



LAWS OF ALASKA

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Chapter No.

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AN ACT

Establishing capital project matching grant programs for municipalities and unincorporated communities; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 6, 1993

Actual Effective Date: July 7, 1993

AN ACT

1 Establishing capital project matching grant programs for municipalities and unincorporated
2 communities; and providing for an effective date.

3

4 * **Section 1.** PURPOSE. (a) The legislature recognizes the continued need for state-
5 funded capital projects (1) that are of regional or statewide significance, (2) that meet basic
6 needs, such as educational facility projects constructed under AS 14.11 and village safe water
7 projects, or (3) for which costs will exceed the amount available to a municipality or a
8 community under the capital project matching grant program. The legislature also recognizes
9 the continued need for legislatively directed funding of other capital projects.

10 (b) It is the purpose of this Act to

11 (1) provide a capital project funding system that is equitable to municipalities
12 and unincorporated communities throughout the state;

13 (2) enhance the role of communities in initiating and prioritizing the
14 construction of capital projects;

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1 (3) encourage a sense of local ownership in capital projects by requiring local
2 participation in the funding of those projects; and

3 (4) improve the process for making grants for capital projects by providing a
4 more orderly and thoughtful planning process that involves the local community, the executive
5 branch, and the legislature.

6 * **Sec. 2.** AS 36.10.180(a) is amended to read:

7 (a) The preferences established in AS 36.10.150 - 36.10.175 apply to work
8 performed

9 (1) under a contract for construction, repair, preliminary surveys,
10 engineering studies, consulting, maintenance work, or any other retention of services
11 necessary to complete a given project that is let by the state or an agency of the state,
12 a department, office, state board, commission, public corporation, or other
13 organizational unit of or created under the executive, legislative, or judicial branch of
14 state government, including the University of Alaska and the Alaska Railroad
15 Corporation, or by a political subdivision of the state including a regional school board
16 with respect to an educational facility under AS 14.11.020;

17 (2) on a public works project under a grant to a municipality under
18 AS 37.05.315 or AS 37.06.010;

19 (3) on a public works project under a grant to a named recipient under
20 AS 37.05.316;

21 (4) on a public works project under a grant to an unincorporated
22 community under AS 37.05.317 or AS 37.06.020; and

23 (5) on any other public works project or construction project that is
24 funded in whole or in part by state money.

25 * **Sec. 3.** AS 37 is amended by adding a new chapter to read:

26 CHAPTER 06. CAPITAL PROJECT MATCHING GRANT PROGRAMS.

27 Sec. 37.06.010. MUNICIPAL CAPITAL PROJECT MATCHING GRANT
28 PROGRAM. (a) The municipal capital project matching grant program is established
29 in the department. Grants to municipalities under this program shall be administered
30 as provided in this section.

31 (b) The municipal capital project matching grant fund is established in the

1 department and consists of appropriations to the fund. Appropriations to the fund do
2 not lapse except as provided in (f) of this section. The money in the fund is held by
3 the department in custody under this subsection for each municipality. The department
4 shall establish, for each municipality, an individual grant account within the fund. As
5 provided in this subsection, each fiscal year the department shall allocate, to the
6 individual grant accounts, appropriations to the fund. The department shall credit
7 interest earned on money in an individual grant account to that account. Except as
8 provided in (c) of this section, the amount allocated under this subsection to an
9 individual grant account in a fiscal year is determined by multiplying the total amount
10 appropriated to the fund during that fiscal year by a fraction,

11 (1) the numerator of which equals for a municipality with a population

12 (A) under 1,000, the amount equal to that population multiplied
13 by 1.5;

14 (B) of at least 1,000 but less than 5,000, the amount equal to
15 that population multiplied by 1.4;

16 (C) of at least 5,000 but not greater than 10,000, the amount
17 equal to that population multiplied by 1.2;

18 (D) of over 10,000, the amount equal to that population; and

19 (2) the denominator of which equals the sum of the numerators
20 calculated for all municipalities under (1)(A) - (D) of this subsection.

21 (c) A minimum of \$25,000 shall be allocated to each municipality's individual
22 grant account each fiscal year under (b) of this section. The department shall reduce
23 allocations under (b) of this section on a pro rata basis, based upon the population of
24 the municipalities, if necessary to fund the minimum amount for each municipality.
25 If appropriations are not sufficient to fully fund the minimum amount for each
26 municipality, the amount appropriated shall be allocated equally among the
27 municipality individual grant accounts.

28 (d) By October 1 of each fiscal year, each municipality shall submit to the
29 governor a prioritized list of capital projects and estimated costs to be financed with
30 money from the municipality's individual grant account established under (b) of this
31 section. The list must include the amount and source of the local share required by

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1 AS 37.06.030. The governor shall include in the capital improvements program
2 presented to the legislature under AS 37.07.060 the projects submitted by each
3 municipality that the governor recommends for funding. If, in the capital
4 improvements program, the governor includes projects in other than the priority order
5 submitted by a municipality, the governor shall provide the legislature with a written
6 statement of the reasons for that action.

7 (e) The legislature may make appropriations from a municipality's individual
8 grant account established under (b) of this section to the municipality for capital
9 projects under this section. Subject to appropriations under this subsection and to the
10 local share requirements of AS 37.06.030, each municipality may draw amounts from
11 its individual grant account for a capital project, in accordance with an appropriation
12 for that project. In accepting a draw, the municipality covenants with the state that
13 it will provide for the operation and maintenance of the capital project for which the
14 draw is used for the practical life of the project, and acknowledges that the state is not
15 responsible for operating or maintaining the capital project or for paying for its
16 operation or maintenance. This requirement does not apply to use of money from a
17 draw for repair or improvement of an existing facility that is operated or maintained
18 by the state at the time that the draw is made if the repair or improvement for which
19 the draw is used will not substantially increase the operating or maintenance costs to
20 the state. No more than 10 percent of the total amount of money from a draw for land
21 acquisition, or planning, design, construction, or repair of a facility may be used for
22 administrative expenses. No more than five percent of the total amount of money
23 from a draw for equipment or equipment repairs may be used for administrative
24 expenses. If a municipality provides grant money from a draw to another recipient,
25 the municipality may not use any of the money from the draw for administrative
26 expenses. The municipality and its agents, contractors, and subcontractors shall
27 comply with the hiring preferences under AS 36.10 in hiring employees to be paid
28 wholly or in part with money from a draw.

29 (f) A municipality shall repay to the department money drawn from its
30 individual grant account if substantial, ongoing work on the capital project is not
31 started within five years after the effective date of the appropriation from which the

1 draw is funded. Money repaid shall be deposited into the general fund. Money from
2 an allocation to a municipality's individual grant account that has not been drawn out
3 by the municipality within five years after the effective date of the appropriation from
4 which the allocation is funded lapses into the general fund.

5 (g) For purposes of this section, in calculating the population of a borough the
6 population of each city in the borough is excluded. The determination of population
7 shall be based upon data used by the Department of Community and Regional Affairs
8 under AS 29.60.020.

9 (h) The provisions of AS 37.05.321 apply to a grant and draws made under
10 this section, and to earnings from the grant and draws.

11 (i) In this section, unless specified otherwise, "department" means the
12 Department of Administration.

13 Sec. 37.06.020. UNINCORPORATED COMMUNITY CAPITAL PROJECT
14 MATCHING GRANT PROGRAM. (a) The unincorporated community capital project
15 matching grant program is established in the department. Grants to unincorporated
16 communities under the program shall be administered as provided in this section.

17 (b) The unincorporated community capital project matching grant fund is
18 established in the department and consists of appropriations to the fund.
19 Appropriations to the fund do not lapse except as provided in (h) of this section. The
20 money in the fund is held by the department in custody under this subsection for each
21 unincorporated community eligible for an allocation under this subsection. The
22 department shall establish an individual grant account within the fund for each
23 unincorporated community that was entitled to receive state aid under AS 29.60.140
24 during the preceding fiscal year. As provided in this subsection, each fiscal year the
25 department shall allocate, to the individual grant accounts, appropriations to the fund.
26 An unincorporated community is eligible for an allocation in a fiscal year if the
27 community was eligible to receive state aid under AS 29.60.140 during the preceding
28 fiscal year. The department shall credit interest earned on money in an individual
29 grant account to that account. Except as provided in (c) of this section, the amount
30 allocated under this subsection to an individual grant account in a fiscal year is
31 determined by dividing the total amount appropriated to the fund during that fiscal year

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1 by the number of unincorporated communities eligible for an allocation during that
2 fiscal year.

3 (c) A minimum of \$25,000 shall be allocated to each eligible unincorporated
4 community's grant account each fiscal year under (b) of this section. If appropriations
5 are not sufficient to fully fund the minimum amount for each eligible unincorporated
6 community, the amount appropriated shall be allocated equally among the eligible
7 unincorporated communities.

8 (d) The department shall designate, in each eligible unincorporated community,
9 an incorporated nonprofit entity or a Native village council that agrees to receive and
10 spend grant money allocated to the unincorporated community's individual grant
11 account under (b) of this section. If there is more than one qualified entity in a
12 community, the department shall designate the entity that the department finds most
13 qualified to make draws from that unincorporated community's individual grant
14 account and spend the money. If there is no qualified incorporated nonprofit entity or
15 Native village council in an unincorporated community that will agree to receive and
16 spend money allocated to the community under (b) of this section, draws may not be
17 made from the unincorporated community's individual grant account and the amount
18 allocated to the account lapses into the general fund.

19 (e) By October 1 of each fiscal year, the incorporated nonprofit entity or
20 Native village council designated by the department under (d) of this section shall
21 submit to the governor a prioritized list of capital projects and estimated costs to be
22 financed with money from the community's individual grant account established under
23 (b) of this section. The list must include the amount and source of the local share
24 required by AS 37.06.030. The governor shall include in the capital improvements
25 program presented to the legislature under AS 37.07.060 the projects submitted by
26 designated entities under this subsection that the governor recommends for funding.
27 If, in the capital improvements program, the governor includes projects in other than
28 the priority order submitted by a designated entity, the governor shall provide the
29 legislature with a written statement of the reasons for that action.

30 (f) The legislature may make appropriations, from an unincorporated
31 community's individual grant account established under (b) of this section, for the

1 unincorporated community for capital projects under this section. Subject to
2 appropriations under this subsection and to the local share requirements of
3 AS 37.06.030, an entity designated by the department under (d) of this section may
4 draw, on behalf of the unincorporated community, amounts from that community's
5 individual grant account for a capital project in accordance with an appropriation for
6 that project. In accepting a draw, an entity designated by the department under (d) of
7 this section acknowledges that the state is not responsible for operating or maintaining
8 a capital project for which the draw is used, or for paying for its operation or
9 maintenance. The acknowledgment does not apply to use of money from a draw for
10 repair or improvement of an existing facility that is operated or maintained by the state
11 at the time that the draw is made if the repair or improvement for which the draw is
12 used will not substantially increase the operating or maintenance costs to the state. No
13 more than 10 percent of the total amount of money from a draw for land acquisition,
14 or planning, design, construction, or repair of a facility may be used for administrative
15 expenses. No more than five percent of the total amount of money from a draw for
16 equipment or equipment repairs may be used for administrative expenses. The
17 designated entity and its agents, contractors, and subcontractors shall comply with the
18 hiring preferences under AS 36.10 in hiring employees to be paid wholly or in part
19 with money from a draw.

20 (g) An entity designated by the department under (d) of this section that is a
21 Native village council may not draw money from an unincorporated community's
22 individual grant account unless the council waives immunity from suit for claims
23 arising out of activities of the council related to the draw. A waiver of immunity from
24 suit under this subsection must be on a form provided by the Department of Law.
25 Neither this subsection nor any action taken under it enlarges or diminishes the
26 governmental authority or jurisdiction of a Native village council.

27 (h) An entity designated by the department under (d) of this section shall repay
28 to the department money it has drawn from an unincorporated community's individual
29 grant account if substantial, ongoing work on the project is not started within five
30 years after the effective date of the appropriation from which the draw is funded.
31 Money repaid shall be deposited into the general fund. Money from an allocation to

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1 an unincorporated community's individual grant account that has not been drawn out
2 by a designated entity within five years after the effective date of the appropriation
3 from which the allocation is funded lapses into the general fund.

4 (i) The limitations of AS 44.47.140 do not apply to a grant made under this
5 section.

6 (j) The provisions of AS 37.05.321 apply to a grant and draws made under this
7 section, and to earnings from the grant and draws.

8 (k) In this section, unless specified otherwise, "department" means the
9 Department of Community and Regional Affairs.

10 Sec. 37.06.030. LOCAL SHARE REQUIREMENTS. (a) For each draw made
11 by a municipality under AS 37.06.010, the municipality shall contribute a local share
12 to the cost of the capital project for which the draw is made. The amount of the local
13 share equals the local share percentage as calculated under (1) of this subsection,
14 divided by the state share percentage as calculated under (2) of this subsection,
15 multiplied by the amount of the draw. For purposes of this subsection,

16 (1) the local share percentage is

17 (A) 30 percent for a municipality with a population of 5,000 or

18 more;

19 (B) for a municipality with a population of 1,000 - 4,999, the

20 greater of

21 (i) 15 percent; or

22 (ii) the percentage obtained by dividing the amount that
23 would be received by the municipality from a property tax levy of
24 1/1000th of a mill per \$1,000 of grant funds received by the sum of
25 that first amount plus the amount of the grant or draw, but not more
26 than 30 percent;

27 (C) for a municipality with a population of under 1,000, the

28 greater of

29 (i) five percent; or

30 (ii) the percentage obtained by dividing the amount that
31 would be received by the municipality from a property tax levy of

1 1/1000th of a mill per \$1,000 of grant funds received by the sum of
2 that first amount plus the amount of the grant or draw, but not more
3 than 30 percent;

4 (2) the state share percentage equals one minus the local share
5 percentage;

6 (3) the local share to be contributed by a municipality may be satisfied
7 with (A) federal, municipal, or local money; (B) labor, materials, or equipment used
8 directly in the construction of the project, or land, including land transferred by the
9 state to the municipality; the department shall determine the value of a contribution
10 under this subparagraph; (C) money from another nonstate source; (D) money received
11 by the municipality under AS 29.60.010 - 29.60.375; (E) state taxes refunded or
12 reimbursed to the municipality whose use for the purposes of this subsection is not
13 prohibited; (F) allocations of state aid for the costs of school construction debt under
14 AS 14.11.100; and (G) money obtained from the sale or lease of land or other assets
15 transferred by the state to the municipality; except as provided in this paragraph, the
16 local share may not be satisfied with money from, or with the portion of an asset that
17 was obtained with money from, an appropriation, allocation, entitlement, grant, or
18 other payment from the state.

19 (b) For each draw made by an entity or council under AS 37.06.020, the
20 incorporated entity or Native village council that makes the draw shall contribute a
21 local share of the cost of the capital project for which the draw is made. The amount
22 of the local share equals the local share percentage as calculated under (1) of this
23 subsection, divided by the state share percentage as calculated under (2) of this
24 subsection, multiplied by the amount of the draw. For purposes of this subsection,

25 (1) the local share percentage is five percent;

26 (2) the state share percentage equals one minus the local share
27 percentage;

28 (3) the local share may be satisfied from (A) federal or local money;
29 (B) labor, materials, or equipment used directly in the construction of the project, or
30 land, including land transferred by the state; the department shall determine the value
31 of a contribution under this subparagraph; (C) money from another nonstate source;

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1 (D) money received by the unincorporated community under AS 29.60.010 -
2 29.60.375; or (E) money obtained from the sale or lease of land or other assets
3 transferred by the state; except as provided in this paragraph, the local share may not
4 be satisfied with money from, or with the portion of an asset that was obtained with
5 money from, an appropriation, allocation, entitlement, grant, or other payment from the
6 state.

7 (c) For purposes of (a) of this section, in calculating the population of a
8 borough the population of each city in the borough is excluded. The determination of
9 population shall be based upon data used by the Department of Community and
10 Regional Affairs under AS 29.20.060.

11 Sec. 37.06.080. ADOPTION OF REGULATIONS. The Department of
12 Administration for grants under AS 37.06.010 and the Department of Community and
13 Regional Affairs for grants under AS 37.06.020

14 (1) may adopt regulations that impose additional requirements or
15 procedures to implement, interpret, make specific, or otherwise carry out the applicable
16 provisions of this chapter for grants administered by the department;

17 (2) shall adopt regulations providing for periodic audits of the use of
18 money for grants administered by the department under this chapter, including audit
19 of the department's determination of the value of, and adequacy of the verification of
20 the actual use of, locally funded or contributed labor on projects funded by a grant
21 under this chapter.

22 Sec. 37.06.090. DEFINITION OF "CAPITAL PROJECT." In this chapter,
23 "capital project" means a project with a cost exceeding \$10,000 to acquire or improve
24 an asset with an anticipated life exceeding one year and includes land acquisition,
25 construction, repair or structural improvement of a facility, engineering and design for
26 a facility, and acquisition or repair of equipment.

27 * Sec. 4. IMPLEMENTATION; APPLICABILITY. (a) Notwithstanding sec. 5 of this
28 Act, a grant for a capital project may not be disbursed or drawn upon under AS 37.06, as
29 enacted by this Act, until after June 30, 1993.

30 (b) Notwithstanding provisions relating to lists of projects and appropriations for
31 projects in AS 37.06.010(d) and (e) and AS 37.06.020(e) and (f), as added by sec. 3 of this

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1 Act, the office of management and budget shall select projects to be funded during fiscal year
2 1994 with money allocated to individual grant accounts. Selections shall be made from a list
3 of proposed projects submitted to the office of management and budget by each potential
4 grantee in writing and signed by each legislator representing the area in which the projects
5 will be constructed or acquired. The Department of Administration shall make grants during
6 fiscal year 1994 for the projects selected by the office of management and budget from the
7 individual grant accounts of municipalities, and the Department of Community and Regional
8 Affairs shall make grants during fiscal year 1994 for the projects selected by the office of
9 management and budget from individual grant accounts of unincorporated communities.

10 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).