

NON-CODE ORDINANCE

By: Public Works
Introduced: 08/09/10
Public Hearing: 08/23/10
Adopted: 08/23/10

**CITY OF WASILLA
ORDINANCE SERIAL NO. 10-26**

AN ORDINANCE OF THE WASILLA CITY COUNCIL ACCEPTING AND APPROPRIATING STATE OF ALASKA, DEPARTMENT OF TRANSPORTATION, FUNDING IN THE AMOUNT OF \$450,000 FOR KNIK-GOOSE BAY ROAD AND FERN STREET IMPROVEMENTS .

Section 1. Classification. This is a non-code ordinance.

Section 2. Purpose. To accept and appropriate \$450,000 in State of Alaska Department of Transportation Funding for Knik-Goose Bay Road (KGB) and Fern Street Improvements.

Section 3. Appropriation. The funds are appropriated to the following:

KGB & Fern Street Imp	160-4320-432.45-41	\$450,000
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Section 4. Source of Funds.

KGB & Fern Street Imp	160-4300-334.30-65	\$450,000
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Section 5. Effective date. This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on August 23, 2010.



VERNE E. RUPPRIGHT, Mayor

ATTEST:



KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

VOTE: Hall, Harris, Katkus, Larson and Woodruff in favor. Seat D Vacant.



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

ORDINANCE SERIAL No. 10-26: AN ORDINANCE OF THE WASILLA CITY COUNCIL ACCEPTING AND APPROPRIATING STATE OF ALASKA DEPARTMENT OF TRANSPORTATION FUNDING IN THE AMOUNT OF \$450,000 FOR KNIK-GOOSE BAY ROAD AND FERN STREET IMPROVEMENTS .

Agenda of: August 9, 2010
Originator: Public Works Director

Date: July 27, 2010

Route to:	Department	Signature/Date
X	Finance Director	<i>[Signature]</i> 7.29.10
X	Interim Deputy Administrator	<i>[Signature]</i>
X	Public Works Director	<i>[Signature]</i> 7/29/10
X	City Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR VERNE E. RUPRIGHT: *[Signature]*

FISCAL IMPACT: yes \$450,000 or no Funds Available yes no

Account name/number: KGB & Fern Street Imp 160-4320-432.45-41

Attachments: ADOT Memorandum of Agreement

SUMMARY STATEMENT: The Department of Transportation is making funds available to the City to complete the engineering design contract for this project. The City provided the initial funding through a \$300,000 State Legislative Grant. Additional funds are needed to complete the design and bid the project. This ordinance appropriates the necessary funding to keep the project moving forward.

STAFF RECOMMENDATION: Approve the adoption of Ordinance Serial Number 10-26 that accepts and appropriates \$450,000 in Alaska Department of Transportation funding for Knik-Goose Bay Road and Fern Street Improvements.

**MEMORANDUM OF AGREEMENT
BETWEEN
THE STATE OF ALASKA
AND
THE CITY OF WASILLA
For**

**Project: Knik-Goose Bay and Fern Street Improvements
Design thru PS&E**

Project Number: 51896

The parties to this Agreement are the State of Alaska acting through its Department of Transportation and Public Facilities (hereinafter DOT&PF) and the City of Wasilla, a City established under Alaska law (hereinafter the CITY).

WHEREAS, the CITY owns and maintains Fern Street and proposes (under a separate project) to extend Fern Street, thereby increasing the traffic at Fern Street's intersection with Knik-Goose Bay Road (KGB), a State owned and maintained facility;

WHEREAS, the CITY, to address the anticipated increase in traffic, proposes to make improvements and install a new traffic signal at the KGB and Fern Street intersection (hereinafter the PROJECT);

WHEREAS, \$300,000 was appropriated in the SFY2008 Capital Budget by the Legislature to the CITY for the survey, traffic impact analysis, environmental documentation, public involvement, and final design of the PROJECT;

WHEREAS, \$1,200,000 was appropriated in the SFY 2009 Capital Budget to DOT&PF for construction of the PROJECT;

WHEREAS, the CITY does not have additional funds available for the PROJECT and the \$300,000 originally appropriated for design work has been expended;

WHEREAS, the CITY has requested a direct transfer to them of \$450,000 from the funding appropriated to DOT&PF for the construction of the PROJECT, in order to complete the design work for the PROJECT;

WHEREAS, the CITY has exercised its authority under State law or local charter to assume the power to plan, design, construct, and maintain, finance, hold title to, or otherwise control highways, streets, roads, and transportation facilities within its boundaries;

WHEREAS, Alaska Statute 19.05.040 provides that DOT&PF may enter into agreements with local agencies relating to highways; and

WHEREAS, the undersigned parties have been authorized to enter into this Agreement

to cooperatively complete the project under the terms and conditions identified below.

THEREFORE, the parties, in consideration of the mutual promises contained in the Agreement, agree to the following:

1. COMPLIANCE WITH LAWS AND REGULATIONS

The CITY agrees to comply, and shall require compliance by any contractors, with all applicable local, State, and federal laws and regulations.

2. PROJECT SCOPE

The CITY and Matanuska-Susitna Borough determined that Fern Street should be extended from its terminus at East Birchtree Drive (south of Leota Street) to connect with Edlund Drive. This new connection would allow for residents to have a more direct route to KGB. However, the new extension and connection would significantly increase traffic volumes along Fern Street and, in particular at the Fern Street/ KGB intersection.

Due to concerns about delay and the increased potential for crashes at the existing intersection, a Traffic Impact Analysis (TIA) was required by DOT&PF since KGB is a State owned and maintained facility. The TIA Final Report was completed November 2009. It evaluated roadway operations, intersection operations, and safety over a design life of 20 years and made recommendations.

As a result of the evaluations made in the TIA, it was discovered that approximately 1 mile of road widening work along KGB - about 1/2 mile in each direction from the current Fern Street intersection - would be needed for the proposed new traffic signal to function acceptably. Due to the extensive work required along KGB, the complexity of the PROJECT design and the construction cost estimate of the PROJECT greatly increased. The proposed widening along KGB also impacts the existing pathway and utilities.

PROJECT Key Elements

- 1) Extend the second southbound thru-lane along KGB from its current terminus just south of the Palmer-Wasilla Highway/KGB Intersection, to a new terminus south of the Fern Street/KGB intersection;
- 2) Add left-turn lanes on KGB for northbound and southbound traffic making left-turns onto Fern Street;
- 3) Add right-turn lane on KGB for northbound traffic making right turns onto Fern Street;
- 4) Add left turn lane on Fern Street for westbound traffic making left-turns to travel south on KGB.

3. DELEGATION OF DUTIES

- a. The CITY has the responsibility to plan, design, develop utility agreements, purchase any needed right-of-way, and provide support during advertising of the

PROJECT for construction bids within the available funds.

- b. The DOT&PF will support the CITY in the preparation of the PROJECT through the participation of DOT&PF staff generally described as follows: 1) Serve as technical advisor to the CITY, 2) Coordinate review and approval of the PROJECT by DOT&PF staff, and 3) If additional funding is appropriated by the Legislature; advertise the PROJECT for construction bid proposals and oversee the construction of the PROJECT.

4. FUNDING

- a. The PROJECT design estimate is Figure 1.
- b. Funds required to complete the PROJECT design in excess of the estimate, including dispute resolution will be secured by the CITY unless the Agreement is amended and approved by both parties.
- c. DOT&PF indirect costs, at the rate of 4.79%, are deducted from the project account. DOT&PF indirect costs are those authorized by the OMB circular A-87.
- d. Technical services provided by DOT&PF staff, as listed under 3a of this Agreement, will be directly charged to the project.

5. BILLING

- a. Project costs eligible as expenses include in-house or contracted project management, planning, design, development of utility agreements, purchase of right-of-way, and surveying services.
- c. There will be one lump sum payment for the PROJECT design, in the amount of \$450,000, made upon the execution of this Agreement.

6. PROJECT PHASING

The CITY shall not incur any costs intended to be reimbursed on any phase of work until the phase has been authorized in writing by DOT&PF. The phase of work authorized by this Agreement is:

- (1) Design - Work includes planning, design, environmental permitting, surveying, utility agreement preparation, public involvement, right-of-way acquisition, and support during advertisement for construction bids.

The DOT&PF may add, by amendment to this contract, support during construction.

7. CONTRACT PROCUREMENT

If the CITY contracts with third-party contractors, the CITY shall select the contractors using the competitive procurement principles consistent with the State Procurement Code, AS 36.30.

8. PROJECT SUBMITTALS AND REVIEWS

- a. Per Section 450.18 Plans, Specification, and Estimate (Pre-PS&E) Review of the Alaska Highway Preconstruction Manual, the CITY shall forward the Pre-PS&E Review set to DOT&PF. DOT&PF will distribute the review set internally within DOT&PF and host the review meeting.
- b. The DOT&PF shall have a minimum of 3 weeks review the Pre-PS&E assembly and submit any comments to the CITY, prior to hosting the Pre-PS&E review meeting.
- c. The CITY will review all comments and submit five (5) copies of the PS&E assembly for certification by DOT&PF.
- d. Acceptance of the final PS&E assembly, including sealed and signed plans on mylar, and award of the PROJECT for construction shall constitute completion of this phase of the PROJECT.
- e. Within six (6) months after acceptance by DOT&PF that the CITY has met the requirements of this Agreement, the CITY will return the full amount of the grant, less legitimate project expenses, as detailed in a final certified expenditure report, to the State of Alaska.

9. AUDIT OF PROJECT

The CITY will retain for a period of three years after final billing, all contracts, invoices, payrolls, personnel records, conditions of employment, and other data relating to the matters of this Agreement. DOT&PF reserves the right to perform a final project audit.

10. INDEMNIFICATION

- a. The CITY shall indemnify, defend, and hold harmless DOT&PF, its officers, agents, and employees from all liability, including costs and attorney's fees, for all actions or claims resulting from injuries or damages sustained by any person or property as a result of the CITY's, its contractors', or its employees' performance of this Agreement.
- b. Responsibility for all actions or claims, including costs and attorney's fees, resulting from injuries or damages sustained by any person or property arising directly or indirectly from the CITY'S performance of the Agreement, which result from the joint negligence of DOT&PF and the CITY, shall be apportioned on the basis of comparative fault.

11. WAIVER OF PROVISIONS

The failure of DOT&PF to insist upon strict performance of the CITY of any provision in this Agreement is not a waiver or relinquishment of the provision for the future. The waiver by the DOT&PF of any provision in this Agreement cannot be enforced or relied upon unless the waiver is in writing and signed on behalf of the DOT&PF.

12. LOBBYING

The CITY shall ensure that none of the funds under this Agreement will be used for the purposes of lobbying the Alaska State Legislature or the United States Congress.

13. CONTACTS

Required notices of this Agreement must be sent to the following contract administrators:

DOT&PF: Cynthia Ferguson, PE
DOT&PF, Project Manager
4111 Aviation Avenue
Anchorage, AK 99519

CITY: Archie Giddings, PE
City of Wasilla, Director of Public Works
290 E. Herning Avenue
Wasilla, AK 99645

Each party agrees to notify the other party in writing of any change in the administrator.

14. TERMINATION FOR CAUSE

- a. If the CITY is in substantial violation of the Agreement, or if the CITY has failed to fulfill its responsibilities under the Agreement in a proper and timely manner, DOT&PF may, in its discretion, notify the CITY of the violation or failure. If the CITY fails to correct the violation within a reasonable time, or to offer assurance satisfactory to DOT&PF that the violation or failure will be remedied or the work defects cured, DOT&PF will, in its discretion, terminate the Agreement and assume control of the project. DOT&PF will give written notice to the CITY at least fifteen (15) days before the effective date of termination, and will state the reasons for the termination. The CITY may appeal DOT&PF's decision to the Commissioner within ten (10) days. Pending the Commissioner's decision, no work may proceed on the project. The Commissioner's decision is final.
- b. If the Agreement is terminated for cause under this section, DOT&PF will compensate the CITY for satisfactory work on the project to the extent that the CITY has not been compensated. However, the CITY is not relieved of any

liability to DOT&PF, or any third party, for damages caused by the contract breach, and DOT&PF will, in its discretion, withhold compensation due under this subsection until the amount of damages owed to DOT&PF can be determined and deducted against DOT&PF's obligations.

15. TERMINATION FOR CONVENIENCE

- a. DOT&PF may, in its discretion, at any time terminate the Agreement if DOT&PF determines that termination is in the best interests of the State. DOT&PF will give written notice to the CITY of its decision to terminate the agreement not less than fifteen (15) days before the effective date of termination. The written notice will include a statement of why the decision to terminate was made.
- b. If the Agreement is terminated for the convenience of the State under this section, DOT&PF will reimburse the CITY for that portion of its expenses which was not otherwise reimbursed under the Agreement, and which is directly attributable to performance under the Agreement. DOT&PF will also reimburse the CITY for any costs properly incurred by the CITY in honoring convenience termination clauses in its agreements with its contractors, as long as those clauses conform to the standard convenience termination clause used by the State for similar type contracts.

16. TERMINATION BY MUTUAL CONSENT

- a. If the DOT&PF or the CITY wishes to terminate this Agreement prior to its completion, the initiating party shall notify the other party in writing of its reasons for requesting the early termination. This request must be made at least fifteen (15) days prior to the proposed termination date. If both parties agree that it is in their mutual best interests to terminate this Agreement early, all finished or unfinished documents and other materials shall become the property of the CITY.
- b. If the Agreement is terminated as provided herein, the CITY shall be reimbursed for those actual expenses not otherwise reimbursed under this Agreement, which were incurred by the CITY during the Agreement period and which are directly attributable to the CITY's performance of the Agreement. The DOT&PF shall also reimburse the CITY in honoring convenience termination clauses in the Agreement with its contractors as long as these clauses conform to the standard convenience termination clause used by the State for similar type contracts.

17. AMENDMENT OF AGREEMENT

This Agreement may only be modified or amended by written agreement signed by the original signatories or their successors in office.

18. TERM OF THE AGREEMENT

Figure 1. Project Budget

<i>Type of Work</i>		<i>Estimate of Funding</i>		
		(1) Estimated Total Project Funds	(2) Estimated CITY Funds	(3) Estimated State Funds
Reconnaissance Engineering Study				
a.	CITY Work	\$ 450,000	\$ -	\$ 450,000
b.	Other	\$ -	\$ -	\$ -
c.	State Services	\$ 50,000	\$ -	\$ 50,000
d.	Indirect Cost Allocation Plan (ICAP)	\$ 23,950	\$ -	\$ 23,950
e.	Total PORJECT Cost Estimate (a+b+c+d)	\$ 523,950	\$ -	\$ 523,950

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