

**SUBJECT:** A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY APPROVING THE SCOPE OF WORK AND BUDGET FOR THE FELTON STREET EXTENSION PROJECT, FUND 430, ROADS AND BRIDGES CAPITAL PROJECT, PROJECT NO. 35401.

**AGENDA OF:** January 5, 2021

**Assembly Action:**

**MANAGER RECOMMENDATION:** Present to the Assembly for consideration.

**APPROVED BY MICHAEL BROWN, BOROUGH MANAGER:** 

Route To:	Department/Individual	Initials	Remarks
	Originator, Brad Sworts	BJS	12/22/2020
	Public Works Director	TBD	12/22/2020
	Finance Director	CX	
	Borough Attorney	JS	
	Borough Clerk	BSA for LRM	

**ATTACHMENT (S):** Fiscal Note: YES ☒ NO ☐  
Resolution Serial No. 21-007 (2 pp)  
TORA (14 pp)

**SUMMARY STATEMENT:** The Felton Street Extension project included in the original 2011 Borough Road Bond package and approved by the residents of the Borough is an important north-south collector road connection. This extension builds out the local road grid by providing additional access to businesses, residential subdivisions, and Palmer High School while also reducing congestion on the Palmer-Wasilla Highway and Glenn Highway.

Project development is currently at conceptual design and coordination with the Palmer High School staff has been successful in identifying solutions to impacts the project may have to school property. The Alaska Department of Transportation and Public

Facilities (ADOT&PF) has agreed to provide funding to develop the project through all phases including construction. When complete, the project will be owned and maintained by the City of Palmer.

On October 6, 2020, in Ordinance Serial No. 20-093, the Matanuska-Susitna Borough Assembly accepted and appropriated \$2,400,000 from the ADOT&PF. The \$175,000 Matanuska-Susitna Borough contribution required in the TORA (page 11) is currently available for this project from a state designated legislative grant State of Alaska, Department of Commerce, Community and Economic Development, 13-DC-632, Project 35401.

A resolution to define the scope of work and budget must be approved by the Assembly prior to any expenditures.

**RECOMMENDATION OF ADMINISTRATION:** APPROVE THE SCOPE OF WORK AND BUDGET FOR THE FELTON STREET EXTENSION PROJECT, FUND 430, ROADS AND BRIDGES CAPITAL PROJECT, PROJECT NO. 35401.

# MATANUSKA-SUSITNA BOROUGH FISCAL NOTE

Agenda Date: January 5, 2021

SUBJECT: A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY APPROVING THE SCOPE OF WORK AND BUDGET FOR THE FELTON STREET EXTENSION PROJECT, FUND 430, ROADS AND BRIDGES CAPITAL PROJECT, PROJECT NO. 35401.

ORIGINATOR: Brad Sworts

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>YES</u> NO
AMOUNT REQUESTED <u>\$2,575,000</u>	FUNDING SOURCE <u>Grants</u>
FROM ACCOUNT # <u>430.000.000 4xx.xxx (\$175,000)</u>	PROJECT <u>35401-9100-9103</u>
TO ACCOUNT: <u>430.000.000 3xx.xxx</u>	PROJECT # <u>35401</u>
VERIFIED BY: <u>Kim Weiland</u>	CERTIFIED BY:
DATE: <u>12-22-2020</u>	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL		<u>2,575.0</u>				
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REVENUE						
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FUNDING:

(Thousands of Dollars)

General Fund						
State/Federal Funds		<u>2,575.0</u>				
Other						
TOTAL		<u>2,575.0</u>				

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PREPARED BY:

PHONE:

DEPARTMENT:

DATE:

APPROVED BY:

DATE:

*Cherianne Akmal*

12/22/2020



# TRANSFER OF RESPONSIBILITY AGREEMENT

ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES  
TO THE MATANUSKA SUSITNA BOROUGH  
AND THE CITY OF PALMER

Project: Felton Street Project

This Agreement is effective upon execution by the State of Alaska, Department of Transportation and Public Facilities (hereafter called the State), the Matanuska-Susitna Borough (hereafter called the Borough) and the City of Palmer (hereafter called the City).

WHEREAS, AS 19.20.060 authorizes the State, the Borough and the City to enter into agreements for establishing, maintaining, and regulating use of public ways within their respective jurisdictions; and

WHEREAS, the Borough has requested funding from the State to design and construct Felton Street between the Palmer-Wasilla Highway and Bogard Road, (hereafter referred to as "the Project") as per Exhibit A with the City accepting ownership and maintenance of the project; and

WHEREAS, the parties to this Agreement agree that the Project, constructed between the Palmer-Wasilla Highway and Bogard Road will provide a much needed north-south collector-level road, drawing traffic off of the heavily congested intersection of the Glenn Highway and the Palmer-Wasilla Highway; and

WHEREAS, as part of the Palmer-Wasilla Highway Eastern Terminus project, the State began development of the Project by producing a design, purchasing a portion of the corridor's right-of-way, and constructing an intersection approach at the Palmer-Wasilla Highway; and

WHEREAS, in 2011 at the regular Borough election, the voters of the Borough approved a ballot proposition titled Fifty Percent State Match Borough Transportation Systems Bonds (Ordinance 11-084) including the Project titled as "Palmer, Dogwood Avenue/Felton Street Extension"; and

WHEREAS, bonds were issued and appropriated to the Project (Ordinance 13-001); and

WHEREAS, the Borough's portion of the original Project was intended to link with parallel work on the Project being managed by the State; and

WHEREAS, the State was unable to obtain right-of-way for the full build-out of the Project design and therefore cancelled their portion of the Project; and

WHEREAS in 2017, after spending approximately \$1.6 million on completed portions of the Project, the Borough transferred remaining funds to other 2011 bond projects (Resolutions 17-014 and 17-043); and

Felton Street Project  
TRANSFER OF RESPONSIBILITY AGREEMENT

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WHEREAS, as of 2017, the Borough had already constructed the most northern portion of the Project providing access to the Palmer High School Pool and an adjacent subdivision; and

WHEREAS, in 2020 the Borough established an easement for the Project corridor from the previously constructed Felton Street stub-out near the Palmer H.S. Pool access south to the right-of-way acquired by the State.

WHEREAS, all right-of-way needed per the reconnaissance design is in place for the Project to proceed to full design and construction; and

WHEREAS, because of the previous cancellation and transfer of funds to other projects, the Borough does not have the funding to redesign and construct the missing portion of the Project that the State originally designed; and

WHEREAS, the State is transferring funding for the Project to the Borough so that the Borough can complete the design, right-of-way acquisition, and construction of the remaining segment thus providing an additional route for north-south travel, reducing the levels of traffic at the Glenn Highway/Palmer-Wasilla Highway intersection, and improving safety for the traveling public; and

WHEREAS, it is in the best interest of the public and in the interests of both the State and Borough that the Borough be allowed to assume all responsibility for the Project's Scope of Work described in Exhibit A; and

WHEREAS, upon final completion of the Project, the City will accept transfer of title to designated lands and improvements and maintain the newly constructed portion of Felton Street; and

WHEREAS, the Project will not open to the public for use until final completion; and

WHEREAS, the parties desire to define maintenance responsibilities for those facilities and improvements located within areas that are currently controlled by the State, the Borough, or the City, or that will be conveyed to the City upon completion of the Project (the "Improvements"); and

WHEREAS, the parties hereto wish to memorialize within this document, hereinafter referred to as the "Agreement", their specific obligations with regard to improvements and facilities associated with the Project.

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 portions of the Project:



**1. PLANNING, DESIGN, AND CONSTRUCTION**

A. The Borough will complete the planning and design, and construct the Project (as further described in Exhibit A) within the approved scope and funding and per City of Palmer standards. It will provide all labor, materials, and equipment necessary to construct the Project in accordance with the provisions contained within the Project documents and plans. City standards and details will be incorporated into any future plans for items that will be maintained by the City. The State and the City will be given opportunity to review and comment on any new design and contract documents at the 75 percent "Plans in Hand" design milestone and at the 95 percent "Plans Specifications and Estimate" design milestone at a minimum. The Borough shall submit documentation of concurrence by the City of Palmer for all improvements within the Palmer City limits to the State for review. All comments will be adjudicated to the satisfaction of all parties. The State and the City shall have no claim against the Borough for cost overruns or if the money available is not adequate to complete the Project.

B. The Borough shall be responsible for permitting all utility relocations necessary for this Project.

C. The Borough agrees to comply, and shall require compliance by any contractor, with all applicable local, State, and federal codes, statutes, and regulations. This specifically includes those under AS 35.15 Construction Procedures, and any laws relating to civil rights.

D. The Borough must certify any additional right-of-way acquired for the project beyond what the State has already acquired as of the signing of this document (i.e. land interest in the project site) pursuant to AS 35.15.110 Title to Site & Completion of Project, and obtain the State's approval.

E. The State will have technical review of the improvements within State right-of-way (ROW) in conjunction with the Borough's submittal for an Approach Road Permit, which the Borough is subject to within the State's ROW.

F. The State has coordinated with the appropriate regulatory agencies and produced an Environmental Checklist for the project, a copy of which will be sent to the Borough. The State also determined that no environmental permits were required to construct the project except for a Storm Water Pollution Prevention Plan that is the Borough's responsibility to obtain.

G. The Borough, the State, and the City shall partner in the final inspection of the Project. The State shall approve the final documents on the project per AS 35.15.110.

**2. FUNDING AND PROGRESS PAYMENTS**

A. The State agrees to reimburse the Borough in the amount not to exceed TWO MILLION FOUR HUNDRED THOUSAND DOLLARS (\$2,400,000) which originated

from the State Fiscal Year 2008 Capital Budget, HCS CSSB 53(FIN) am H, Sec. 1, Palmer Wasilla Highway Improvements, listed on Page 78, Line 31 in the amount of \$20,000,000. The \$2,400,000 is to be used to design and construct the Project. This funding will only be used for the accomplishment of the project as outlined in Exhibit A and shown in Exhibit B.

B. The State may provide additional funding of the project development and construction costs at its sole discretion.

C. The Borough will submit progress payment requests monthly and the State will pay them. Billing back up documentation will not be required for the monthly billings, but will be made available by the Borough should an audit be requested. The State agrees to review progress payment requests and provide any questions to the Borough within 10 calendar days of receiving the progress payment request. The Borough shall answer all questions in writing, submit all requested backup information, and submit a revised progress payment request. The State will review the progress payment request as stated above and the process will be repeated until there are no questions. Once there are no questions on the progress payment request, but no later than 45 days from the date of receipt, the State shall process the progress payment request for payment and pay the Borough the amount requested.

D. The Borough shall submit a quarterly status and expenditure report to the State. The first report shall be due at the end of the quarter in which the agreement has been executed and a subsequent report shall be due every three months thereafter until project completion (i.e., after acceptance by the State that the Borough has completed its requirements under this Agreement).

E. The Borough shall provide the State 20 days to review all financial documents required in this agreement, except monthly progress payments (see item 2C).

F. The Borough, upon completion of the Project, shall provide the State with the final expenditure report, certified by the Borough, of all costs incurred in the accomplishment of the Project. Upon receipt of the final expenditure report, State will make any final payment within 30 days.

G. The Borough recognizes that AAC 45.010 Audit Requirements establishes specific audit requirements for agreements executed after August 1, 1985. The Borough agrees to be immediately subject to the audit requirements as set forth in the Alaska Administrative Code 45.010. The State will audit, at its discretion, the project upon written project completion notification by the Borough. The Borough shall maintain all project records for three (3) years after the date of project acceptance.

H. Within sixty (60) days after the issuance of the final audit report to the State or sixty (60) days after acceptance by the State that the Borough has met the requirements of this Agreement, the Borough will return the full amount of the grant, less legitimate project expenses, to the State of Alaska.



### 3. MAINTENANCE AND OPERATIONS

#### A. Maintenance obligations after final completion.

i. At its sole cost and expense, the City will maintain and operate the Project improvements as shown on the attached Road Ownership and Maintenance Map (Exhibit B) in a manner consistent with the City's maintenance standards, commencing upon Final Completion of those improvements. The City's maintenance responsibilities include preservation of culverts and drainage systems, snow and ice removal, replacement of damaged or illegible signs, repair/replacement of streetlights as needed, removal of dead animals, routine pothole and crack repair and sidewalk/pathway repair.

ii. The City will own and maintain all portions of Felton Street as shown on the attached Road Ownership and Maintenance Map (Exhibit B) at its sole cost and expense, without reimbursement from State or the Borough.

iii. The City agrees to assume maintenance responsibilities for the Felton Street intersection approach to the Palmer-Wasilla Highway to Josh Drive intersection including lighting, local signage, and winter maintenance. The City agrees to assume maintenance responsibilities for the gravel, asphalt pavement, medians, storm drain, pathways, illumination, and load centers associated with the intersection improvements. If the City desires to add additional lighting along the street corridor as part of this project it will be responsible to maintain those streetlights as well.

iv. The City may enter into contracts with third parties to accomplish these responsibilities, including temporary, seasonal, or permanent alterations or improvements, at the discretion of the City.

v. The State remains responsible for maintenance and operation of the Palmer-Wasilla Highway outside of the Project boundary.

#### B. Sole remedy for the City's failure to meet its maintenance obligations.

In the event State gives notice that the City is failing to properly maintain the Project Improvements, the City will correct the identified deficiencies within 60 days of the date of that notice. Failure by the City to do so will result in State suspending all future improvements to roads controlled by the City until: (1) all maintenance deficiencies are corrected by the City; and (2) the City reimburses State for costs it incurred (if any) in correcting the deficiencies. The parties agree such suspension is State's sole remedy for the City's failure to meet its maintenance obligations.



#### 4. TITLE TRANSFER

Upon final completion of the construction project, the State and the Borough shall execute and the City shall accept a quitclaim deed that conveys all of State's and the Borough's rights, titles, and interests in the portions of the Project designated for ownership by the City, including any realigned portions of Felton Street as shown on the attached Road Ownership and Maintenance Map (Exhibit B).

No later than 60 days after Final Completion, the Borough shall provide the City with "As Built" drawings of the Project.

#### 5. INDEMNIFICATION

A. To the maximum extent allowed by law, the Borough shall indemnify, defend, and hold the State and the City and their officers, employees, and agents (collectively the "Indemnified Parties") harmless from all liability, claims, causes of action, and costs (including attorney's fees) relating to the obligations assigned or work performed by the Borough under this Agreement.

Notwithstanding the foregoing, the Borough shall have no obligation to indemnify, defend, or hold the Indemnified Parties harmless from:

- i. claims for personal injury, death, or property damage arising from incidents occurring after Substantial Completion;
- ii. claims for personal injury, death, or property damage alleging a negligent act or omission by the Borough and arising from incidents occurring after three years from the date of Substantial Completion;
- iii. claims arising from or asserted under AS 46.03.822.

B. To the maximum extent allowed by law, the City shall indemnify, defend, and hold State and the Borough and their officers, employees, and agents (collectively the "Indemnified Parties") harmless from all liability, claims, causes of action, and costs (including attorney's fees) arising out of this Agreement or relating to the obligations assigned or work performed under this Agreement, including, but not limited to, liability, claims, and causes of action alleging or arising out of a negligent act or omission by one of the Indemnified Parties.

Notwithstanding the foregoing, the City shall have no obligation to indemnify, defend, or hold the Indemnified Parties harmless from:

- i. claims for personal injury, death, or property damage arising from incidents occurring prior to Substantial Completion;

- ii. claims for personal injury, death, or property damage alleging a negligent act or omission by one of the Indemnified Parties and arising from incidents occurring within three years from the date of Substantial Completion;
- iii. claims arising from or asserted under AS 46.03.822.

## 6. MISCELLANEOUS PROVISIONS

A. The Borough shall ensure that none of the funds paid under this Agreement will be used for the purposes of lobbying the activities before the Alaska State Legislature.

B. 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. The parties may not amend this Agreement unless agreed to in writing with all parties signing through their authorized representatives.

C. The failure of any party to this Agreement to insist on any one or more instances upon strict performance by any other party of any provision or covenant in this Agreement may not be considered as a waiver or relinquishment of the provision or covenant for the future. The waiver by a party of any provision or covenant in the Agreement cannot be enforced or relied upon by another party unless the waiver is in writing and signed.

D. Unless changed by prior written notice, any notices required by this Agreement must be sent to the following addresses:

STATE: Central Region Construction Chief  
Department of Transportation  
& Public Facilities  
P.O. Box 196900  
Anchorage, Alaska 99519-6900

BOROUGH: Capital Projects Department Director  
Matanuska-Susitna Borough  
350 E. Dahlia Avenue  
Palmer, Alaska 99645-6488

CITY: Public Works Department Director  
City of Palmer  
231 W. Evergreen Avenue  
Palmer, Alaska 99645

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E. Point of contact for billings or plan reviews:

STATE: Same as listed in "D." above

BOROUGH: Bob Walden, P.E. Project Manager  
Matanuska-Susitna Borough  
350 E. Dahlia Avenue  
Palmer, Alaska 99645-6488

CITY: Same as listed in "D." above

STATE OF ALASKA, DEPARTMENT OF  
TRANSPORTATION AND PUBLIC FACILITIES

By: [Signature] 12/02/2020  
Wolfgang Junge, P.E. Date  
Central Region Director

ACKNOWLEDGEMENT

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

On this 02 day of Dec., 2020, Wolfgang Junge, P.E., Central Region Director of the Department of Transportation and Public Facilities, acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.



[Signature]  
Notary Public, State of Alaska  
My commission expires: End of Office

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RS 21-007

MATANUSKA SUSITNA BOROUGH

By: *George Hays* \_\_\_\_\_ Date \_\_\_\_\_  
George Hays  
Acting Borough Manager

ACKNOWLEDGEMENT

STATE OF ALASKA                     )  
  ) ss.  
THIRD JUDICIAL DISTRICT        )

On this 19<sup>th</sup> day of November, 2020, George Hays, Acting Manager of the Matanuska-Susitna Borough, acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.



*Mary Miller*  
Notary Public, State of Alaska  
My commission expires: 10/24/2024

*1M 21-015*  
*RS 21-007*



CITY OF PALMER

By: John Moosey  
City Manager

09.15.2020

Date

ACKNOWLEDGEMENT

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

On this 15<sup>th</sup> day of September, 2020, John Moosey, Manager of the City of Palmer, acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.



Justyna Mazurkiewicz  
Notary Public, State of Alaska  
My commission expires: with office

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## EXHIBIT A

### A. Scope of Work

Design modifications, right-of-way acquisition, utility relocation and construction for Felton Street Extension development between the Palmer-Wasilla Highway and Bogard Road including: pedestrian/bike facilities, street lighting, potential intersection widening, and Felton Street/Bogard Road intersection signal timing modification (just outside the project boundaries). The project area is shown in Exhibit C.

### B. Estimate Cost

#### 1. Design Modifications

##### a. Phase 2

i. Design & Survey Contract	\$200,000
ii. Construction Assistance (10% of design & survey)	\$ 20,000
iii. <u>MSB Admin Fee (5% of design &amp; survey)</u>	<u>\$ 10,000</u>
iv. Total Phase 2	\$230,000

#### 2. ROW Acquisition

##### a. Phase 3

i. Title & Certification Contracts	\$25,000
ii. <u>MSB Admin Fee (5% of ROW acquisition)</u>	<u>\$ 1,250</u>
iii. Total Phase 3	\$26,250

#### 3. Construction

##### a. Phase 4

i. Construction Contract	\$1,618,300
ii. Construction Management (15% of construction)	\$ 242,745
iii. Contingency (15% of construction)	\$ 242,745
iv. <u>MSB Admin Fee (5% of construction &amp; contingency)</u>	<u>\$ 93,052</u>
v. Total Phase 4	\$2,196,842

#### 4. Utility Relocation

##### a. Phase 7

i. Utility Relocation	\$40,000
ii. Contingency (15% of utility relocation)	\$ 6,000
iii. <u>MSB Admin Fee (5% of utility relocation)</u>	<u>\$ 2,300</u>
iv. Total Phase 7	\$48,300

Estimated Total Cost of all Phases	\$2,501,392
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MSB Contribution	\$ 175,000
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<u>Not to Exceed Total (transfer from State)</u>	<u>\$2,400,000</u>
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Total Project Funding	\$2,575,000
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C. Estimated Project Schedule:

1. Construction Completion

12/31/2022

2. Closeout Audit (within 90 days of construction completion)

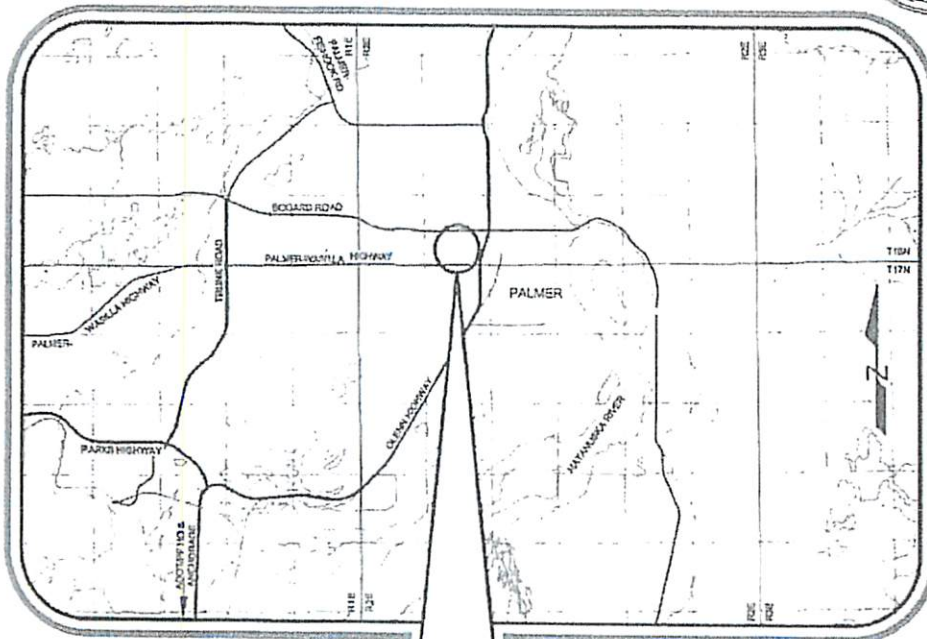
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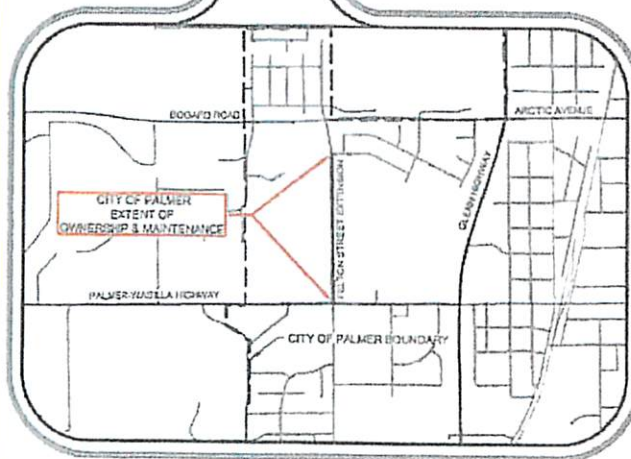
**MATANUSKA-SUSITNA BOROUGH**  
CAPITAL PROJECTS DEPARTMENT



FELTON STREET EXTENSION  
PALMER, ALASKA



**EXHIBIT B**  
**ROAD OWNERSHIP & MAINTENANCE**  
**MAP**



**VICINITY MAP**  
**(1" = 1000')**

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