

**SUBJECT:** INFORMING THE ASSEMBLY OF A MEMORANDUM OF AGREEMENT BETWEEN THE STATE OF ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES AND THE MATANUSKA-SUSITNA BOROUGH THAT WILL BE PRESENTED TO THE BOROUGH MANAGER FOR SIGNATURE FOR COMMUNITY TRANSPORTATION PROGRAM FUNDING THAT WILL PROVIDE MATCH TO THE BOROUGH'S 2018 TRANSPORTATION SYSTEM BOND PACKAGE.

**AGENDA OF:** July 20, 2021

**ASSEMBLY ACTION:**

Presented to the Assembly 7-20-21

**MANAGER RECOMMENDATION:** For information only.

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

Route To:	Department/Individual	Initials	Remarks
	Originator, Brad Sworts	Brad Sworts <small>Digitally signed by Brad Sworts Date: 2021.07.07 12:46:49 -08'00'</small>	
	Public Works Director	Terry Dolan <small>Digitally signed by Terry Dolan Date: 2021.07.07 13:53:22 -08'00'</small>	
	Finance Director		
	Borough Attorney	SNB	
	Borough Clerk	AM 7/12/21	

**ATTACHMENT (S):** Memorandum of Agreement, Community Transportation Program (CTP) Project Match (5 pp)

**SUMMARY STATEMENT:** The purpose of this legislation is to inform the Assembly that the Borough Manager will be asked to sign a funding Memorandum of Agreement between the State of Alaska, Department of Transportation and Public Facilities (ADOT&PF) and the Matanuska-Susitna Borough (Borough).

The Public Works Staff submitted nominations for ten projects to the State of Alaska CTP. Of those ten projects, four were awarded funding, contingent on fulfillment of several conditions including the requirement that ADOT&PF plan, design, and construct the

federal-aid projects. The four awarded projects consist of Seldon Road Extension Phase II, Hermon Road Upgrade and Extension, Hemmer Road Upgrade and Extension, and Trunk Road Extension South Phase II/III.

The Borough and ADOT&PF have developed maintenance agreements for these four projects. Two of these maintenance agreements have been signed and the remaining two are being finalized for signature.

The funding Memorandum of Agreement will involve ADOT&PF using federal funds to provide the 50% match to the Borough's 2018 Transportation System Bond package approved by the voters. It will be presented to the Borough Manager for signature.

# **Memorandum of Agreement**

Between the State of Alaska  
Department of Transportation and Public Facilities  
and the Matanuska-Susitna Borough

Regarding Match Requirements for Community Transportation Program Project Awards  
(Seldon Road Extension Phase II, Hermon Road Upgrade and Extension, Hemmer Road  
Upgrade and Extension, Trunk Road Extension South Phase II/III)

The Parties to this Agreement (hereafter Agreement) are the State of Alaska acting through its Department of Transportation and Public Facilities (hereafter DOT&PF) and the Matanuska-Susitna Borough (hereafter Borough), a Borough established under Alaska law.

WHEREAS, the Borough submitted nominations for ten projects to the Community Transportation Program (CTP) during the open call for nominations; and

WHEREAS, four projects: 1. Seldon Road Extension Phase II; 2. Hermon Road Upgrade and Extension; 3. Hemmer Road Upgrade and Extension; and 4. Trunk Road Extension South Phase II/III (hereafter the Projects) competed successfully and were awarded funding contingent on fulfillment of several conditions including the requirement that DOT&PF plan, design, and construct the federal-aid projects; and

WHEREAS, the Borough has signed Maintenance Agreements with the DOT&PF to maintain said Projects upon project completion; and

WHEREAS, the Borough committed as part of the project nomination process to provide the required non-federal match (9.03%) as per the DOT&PF Match Policy and Procedures 09.01.040 Local Match for CIP effective 7/01/2005 and supplemental project match funding with the source of the match being the 2018 voter-approved transportation bonds; and

WHEREAS, the DOT&PF in its CTP Award Letter (Attachment A) identified the required Match requirements for the Projects; and

WHEREAS, the DOT&PF has agreed to allow the Borough to meet their Local Match obligations at the time the projects are programmed for construction in the Surface Transportation Improvement Program (hereafter STIP) in order to accommodate Borough issuance of voter-approved transportation bonds; and

WHEREAS, the Borough is fully aware that the amount of Local Match is not reduced from the amount committed to in the CTP nominations; and

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

MEMORANDUM OF AGREEMENT  
CTP Project Match

WHEREAS, this Agreement must be executed prior to advancing project design as mandated in the DOT&PF Highway Preconstruction Manual; and

WHEREAS, it has been determined that this work will serve the public interest and enhance the quality of life for the residents of, and visitors to, the Borough; and

WHEREAS, the parties hereto wish to memorialize within this Agreement their specific obligations with regard to the Local Match requirements as part of the Projects.

IT IS THEREFORE AGREED by the Parties, in consideration of the mutual promises contained in this Agreement as set forth below, regarding the planning, programming, design, construction, maintenance, and operation of the Projects:

1. The Borough's sole financial participation in the planning, design, and construction of the Projects is the Local Match as stated in the nomination package consisting of the proceeds from the 2018 voter-approved transportation bonds.
  - a. At the time the Parties enter into this Agreement, the Borough agrees it intends to issue local transportation bonds sufficiently in advance of STIP Construction Phase programming in order to meet the obligations it anticipates will be required for CTP federal formula-aid funds. Said obligations include accumulated local match associated with advancement through the project development cycle (i.e. Design, Right-of-Way, Utilities).
  - b. The Borough is aware that any project cost increases between the date of the CTP Award and programming of the Projects for construction that impact the percentage of match required shall be added into the total Local Match obligation.
  - c. DOT&PF agrees to track costs associated with the Projects for the planning, design, and construction phases so the total Local Match obligation is verifiable.
  - d. DOT&PF likewise recognizes the Local Match funding that will result from the local transportation bonds will be limited to the amount that was voter approved. In the event the costs of the Projects, and the Borough's corresponding Local Match, is ultimately more than estimated at the time of this Agreement and beyond the amount of anticipated bonded revenues, the Borough Manager shall request the Borough Assembly appropriate additional funding from legally available sources to pay for any outstanding obligations associated with adherence to total Local Match requirements as described herein. The Borough shall pay DOT&PF the remainder of the contribution within 30 days of the appropriation.
  - e. Total Local Match obligation is due upon programming of CTP Projects (Construction Phase) within the associated draft STIP. Funds shall be received by the DOT&PF prior to final approval of the STIP.

- f. CTP Projects (Construction Phase) will be removed from the final STIP if Local Match commitments in their entirety are not received by the DOT&PF and will remain un-programmed until receipt of funds.
  - g. In the event the cost of the Projects, and the Borough's corresponding local match, is less than paid by the Borough, the DOT&PF will refund the Borough its pro-rated portion not utilized within 30 days.
- 2. This Agreement does not commit DOT&PF or FHWA to advance the Projects to the Construction Phase but establishes the framework for the MSB's matching funds if DOT&PF and FHWA expend funds to advance the Projects.

If one or more of the Projects are not advanced by DOT&PF or FHWA, DOT&PF will notify the Borough prior to their issuance of transportation bonds.

### 3. Lack of Funding

- a. Any withdrawal or inability of the Borough to provide the required non-federal matching funds shall result in the DOT&PF not advancing the Project at issue to the Construction Phase.
- b. If the Borough is unable to meet its funding obligations for the projects, DOT&PF will reevaluate each future project nominated by the Borough without consideration of the Borough's contribution for six years. Borough projects will be placed in the STIP in accordance with said reevaluation.

### 4. Miscellaneous Provisions

#### a. Amendment or modification of Agreement

This Agreement may only be modified or amended by written agreement signed by the authorized representatives for both Parties.

#### b. 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. The Parties may not amend this Agreement unless agreed to in writing with both Parties signing through their authorized representatives.

#### c. Assignment:

Without the written consent of the DOT&PF, this Agreement is not assignable by the Borough, either in whole or in part.

By: Michael Brown Date \_\_\_\_\_  
Borough Manager

Date \_\_\_\_\_

## ACKNOWLEDGEMENT

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, Michael Brown, Borough Manager acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.

Notary Public, State of Alaska  
My commission expires: \_\_\_\_\_

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STATE OF ALASKA, DEPARTMENT OF  
TRANSPORTATION AND PUBLIC FACILITIES

By: \_\_\_\_\_  
Wolfgang Junge, P.E. Date  
Regional Director

Date

## ACKNOWLEDGEMENT

STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, Wolfgang Junge, Regional Director for the Central Region of the Alaska Department of Transportation and Public Facilities, acknowledged before me that he executed the foregoing document freely and voluntarily with full authority to do so.

**Notary Public, State of Alaska**  
**My commission expires:**

## MEMORANDUM OF AGREEMENT

### CTP Project Match

1m 21-146

Table 1

## Mat-Su Borough Community Transportation Program Project Awards

Need ID	Project Title	Scope	Federal Award	Committed Match	Total Project Cost	% Match Share
32721	Hemmer Road Upgrade & Extension to Bogard Road	Extend and upgrade approximately 0.50 miles of Hemmer Road from the Palmer-Wasilla Highway (National Highway System) to Bogard Road consisting of two travel lanes and a center turn lane. Improvements include a traffic signal at the Bogard Road intersection, shoulders, pedestrian and bicycle infrastructure, drainage and safety items.	\$3,259,000	\$2,600,000	\$5,859,000	44.4%
32724	Seldon Road Extension Phase I	Extend Seldon Road on a new alignment to the north from its current terminus at Beverly Lake Road (a residential subdivision road) and connect to Pittman Road. Project development includes completion of design and right-of-way along with full construction of a new arterial level facility with separated bike path	\$6,273,000	\$4,100,000	\$10,373,000	39.5%
32726	South Trunk Road (Nelson Road Improvements	Remove the old sub-standard bridge and construct a new bridge across Wasilla Creek to address pedestrian, flooding and safety considerations	\$2,023,000	\$1,800,000	\$3,823,000	47.1%
32722	Hermon Road Upgrade & Extension	Extend and upgrade Hermon Road from the Parks Highway frontage road (Sun Mountain Avenue) to the Palmer-Wasilla Highway, approximately 0.80 miles. Improvements will include travel and turn lanes, shoulders, pedestrian and bicycle facilities, drainage and safety items along with a new traffic signal at the Palmer-Wasilla Highway intersection	\$7,144,875	\$3,499,125	\$10,644,000	32.9%
		Overall Totals	\$18,699,875	\$11,999,125	\$30,699,000	39.08%

## Notes:

1. Match share is expected to remain constant for each project as specified through the life of the project.
2. The % match share remains even if the total project cost changes through the development process.
3. Any decrease to the matching share requires a waiver signed by the Commissioner and penalties may apply per 17 AAC 05.175(1)
4. Matching share must conform to the Department's Matching Policy which requires contingency funds by project phase.

1m 21-146