. Permits, Laws and Taxes. The Grantee shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this agreement. All actions taken by the Grantee under this agreement shall comply with all applicable city of Palmer, Borough, State and Federal statutes, ordinance, rules and regulations. The Grantee shall pay all taxes pertaining to its performance under this agreement.

Section 22. Non-Discrimination. The Grantee shall not, in the course of performing its duties under this agreement discriminate against any person on the basis of race, religion, color, national origin, sex, age, marital status or physical handicap.

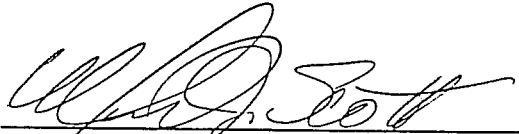
Section 23. Relationship of the Parties. The Grantee shall perform its obligations hereunder as an independent contractor of the Borough. The Borough may administer this agreement and monitor the Grantee's performance within this agreement but shall not supervise or otherwise direct the Grantee except as provided herein.

Section 24. Integration. This agreement and any exhibits and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

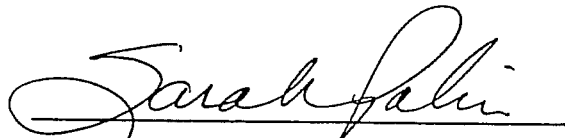

Section 25. Severability. Any provision of this agreement decreed invalid by a court of competent jurisdiction or otherwise by law shall not invalidate the remaining provisions of this agreement.

MATANUSKA-SUSITNA BOROUGH

CITY OF WASILLA



Michael J. Scott
Borough Manager


Title: 

Attachments: Exhibit "A" - Scope of Work
Exhibit "B" - Project Budget

EXHIBIT "A"

SCOPE OF WORK

Project Purpose: Paving of roads within city of Wasilla.

Project Description: Funding is for the paving of Spruce Avenue, Mystery Avenue, East Susitna Avenue, Danna Avenue, Tallerico Subdivision, Blind Nick Drive, Wampum Circle, Railroad Avenue and Park Avenue, all within the Highlands Subdivision in the city of Wasilla.

NOTES:

1. Project purpose must include specific objectives to be accomplished directly related to the purpose of the grant funds.
2. Project description must include sufficient and specific information detailing the services, work, project and equipment to be accomplished with the grant funds.

EXHIBIT "B"

PROJECT BUDGET

Project Number: 35198

CAPITAL PROJECTS

| | Grant Funds | Other Funds |
|-----------------------------|--------------------|--------------------|
| Administration | | |
| Other (Labor) | | |
| Paving | \$290,228 | |
| Contingency | | |
| TOTAL PROJECT BUDGET | \$290,228 | |
