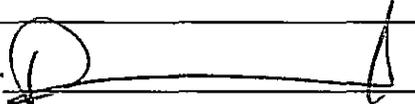


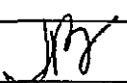
CITY OF PALMER ACTION MEMORANDUM No. 08-058

SUBJECT: Authorize the City Manager to Enter Into a Block Grant Agreement with the Matanuska-Susitna Borough in the Amount of \$177,679

AGENDA OF: August 26, 2008

Authorized

Approved for presentation by B. B. Allen, City Manager 

Route To:	Department/Individual:	Initials:	Remarks:
X	Originator -Administration		
X	City Clerk		
	City Attorney		
	Director of Public Safety		
	Director of Administration		
	Director of Community Services		
	Director of Public Works		

Attachment(s): Summary of Economic Impact

Finance Director's Certification of Funds:

	No fiscal impact.	
X	Funds are budgeted from this account number:	01.00.00.3475
	Funds are not budgeted. Budget modification is required. Affected account number:	

Finance Director Signature: 

Summary statement: The attached Block Grant Agreement is the Matanuska-Susitna Borough's FY 2009 grant to the City of Palmer "for any use (the City) can legally provide including library functions." This has been an annual grant associated with funding for the Palmer Public Library. The Borough reduced the FY 2009 grant amount from FY 2008 by twenty percent (20%), or approximately \$59,226. The FY 2009 block grant is for \$177,679.

Administration recommendation: Approve action memorandum 08-058.

BLOCK GRANT AGREEMENT
between
MATANUSKA-SUSITNA BOROUGH
and
CITY OF PALMER

THIS AGREEMENT is made between the Matanuska-Susitna Borough, a municipal corporation (hereinafter the Borough) and the City of Palmer, a municipal corporation (hereinafter the City) for providing a block grant.

Section 1. Definitions. In this Agreement:

- A. The term Borough means the Matanuska-Susitna Borough.
- B. The term City means the City of Palmer.
- C. The term Borough Manager means the manager of the Matanuska-Susitna Borough or his authorized representative.
- D. The term City Manager means the manager of the City of Palmer or his authorized representative.

Section 2. Authority. The city may use this block grant for any use they can legally provide including library functions.

Section 3. Term. This Agreement shall become effective on July 1, 2008 and shall expire on June 30, 2009.

Section 4. Payment.

A. The Borough shall pay to the City \$ 177,679 subject to Section 8 of this Agreement.

B. Within 45 days following the signing of the Agreement by the Borough Manager, the Borough shall pay the City \$ 44,419.75 of the total sum described in Section 4(A) above.

C. Thereafter, the Borough shall make equal payments in the amount of \$ 44,419.75 on October 10, 2008, January 10, 2009, and April 10, 2009.

Section 5. Relationship of Parties. The City shall perform its obligations under this Agreement as an independent contractor of the Borough. The Borough may administer the contract and monitor the City's performance of its obligations under this

Agreement. The Borough may not supervise or direct the City other than as provided in this section.

Section 6. Reconciliation of Accounting/Funding. The City shall separately account for the expenditures of this block grant provide the Borough a copy of its annual audit on these expenditures. Any funding furnished by the borough through this block grant and not expended by the City shall be returned to the Borough within thirty days of completion of the City's fiscal year audit. Any expenditure made or incurred by the City in excess of the block grant amount shall be the sole responsibility of the City.

Section 7. Termination of Agreement for Cause. If, through any cause, either party shall fail to fulfill in a timely and proper manner its material obligations under this agreement, or if either party shall violate any of the material covenants, agreements, or stipulations of this agreement, the other party shall thereupon have the right to terminate this agreement by giving written notice to the breaching party of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Such termination shall not eliminate any claim for damages for past breach.

Section 8. Causes Beyond Control. In the event the City is prevented by a cause or causes beyond control of the City from performing any obligation of this Agreement, non-performance resulting from such cause or causes shall not be deemed to be a breach of this Agreement which will render the City liable for damages or give rights to the cancellation of the Agreement for cause. However, if and when such cause or causes cease to prevent performance, the City shall exercise all reasonable diligence to resume and complete performance of the obligation with the least possible delay. The phrase "cause or causes beyond control," as used in this section, means any one or more of the following causes which are not attributable to the fault or negligence of

the City and which prevent the performance of the City: fire, explosions, acts of God, war, orders or law of duly constituted public authorities, and other major uncontrollable and unavoidable events, all of the foregoing which must actually prevent the City from performing the terms of the Agreement as set forth herein. The Borough will determine whether the event preventing the City from performing is a cause beyond the City's control.

Section 9. Payment Upon Termination. If this contract is ended before term, for reasons stated in Section 7 or Section 8, payment pursuant to Section 4 will be prorated to date of termination.

Section 10. Modifications. The parties may mutually agree to modify the terms of the Agreement. Modifications to the Agreement shall be incorporated into the Agreement by written amendments executed by both parties.

Section 11. Equal Employment Opportunity.

(A) The City will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical handicap, age, status as a disabled veteran, or veteran of the Vietnam era. The City shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, physical handicap, age, status as a disabled veteran, or veteran of the Vietnam era.

Such actions shall include, but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or termination's; rates of pay or other forms of compensation; selection for training, including apprenticeship; and participation in recreational and educational activities. The City agrees to post in conspicuous places available for employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause. The City will, in all solicitations or advertisements for employees placed by or on behalf of the City, state that all

qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, physical handicap, age, status as a disabled veteran, or veteran of the Vietnam era. The City will cause the foregoing provisions to be inserted in all subagreements for any work covered by this contract.

(B) The City shall keep records and submit reports concerning the racial and ethnic origin of applicants for employment and employees as the Borough may require.

Section 12. Assignability

(A) The City shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of the Borough, thereto; provided, however that claims for money due or to become due to the City from the Borough under this Agreement may be assigned by court order or to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Borough, or the City shall be responsible to the Borough for any moneys due the assignee of this Agreement which are paid directly to the City.

Section 13. Officials Not to Benefit. No member of the legislature or officer of the state of Alaska or the Borough or the City shall be admitted to any share or part hereof or to any benefit to arise from this Agreement.

Section 14. Audits and Inspections. At any time during normal business hours and as often as the Borough may deem necessary, there shall be made available for examination all of its records with respect to all matters covered by this Agreement and will permit representatives of the Borough to audit, examine, and make excerpts or transcripts from such records, and to make audits of all Agreements, invoices, materials, payrolls, records

of personnel, conditions of employment, and other data relating to all matters covered by this Agreement.

Section 15. Jurisdiction; Choice of Law. Any civil action arising from this Agreement shall be brought in the superior court for the third judicial district of the state of Alaska at Palmer. The law of the state of Alaska shall govern the rights and obligations of the parties.

Section 16. Non-Waiver. The failure of the Borough at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in any way affect the validity of this Agreement or any part thereof, or the right of the Borough thereafter to enforce each and every protection hereof.

Section 17. Permits, Laws and Taxes. The City shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to the performance under this Agreement. All actions taken by the City under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. All taxes required to be paid by law shall be paid by the city, including federal withholding taxes for employees.

Section 18. Agreement Administration.

(A) The Borough Manager, or his designee, will be the representative of the Borough administering this Agreement.

(B) The services to be furnished by the City shall be administered, supervised, and directed by Bill Allen. In the event that the individual named above is unable to serve for any reason, the City shall appoint a successor and advise the Borough in writing of the successor's name.

Section 19. Borough Held Harmless. The City shall indemnify, defend, and hold and save the Borough, its elected and appointed officers, agents and employees, harmless from any and all claims, demands, suits, or liability of any nature, kind, or character, including costs, expenses, and attorney's fees. The City shall be responsible under this clause for any and all legal

actions or claims of any character resulting from injuries, death, economic loss, damages, violation of statutes, ordinances, constitutions, or other laws, rules, or regulations, contractual claims, or any other kind of loss, tangible or intangible, sustained by any person, or property arising from City's, or City's officers, agents, employees, partners, attorneys, suppliers, and subcontractors' performance or failure to perform this Agreement in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions by the borough or its agents which are said to have contributed to the losses, failure, violations, or damage. However, the City shall not be responsible for any damages or claim arising from the sole negligence or willful misconduct of the borough, its agents, or employees.

Section 20. Interpretation and Enforcement. This Agreement is being executed by the parties following negotiations between them. It shall be construed according to the fair intent of the language as a whole, not for or against any party. The titles of sections in this Agreement are not to be construed as limitations or definitions but are for identification purposes only.

Section 21. Severability. If any section or clause of this Agreement is held invalid by a court of competent jurisdiction, or is otherwise invalid under the law, the remainder of this Agreement shall remain in full force and effect.

Section 22. City Insurance.

(A) The City will, at its own expense, secure, maintain, and file with the Borough, proper and acceptable insurance coverage, including defense and indemnification of the Borough. The insurance coverage will be secured with an insurance market acceptable to the Borough and shall be primary to any coverage carried by the City which may cover the work specified in this Agreement.

(1) Worker's Compensation Insurance in compliance with the laws of the state of Alaska, AS 23.30, et.seq., and federal

jurisdiction where the work is being performed, covering all employees engaged in the performance of the work specified in this Agreement. Employer's Liability limits shall be: \$100,000 each accident; \$500,000 disease--policy limit; \$100,000 disease--each employee.

(2) Comprehensive General Liability: Limit \$300,000 Bodily Injury and Property Damage, Combined Single Limit. Coverage to be at least as broad as Insurance Service Office (ISO) form CG00 01 Edition 11/88.

(3) Comprehensive Automobile Liability: Limit \$100,000 Bodily Injury and Property Damage, Combined Single Limit. Coverage to be at least as broad as Insurance Service Office (ISO) form CA00 01 Edition 6/92.

(4) Unemployment Insurance by payment of employment security taxes for all library employees hired by the City. In the event of the City's failure to pay such taxes, the Borough will withhold an amount sufficient to pay such taxes from any payments owed to the City by the Borough. The Borough also reserves the right to contact the Alaska State Department of Labor, in order to determine whether unemployment security taxes have been paid by the City. The Borough further reserves the right to withhold that portion of unemployment security taxes owed to any employees pending notification of the City's unemployment security tax clearance from the Alaska State Department of Labor.

(B) A lapse in insurance coverage is a material breach of this contract which shall result in immediate termination of the contract, pursuant to Section 9.

(C) Each policy of insurance required by this section shall provide for no less than 30 days' advance notice to the Borough prior to cancellation. Each policy shall name the Borough as an additional insured. Each policy shall be endorsed to waive all rights of subrogation against the Borough by reason of any payment made for claims under the above coverage.

Section 23. Notices. Any notice required pertaining to the subject matter of the Agreement shall be personally delivered or mailed by prepaid registered or certified mail to the following address:

Borough: Matanuska-Susitna Borough
Recreational Services Division
350 E Dahlia Avenue
Palmer, AK 99645-6488

City: City of Palmer
231 W Evergreen Avenue
Palmer, AK 99645

Section 24. Financial Records.

A. Expenditures of funds under this Agreement shall be made by the City solely for the purpose of fulfilling the City's duties described in Section 2 above.

B. Expenditures and revenues to the same extent as may be required by law governing all other expenditures and revenues of the City, shall be independently audited annually.

C. The City shall furnish the Borough a copy of the annual audit of these funds within thirty days of receipt of the City's annual audit.

Section 25. Integration. This written Agreement and any attachments embody the entire Agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein, and this instrument shall supersede all previous communications, representations or Agreements, either oral or written between the parties.

Section 26. Understanding. The City Manager acknowledges that he has read and understands the terms of this Agreement, has had the opportunity to review the same with counsel of the city's choice, and is executing this Agreement of his own free will.

Dated: _____

Dated: _____

MATANUSKA-SUSITNA BOROUGH

CITY OF PALMER

By: _____

John Duffy
Borough Manager

By: _____

Bill Allen
City Manager

Fund Verified: 100-000-000-449-100

Signature

Date

BOROUGH'S ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss
Third Judicial District)

On _____, 2008, John Duffy, manager of the Matanuska-Susitna Borough, who is personally known to me, appeared and acknowledged before me that he signed the Grant Agreement on behalf of the municipal corporation.

Notary Public for the State of Alaska
My commission expires: _____

GRANTEE'S ACKNOWLEDGEMENT

STATE OF ALASKA)
)ss
Third Judicial District)

On _____, 2008, Bill Allen, City Manager, authorized representative of the City of Palmer, personally appeared before me

who is personally known to me
whose identity I proved on the basis of

whose identity I proved on the oath/affirmation of
_____, a credible witness.

And acknowledged before me that he signed the Grant Agreement for the purposes stated therein.

Notary Public for the State of Alaska
My commission expires: _____