

Project Name: JNU: North Douglas Highway  
Extension  
Project No: 68013

TRANSFER OF RESPONSIBILITIES AGREEMENT

BETWEEN

THE STATE OF ALASKA  
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

AND

THE CITY AND BOROUGH OF JUNEAU

This Agreement is effective upon execution by the State of Alaska, Department of Transportation and Public Facilities (hereinafter called the State) and the City and Borough of Juneau (hereinafter called the Municipality). The State and Municipality are entering this Agreement pursuant to AS 35.15.080 et. seq. and any regulations promulgated there under.

The Municipality's coordinator for this Agreement is Mr. Rod Swope, Manager of the City and Borough of Juneau. The State's coordinator for this Agreement is Mr. Reuben Yost, Special Projects Manager for the Department of Transportation and Public Facilities Southeast Region. Each party agrees to notify the other party of any change in the coordinator.

Whereas funds have been appropriated by the Legislature, under Section 1, Chapter 82, SLA 2006, page 85, lines 30 - 31, as amended by Section 21(a), Chapter 15, SLA 2009, page 68, lines 4 - 10, for a project titled Gastineau Channel Crossing EIS and Dredging and North Douglas Highway Extension and whereas the Municipality has submitted Resolution 2537 to the State requesting that the Municipality be allowed to assume responsibility for the planning, preliminary design, and permitting of an extension to the North Douglas Highway, (herein-after referred to as "the project"), the parties mutually agree as follows:

1. The Municipality agrees to assume all responsibility heretofore held by the State relating to the planning, preliminary design, and permitting of the project as further described in Appendix A, which is hereby incorporated and made a part of this Agreement.
2. The Municipality agrees to comply with all applicable Federal, State, and local codes, statutes, regulations, and laws, and to develop the project in accordance with the Alaska Highway Preconstruction Manual Procedures for State-Funded Projects and the Alaska Environmental Procedures Manual Environmental Review Procedures for State-Funded Projects.
3. The State agrees to transfer the funds appropriated by the Legislature for the project to a special account in the State Treasury. The funds transferred to this special account for the Municipality shall not exceed a total of six hundred thousand dollars (\$600,000.00). The State and the Municipality agree that any costs required to be incurred to complete the project in excess of the above amount are the responsibility of the Municipality.

4. The creation and performance of all contracts and subcontracts shall be in compliance with AS 36, which shall supersede any conflicting provision of municipal charter or ordinance. Work performed directly by the Municipality, including management of any contracts, shall be billed at the actual salary paid plus no more than the Municipality Cost Allocation Plan rate of 100.93 percent.
5. The procedures to be followed by the Municipality in drawing on the special account referred to in Paragraph 3 are set out in Appendix B, which is hereby incorporated and made a part of this Agreement. The Municipality agrees to deposit advance payments into a project specific account. Interest accrued by advanced project funds will be returned to the State upon project completion.
6. Prior to the advertisement for bids or contract negotiations, or prior to commencement of onsite work if the municipality performs work with its own forces, the Municipality must obtain the State's approval of the land interest and the project site pursuant to AS 35.15.110.
7. The Municipality shall indemnify, defend, and hold harmless the State of Alaska and its agents, officers, and employees from and against any and all claims, damages, losses, and expenses arising out of the Municipality's assumption of the responsibilities for the planning, preliminary design, and permitting of the project set forth and described in Appendix A.
8. The Municipality shall coordinate all regulatory agency reviews and obtain all necessary written approvals from all regulatory agencies.
9. The Municipality shall provide for and oversee all safety orders, precautions, and programs necessary to ensure the reasonable safety for the development activities undertaken for the project. In this connection, the Municipality shall take reasonable precautions for the safety of all project employees and all other persons whom the project might affect, and shall inspect all work and materials incorporated into the project.
10. The Municipality shall forward copies of all project development documents to the State, either at the time of document completion or with the quarterly report described in Paragraph 11. If anything in these documents conflicts with the project described in Appendix A or is found to be in violation of any statute, code, or regulation, the Municipality will be notified that further progress payments of project funds are in jeopardy and will not be paid by the State until those conflicting aspects are corrected.
11. The Municipality shall submit a quarterly status report (include: progress, expenditures, schedule changes) to the State. The first report shall be due three months after receipt by the Municipality of the fully executed Agreement, and subsequent reports shall be due every three months thereafter until project completion. Status reports shall be submitted to the State not later than the 15th of the month following the reported quarter.



12. The Municipality, upon completion of the project, shall provide the State with a final expenditure report, certified by the Municipality, of all costs incurred in the accomplishment of the project.
13. The Municipality recognizes that 02 AAC 45.010 establishes specific audit requirements for Agreements executed after August 1, 1985. The Municipality agrees to be subject to audit requirements as set forth in Appendix C, which is hereby incorporated and made part of this Agreement. The State retains the right to audit the project any time during accomplishment or within three (3) years of project acceptance upon written notice to the Municipality. All project records shall be maintained by the Municipality for three (3) years after the date of project acceptance.
14. Within sixty (60) days of acceptance by the State that the Municipality has met the requirements of this Agreement, the Municipality will return any excess project funds (the full amount of the project less legitimate project expenses) to the State of Alaska.
15. Responsibility for the operation of the project shall be borne by the Municipality.
16. If, through any cause, the Municipality shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Municipality is in substantial violation of this Agreement and if, after notification by the State of such failure or violation, the Municipality fails to take proper corrective action within a reasonable time, the State shall thereupon have the right to terminate the Agreement by giving written notice to the Municipality of such termination and specifying the effective date thereof. Such notice shall be given at least fifteen (15) days before the effective date of such termination. In that event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports completed by the Municipality under this Agreement shall, at the option of the State, become the State's property and the Municipality shall be entitled to receive just and equitable compensation for any satisfactory work completed. Notwithstanding the above, the Municipality shall not be relieved of any liability to the State for damages sustained by the State by virtue of any breach of the Agreement by the Municipality, and the State may withhold any payments to the Municipality for the purpose of setoff until such time as the exact amount of damages due the State from the Municipality is determined.

The Municipality may appeal, to the Commissioner of the Department of Transportation and Public Facilities, the State's determination that the Municipality is in violation of this contract or that it has failed to fulfill its responsibilities in a timely and proper manner. Such an appeal must be made within ten (10) days of the date the Municipality is notified of the State's decision to terminate the contract. Pending resolution of the appeal, no work will proceed on the project. The Commissioner's decision shall be final.

Project Name: JNU: North Douglas Highway  
Extension

Project No: 68013

17. If, due to changed circumstances, the State or the Municipality 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. 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 described in Paragraph 16 above shall, at the option of the State, become the State's property. If the Agreement is terminated as provided herein, the Municipality shall be reimbursed for actual expenses not otherwise reimbursed under this Agreement which were incurred by the Municipality in honoring convenience termination clauses in its Agreements with its contractors as long as these clauses conform to the standard convenience termination clause used by the State for similar type contracts.
18. This Agreement shall be governed by the laws of the State of Alaska.
19. The Municipality shall ensure that none of the funds paid under this Agreement will be used for the purpose of lobbying activities before the Alaska State Legislature.
20. Unless changed by prior written notice, any correspondence required by this Agreement must be sent to the following addresses:

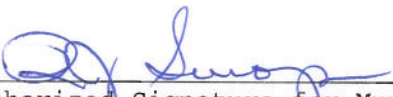
STATE: Reuben Yost, Agreement Coordinator  
Department of Transportation and Public Facilities  
Southeast Region  
6860 Glacier Highway  
PO Box 112506  
Juneau, AK 99811-2506

MUNICIPALITY: Rod Swope, Agreement Coordinator  
City and Borough of Juneau  
155 South Seward Street  
Juneau, AK 99801

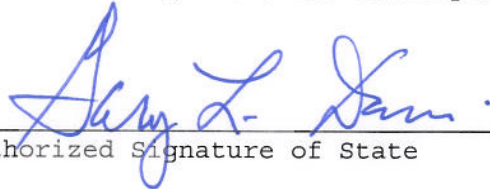
22. This Agreement may not be assigned by the Municipality without written consent of the State.
23. The failure of the State to insist in any one or more instances upon strict performance by the Municipality of any provision or covenant in this Agreement may not be considered as a waiver or relinquishment of the provision or covenant in the future. The waiver by the State of any provision or covenant in this Agreement cannot be enforced or relied upon by the Municipality unless the waiver is in writing and signed on behalf of the State.
24. This Agreement may be modified or amended by a written agreement signed by both parties.

Project Name: JNU: North Douglas Highway  
Extension  
Project No: 68013

APPROVALS:

  
\_\_\_\_\_  
Authorized Signature for Municipality, Title

8/16/2010  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Authorized Signature of State

8-19-10  
\_\_\_\_\_  
Date



Project Name: JNU: North Douglas Highway  
Extension  
Project No: 68013

APPENDIX A

Scope of Project:

1. Description of Project: Planning, Preliminary Design, and Permitting for a North Douglas Highway Extension. The extension will be planned and designed as a Very Low-Volume Local Road using applicable American Association of State Highway and Transportation Officials standards. The extension, if constructed, will be owned, operated, and maintained by the Municipality. The current project does not include final design, right of way acquisition, or construction.

2. Project Budget: \$600,000.00

3. Project Schedule:

Begin Project: Upon execution of TORA

End Project: December 31, 2012

Final Billing: March 31, 2013

APPENDIX C

Audit Requirements to be used by Independent Auditors on  
Entities receiving State Financial Assistance

Auditor will perform the following audit tests on State financial assistance agreements:

1. Review internal controls on the accounting system for the entity. Draw your conclusions as to the adequacy of the system in place.
2. Review all projects to the entity to determine any special requirements or stipulations related to the financial assistance.
3. Review legislation to determine legislative intent and the amount(s) of any financial assistance.
4. Verify that final inspection and/or acceptance has taken place.
5. Test a representative sample of expenses as recorded on the Municipality's accounting system for accuracy. If material errors are found, the sample should be expanded.

Minimum tests for selected transactions:

- a. Adequate Supporting Documentation exists.
- b. Proper Approving Authority was used.
- c. Accurately Recorded on accounting records.
- d. Transaction was Eligible (scope related) including special requirements.
- e. Allocation is proper (where applicable) i.e., overhead or indirect formula charges.
- f. Transaction was Reasonable based on the Agreement.

Note: For equipment projects, verification for equipment and existence of equipment specified in the Agreement will suffice.

6. Draw auditor conclusions and include in the final audit report as to the project meeting original intent and scope and whether reported expenses accurately reflect the actual expenses.

The audit report should also include a statement individually listing all State Agreements with original authorizations, expenses to date, balance in the Agreement, and any audit exceptions.