

By: Public Works Department

Adopted: November 26, 2012

Vote: Buswell, Harris, Lovell, Sullivan-Leonard, Wall, and Woodruff in favor.

**CITY OF WASILLA
RESOLUTION SERIAL NO. 12-34**

A RESOLUTION OF THE WASILLA CITY COUNCIL AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF ALASKA AND THE CITY OF WASILLA FOR LUCUS ROAD IMPROVEMENTS.


WHEREAS, a Memorandum of Agreement was entered into in 2004 to improve the STIP ranking for the Lucus Road Improvement project with the City providing a 5 percent match for all project costs; and

WHEREAS, the project as proposed in 2004 was never completed by the State of Alaska and subsequently the project was removed from the STIP as a priority project; and

WHEREAS, the State of Alaska has now advanced the project to rebuild Lucus Road as part of the 2013-2015 STIP without the requirement of a 5 percent match from the City.

NOW, THEREFORE, BE IT RESOLVED, that the Wasilla City Council authorizes the Mayor to execute an agreement amendment with the State of Alaska to delete the City's 5 percent match requirement for the Lucus Road Improvement project.

ADOPTED by the Wasilla City Council on November 26, 2012.


VERNE E. RUPRIGHT, Mayor

ATTEST:


KRISTIE SMITHERS, MMC, City Clerk

[SEAL]



RESOLUTION SERIAL No. 12-34: A RESOLUTION OF THE WASILLA CITY COUNCIL AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF ALASKA AND THE CITY OF WASILLA FOR LUCUS ROAD IMPROVEMENTS.

Agenda of: November 26, 2012
Originator: Public Works Director

Date: November 6, 2012

Route to:	Department	Signature	Date
X	Public Works Director		11/6/12
X	Finance Director		11/6/12
X	Interim Deputy Administrator		11/06/06
X	City Clerk		11/6/12

REVIEWED BY MAYOR VERNE E. RUPRIGHT:

FISCAL IMPACT: yes or No

Account name/number:

Attachments: 2004 Memorandum of Agreement (5 pages)
 2012 Amendment (1 page)

SUMMARY STATEMENT: The 2004 Memorandum of Agreement was entered into to improve the State Transportation Improvement Program (STIP) ranking for the Lucus Road Improvement project subject to the City providing a 5 percent match for all project costs. The project as proposed in 2004 was never completed by the State of Alaska and the project was subsequently removed from the STIP. The State of Alaska has now advanced the project as part of the 2013-2015 STIP without the requirement for the City providing the 5 percent match. The proposed amendment deletes the City's 5 percent match requirement.

STAFF RECOMMENDATION: Adopt Resolution Serial No. 12-34.



Amendment to Memorandum of Agreement Between State of Alaska and City of Wasilla

Municipality: City of Wasilla	AKSAS Project No. 55007
Date: September 10, 2012	Federal Aid Project No. MGS-0001(311)
	Amendment No. One

The Department of Transportation and Public Facilities and the City of Wasilla desire to amend the agreement entered into and executed on September 24, 2003. Except as expressly modified by this amendment, all provisions in the basic agreement remain in effect.

Description of Agreement Amendment:

In paragraph 1a, delete the phrase "has agreed to provide a five percent (5%) match towards the design and construction costs of the project and".

In paragraph 2, delete the phrase "and funding".

Delete paragraph 4.


Reason for Agreement Amendment:

To reflect the conditions of the current STIP ranking and entry.

The municipality further stipulates that pursuant to said Title 23 regulations and policies and procedures, and as a condition to payment of the federal funds obligated, it accepts and will and comply with the applicable provisions.

Dated: 9-17-2012

State of Alaska
Department of Transportation and Public Facilities

By: 

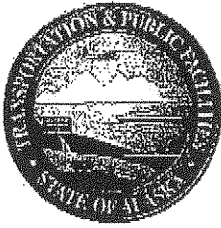
Title: PRECONSTRUCTION ENGINEER

Dated:

Name of Municipality

By:

Title:



**Memorandum of Agreement
Between State of Alaska and
City of Wasilla**

The parties to this agreement of the State of Alaska acting through its Department of Transportation and Public Facilities (hereafter DOT&PF) and the City of Wasilla, a municipality established under Alaska law (hereafter the Municipality)

WHEREAS, DOT&PF has the authority to plan, design, and construct Lucas Road Improvements, identified as Project 55007, located within the boundaries of the Municipality (hereafter the project);

WHEREAS, the Municipality desires that DOT&PF plan, design and construct the project; and

IT IS THEREFORE AGREED by the parties, in consideration of the mutual promises contained in this agreement, as set forth below, regarding the planning, design, construction, maintenance, and operation of the project.

1. PROJECT RANKING

- a. DOT&PF shall, while ranking this project with other projects during the preparation of the State Transportation Improvement Plan (STIP) and capital budgeting process, recognize that the Municipality has agreed to provide a five percent (5%) match towards the design and construction costs of the project and agrees to maintain and operate the project in perpetuity, commencing upon the substantial completion of the construction project.
- b. If the Municipality withdraws its promise to provide the funds listed in 1.a. above prior to advertising for construction, DOT&PF will reevaluate each project nominated by the municipality without consideration of municipal contribution. Municipal projects will be placed in the Surface Transportation Improvement Plan in accordance with their revised scores. If the Municipality withdraws its promise after the advertisement of a project for bid, the DOT&PF may proceed with construction of the project. In the evaluation of other projects in the municipality in the succeeding six years after the breach, the DOT&PF will not include consideration of municipal contribution until the municipality has cured the breach to the DOT&PF's satisfaction.

2. PLANNING, DESIGN, AND CONSTRUCTION

DOT&PF shall plan, design, and construct the project within the approved scope and funding.

3. SCOPE OF WORK

DOT&PF shall improve Lucas Road between the Parks Highway and Spruce Avenue to an upgraded two lane facility with shoulders, turning lanes, pedestrian facilities, landscaping and drainage improvements.

Maintenance and Operations

- a. The Municipality agrees to maintain and operate the project in perpetuity commencing upon the substantial completion of the construction of the project.
- b. The Municipality agrees to maintain and operate the project consistent with 23 CFR 81.27 and DOT&PF's Alaska Highway Maintenance and Operations Manual (AHMOM).
- c. The Municipality shall perform its activities under this agreement at its sole cost and expense and without reimbursement from DOT&PF. The Municipality's maintenance activities include, but are not limited to:
 - 1) planning, scheduling, administration, and logistics of maintenance activities,
 - 2) traffic control and safety;
 - 3) preservation of drainage in an as-built condition, including maintenance of all culverts, ditches, storm sewers, gutters, dry wells, and under-drains;
 - 4) embankment protection, including erosion control, to as-built conditions;
 - 5) roadside management;
 - 6) snow and ice removal;
 - 7) snow and ice control, including all plowing, sanding, culvert and storm sewer thawing, snow hauling,
 - 8) winging, opening of shoulders, ice scraping, drift control, snow slide removal, and associated tasks as may be required for the safe and timely passage of the public;
 - 9) maintaining signs and delineators in an as-built condition and their replacement, including posts and foundations, when damaged, unreadable, or worn out;
 - 10) highway marking and repainting as required to maintain performance of their intended function;
 - 11) repair of street lights as required to ensure a functioning system, including repair/replacement of lenses, light bulbs, photo cells, contacts, relays, and wiring;
 - 12) removal of debris, rubbish, and dead animals;
 - 13) signing of seasonal weight restrictions as may be required by local conditions;
 - 1) pothole repair using asphalt products on an as-needed basis;
 - 14) annual crack sealing;
 - 15) repairs of minor rutting, waves, sags, humps, corrugations, raveling, alligator cracks, pitting and bleeding on a basis; and
 - 16) minor bridge repairs, which includes painting of localized rust areas, re-decking, and repair of guardrail and railing sections.

Property Management

The municipality agrees that its management of the right of way is subject to the provisions of 23 CFR §1.23, in perpetuity commencing upon the substantial completion of the construction of the project.

The municipality may not allow any encroachment within the right of way of the project without the prior consent of DOT&PF and the Federal Highway Administration. The municipality may not sell any portion of the right of way without the prior consent from DOT&PF and the Federal Highway Administration. In the event that DOT&PF and the Federal Highway Administration give their consent to the disposal of any portion of the right of way for the project, the municipality shall pay proceeds of the sale to DOT&PF, which DOT&PF will credit to the appropriate federal aid accounts.

4. BILLING

The Department will invoice the Municipality on a monthly basis for the 5 % matching share of total costs incurred by the Department during the billing period.

5. TITLE DOCUMENTS

- a. Upon completion of the project, DOT&PF shall execute a quit claim deed that conveys all of its right, title, and interest in the project to the Municipality, subject to utility permits issued under 17 AAC 15, encroachment permits issued under 17 AAC 10.010-17 AAC 10.015, and driveway permits issued under 17 AAC 10.020-17 AAC 10.990.
- b. The quit claim deed issued under this paragraph shall revert to DOT&PF if any land occupied by the project ceases, for any reason, to be used for a public facility.

6. INDEMNIFICATION

The Municipality shall hold the State, its officers, employees, and agents (collectively, "the State") harmless from and defend and indemnify the State for liability, claims, or causes of action arising out of this Deed and Assignment or relating to the property and facilities being deeded and the obligations being assigned.

Notwithstanding the foregoing, the Municipality shall have no obligation to hold harmless and indemnify the State to the extent the State is determined to be liable for its own acts or omissions, except that:

To the maximum extent allowed by law, the Municipality shall hold the State harmless from and indemnify the State for liability, claims, or causes of action arising from an alleged defect in the design or construction of facilities existing on the premises at the date of this grant, regardless of negligence or other fault, if such liability, claim, or cause of action arises out of an incident that occurs more than two years after the Municipality assumes maintenance responsibilities for the facilities.

The Municipality's duty to defend shall apply regardless of whether it is also alleged that the State's acts or omissions contributed to the injury (including injury to personal property, real property or persons, including fatal injury).

Neither liability, claims or causes of action arising from injuries which occurred prior to the date of this transfer nor liabilities imposed by, or claims or causes of action arising from or asserted under AS 46.03.822 shall be governed by this paragraph.

7. TERM OF THE AGREEMENT

The municipality agrees to perform property management and maintain and operate the project in perpetuity commencing upon the substantial completion of the construction of the project. DOT&PF shall inform municipality of that date.

8. AMENDMENT OF AGREEMENT

This agreement may only be modified or amended by written agreement on the prescribed Supplemental Agreement forms signed by both parties.

9. THE WHOLE AGREEMENT

This agreement constitutes the entire agreement between the parties. There are no other understandings or agreements between the parties, either oral or memorialized in writing regarding the matters addressed in this agreement. This agreement may not be amended by the parties unless agreed to in writing with both parties signing through their authorized representatives.

Dated: 3/12/04

State of Alaska
Department of Transportation and Public Facilities

By: [Signature]
(Name)

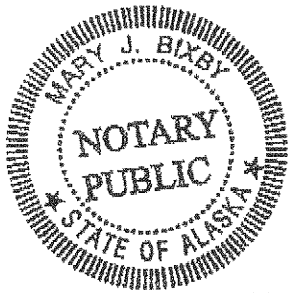
Title: PRECONSTRUCTION ENGINEER

Dated: 2/2/04

City of Wasilla
(Name of Municipality)

By: Dianne M. Keller

Title: Mayor



ACKNOWLEDGMENT OF MUNICIPALITY

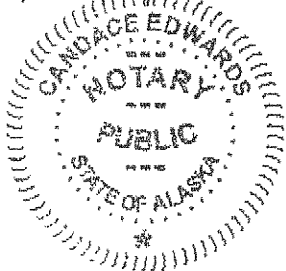
Subscribed and sworn to or affirmed before me by Dianne M. Keller, who is Mayor of the City of Wasilla, a municipality established under Alaska law, on this 2nd day of Feb, 2004

Mary J. Bixby
Notary Public, State of Alaska
My commission expires: 5-18-05

ACKNOWLEDGMENT OF STATE OF ALASKA

Subscribed and sworn to or affirmed before me by Robert A Campbell, who is Preconstruction Engineer of the Dept. of Transportation, a municipality established under Alaska law, on this 12th day of March, 2004.

Candace Edwards
Notary Public, State of Alaska
My commission expires: 4-20-05



ACKNOWLEDGMENT OF THE ASSEMBLY OR COUNCIL OF THE MUNICIPALITY

Be it remembered that on the 12th day of January, 2004 at a regular meeting, of the City of Wasilla, a municipality established under Alaska law, granted its approved of the foregoing instrument.

Dated: February 3rd, 2004

Kate Smith
Clerk