

SUBJECT: AMEND THE SCOPE OF WORK AND BUDGET FOR THE FISCAL YEAR 2009, 2010, AND 2011 COMMUNITY ASSISTANCE PROGRAM FOR THE LAZY MOUNTAIN AREA, PROJECT 47014, FUND 475, TO UPGRADE THE LAZY MOUNTAIN FIRE STATION PARKING LOT.

AGENDA OF: March 17, 2018

ASSEMBLY ACTION:

Approved under the Consent Agenda 4-7-20

MANAGER RECOMMENDATION: Present to the Assembly for consideration.

APPROVED BY JOHN MOOSEY, BOROUGH MANAGER:

Route To:	Department/Individual	Initials	Remarks
1	Originator	EP-FIN	
2	Finance Director	<i>CX</i>	
3	Borough Attorney	<i>NS</i>	
4	Borough Clerk	<i>RA for JRM</i>	<i>IBS 3.10.20</i>

ATTACHMENT(S): Fiscal Note: Yes X No _____
FY09-11 Memorandum of Agreement (11 pp)
Resolution Serial No. 20-025 (2 pp)

SUMMARY STATEMENT: The Community Assistance Program (formerly the Community Revenue Sharing Program) is a state grant program that began in fiscal year 2009 and has been funded every year since. The program allows a portion of the funds be passed through to unincorporated areas; and can only be spent for the public benefit of the unincorporated area.

The Lazy Mountain Community Council was included in the application requesting state grant funds from fiscal year 2009 through 2017; and the borough received a total of \$188,700 for the Lazy Mountain area from this program. Recently, the borough received notification from the Lazy Mountain Community Council indicating they have agreed to give \$50,000 to the Palmer Volunteer Fire

Association to upgrade the Lazy Mountain Fire Station parking lot. The borough has contacted the Palmer Volunteer Fire Association and confirmed they will accept the funds and complete the project. The attached resolution, if approved, will amend the scope of work and budget for the 2009, 2010, and 2011 Community Assistance Program funds for upgrades to the Lazy Mountain Fire Station parking lot.

MATANUSKA-SUSITNA BOROUGH
FISCAL NOTE

Agenda Date: March 17, 2020

SUBJECT: AMEND THE SCOPE OF WORK AND BUDGET FOR THE FISCAL YEAR 2009, 2010, AND 2011 COMMUNITY ASSISTANCE PROGRAM FOR THE LAZY MOUNTAIN AREA, PROJECT 47014, FUND 475

ORIGINATOR: Finance/Accounting

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <input checked="" type="radio"/> YES <input type="radio"/> NO
AMOUNT REQUESTED <u>\$50,000</u>	FUNDING SOURCE <u>Community Asst Prog. state grant</u>
FROM ACCOUNT: <u>475.000.000.4XX.XXX</u>	PROJECT # <u>47014</u>
TO ACCOUNT :	PROJECT #
VERIFIED BY: <u>Barbara Gauninger</u>	CERTIFIED BY:
DATE: <u>3/2/2020</u>	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2020	FY2021	FY2022	FY2023	FY2024	FY25
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL	<u>50</u>					
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REVENUE						
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FUNDING:

(Thousands of Dollars)

General Fund						
<input checked="" type="radio"/> State/Federal Funds	<u>50</u>					
Other						
TOTAL						

ANALYSIS: (Attach a separate page if necessary)

PREPARED BY: _____

Phone: _____

DEPARTMENT: Chapman/Deer

Date: _____

APPROVED BY: _____

Date: 3/2/2020

MEMORANDUM OF AGREEMENT (MOA)

Between

MATANUSKA-SUSITNA BOROUGH

And

PALMER VOLUNTEER FIREMEN'S ASSOCIATION

This agreement is made and entered into by and between the MATANUSKA-SUSITNA BOROUGH (hereinafter the "Borough") and the PALMER VOLUNTEER FIREMEN'S ASSOCIATION (hereinafter the "Grantee"), for the purposes and subject to the terms and conditions set forth herein.

WHEREAS, the Borough has the authority to enter into this agreement with the Grantee to carry out the purposes contained herein; and

WHEREAS, the Grantee represents and warrants it has the legal capacity to enter into this agreement and carry out the purposes contained herein; and

WHEREAS, the Grantee is willing to comply with the terms and conditions of this agreement; and

WHEREAS, the Grantee represents that it has a policy and practice of non-discrimination based on race, color, religion, national origin, sex, marital status, physical disability and age; and

WHEREAS, all funds expended by the Grantee will be for materials, equipment, or services used in the completion of the project; and

WHEREAS, the Borough has allocated the total sum of \$50,000 to carry out the purposes, terms and conditions set forth herein and described in the attached Exhibit "A".

NOW, THEREFORE, the parties agree as follows:

Section 1. Definitions. In this agreement:

A. The term "funds" means the total sum made available to the Grantee by the Borough for the purposes stated in Exhibit "A."

1M 20-059
RS 20-025

B. The term "project completion" means completion of all contract duties by the Grantee under this agreement and acceptance by the Borough.

C. The term "Grantee" means the Palmer Volunteer Firemen's Association.

Section 2. Contract Documents.

A. The documents that make up this agreement between the Borough and the Grantee consist of the following:

1. This contract, titled Memorandum of Agreement,
2. Scope of Work, labeled Exhibit "A."

The above documents are a part of and incorporated in this agreement.

B. If any document which is part of this agreement conflicts or is inconsistent with any other, the terms of the main memorandum of agreement shall prevail, followed by the terms of Exhibit "A."

Section 3. Period of Performance. This contract shall become effective on the date of execution. The project must be completed in its entirety on or before December 31, 2021. Any unspent funds must be returned to the Matanuska-Susitna Borough.

Section 4. Scope of Work. The Grantee shall perform the work of the project in accordance with the scope of work and budget set forth in Exhibit "A," which exhibit is incorporated herein by reference and made a part thereof.

Section 5. Payment terms.

A. Subject to the provisions of this agreement the Borough shall pay to the Grantee the amount of the grant that is needed to perform the agreed upon scope of work as an advance.

Section 6. Award of Contracts by Grantee.

A. Any contract that the Grantee enters into involving the expenditure of funds shall be in accordance with this contract and shall incorporate the terms of this contract by reference. A copy of this contract shall be attached thereto.

B. Any contract for public construction shall meet the requirements of Alaska Statutes Sections 36.05.010–36.95.010. These requirements include but are not limited to requirements for advertising specifications for the contract, minimum wages to be paid to certain employees, withholding of payments as is necessary to pay those employees and necessary bonds. "Public construction" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating buildings, highways, or other improvements to real property of the Borough or State under this contract.

C. The Grantee shall not award a public construction contract involving the expenditure of funds unless a reasonable effort is made to obtain the price through a competitive process. No formal competitive bid procedure is required. The Grantee shall keep records of the contractors contacted and proposals received.

D. The Grantee shall not permit the involvement of a person with a financial or other private interest in the contractor or contract to participate in the contract award or supervision. Any conflict of interest arising from the award of a contract shall be disclosed to the Borough prior to the contract award. "Conflict of Interest" is defined as in MSB 2.52.460, as applicable. The Borough shall not be liable for reimbursement to the Grantee for any contract awarded by the Grantee in violation of this subsection.

E. This section is intended solely to ensure that public funds are expended responsibly and in the best interest of the public as a whole. It creates no rights or remedies in persons except for the Borough.

Section 7. Operations and Maintenance. Except as otherwise provided in this agreement, the Grantee shall at all times, at its own expense, operate and maintain the project facilities for use by the general public.

Section 8. Records Accounting and Audits.

A. The Grantee shall utilize recognized professional accounting procedures in expenditure of funds and in generating and retaining control documents necessary to allow subsequent audits.

B. The Grantee shall allow, on request, an audit by the Borough of its expenditures of monies made available to the Grantee under this agreement and of transactions related to those expenditures.

Section 9. Indemnification.

A. The Grantee 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 fees. The Grantee 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 sustained by any person, or property arising from Grantee's or Grantee's Officers, agents, employees, partners, attorneys, suppliers, and subcontractor's 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, Grantee shall not be responsible for any damages or claim arising from the sole negligence or willful misconduct of the Borough, its agents, or employees.

B. If any portion of this clause is voided by law or court of competent jurisdiction, the remainder of the clause should remain enforceable.

Section 10. Notice of Delays. The Borough shall be

notified should the Grantee encounter or anticipate difficulty in meeting major agreement requirements. The notice shall be in writing, and include pertinent details of the delay provided, however, that this data shall be informational only in character, and that this provision shall not be construed as a waiver by the Borough of any delivery schedule or date or of any rights or remedies provided by law or under this contract.

Section 11. Agreement Changes. The Grantee shall provide the Borough with adequate notice of proposed anticipated major changes to the agreement. The proposed change will describe whether or not the cost or performance time is increased or decreased. The Grantee is responsible for fulfilling the agreement until both the Grantee and the Borough can in writing determine what adjustments may be made and, in any case, such changes are subject to the approval of the Borough.

Section 12. Contract not Affected by Oral Agreement. Oral statement of any person shall not modify or otherwise affect the scope of work, or other terms and conditions as herein stated. All modifications to the agreement must be made in writing by the Grantee to the Borough and, in any case, are subject to the approval of the Borough.

Section 13. Defaults.

A. The Borough shall not be responsible and the Grantee shall hold the Borough harmless should the Grantee or any of its subcontractors fail to complete the provisions of this agreement. Upon evidence of breach of this agreement, including but not limited to the failure to complete the project, the Borough may give a notice of default to the Grantee terminating the entire or any part of this agreement 30 days from the date the notice is mailed.

B. Upon termination of the agreement in whole or in part, any unexpended funds may be used by the Borough to settle any

claim(s) and/or to complete the project; in doing so, the Borough may procure services similar to those terminated and the Grantee shall be liable to the Borough for any excess costs for such services; provided that the Grantee shall continue performance of this agreement to the extent not terminated by this section.

C. The Grantee will be liable to the Borough for any claim(s) or outstanding liabilities of the Grantee or of the Borough as a result of the acts or omissions of the Grantee in default of the agreement, and shall be liable for the return of funds not expended in accordance with the terms of the agreement.

D. If the Grantee does not spend the provided funds in accordance with this agreement or does not meet the requirements listed in Section 8 of this agreement, the Grantee will be liable for the return of all funds and shall not be eligible to receive future funding.

Section 14. Additional Work. No claim for additional funds not specifically herein furnished to the Grantee shall be paid for by the Borough, provided, however, that the Grantee may at its own expense provide such other work as it may deem appropriate and consistent with the purposes and terms of this agreement.

Section 15. Other Grants. In the event funds are used for the purpose of providing "matching" funds required in connection with any other project, facility or service of the Grantee supported by other Federal, State or local monies, those funds shall be spent in compliance with contracts or agreements governing those other projects, facilities, or services in addition to the terms and conditions of this agreement.

Section 16. Jurisdiction; Choice of Law. Any civil action arising from this agreement shall be brought in the Palmer Superior Court for the Third Judicial District of the State of Alaska. The Law of the State of Alaska shall govern the rights and obligations

of the parties under this agreement.

Section 17. 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 effect the validity of this agreement or any part thereof, or the right of the Borough thereafter to enforce each and every protection hereof.

Section 18. Permits, Laws and Taxes. The Grantee shall acquire and maintain in good standing all permits, licenses and other entitlements necessary to its performance under this agreement. All actions taken by the Grantee under this agreement shall comply with all applicable Borough, State and Federal statutes, ordinance, rules and regulations. The Grantee shall pay all taxes pertaining to its performance under this agreement.

Section 19. Non-Discrimination. The Grantee shall not, in the course of performing its duties under this agreement discriminate against any person on the basis of race, religion, color, national origin, sex, age, marital status or physical handicap.

Section 20. Relationship of the Parties. The Grantee shall perform its obligations hereunder as an independent contractor of the Borough. The Borough may administer this agreement and monitor the Grantee's performance within this agreement but shall not supervise or otherwise direct the Grantee except as provided herein.

Section 21. Integration. This agreement and any exhibits and amendments hereto embody the entire agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this agreement shall supersede all previous communications, representations or agreements, either oral or written, between the parties hereto.

Section 22. Notices. Any notice required pertaining to the subject matter of the agreement shall be emailed, personally

delivered or mailed by prepaid first-class mail to the following address:

Borough: Matanuska-Susitna Borough
Attn: Finance - Accounting
350 E Dahlia Avenue
Palmer, AK 99645

Grantee: Palmer Volunteer Firemen's Association
645 E. Cope Industrial Way
Palmer, AK 99645

Section 23. Severability. Any provision of this agreement decreed invalid by a court of competent jurisdiction or otherwise by law shall not invalidate the remaining provisions of this agreement.

BOROUGH USE ONLY

Fund Verified:

FY2009 \$20,200	475.000.000.449.500	47014-5000-XXXX
FY2010 \$20,200	475.000.000.449.500	47014-5000-XXXX
FY2011 \$ 9,600	475.000.000.449.500	47014-5000-XXXX
TOTAL \$50,000		

Signature

Date

Attachments: Exhibit "A" - Scope of Work and Budget

MATANUSKA-SUSITNA BOROUGH

PALMER VOLUNTEER FIREMEN'S
ASSOCIATION

Date: ____/____/____

Date: ____/____/____

Borough Manager

Authorized Representative

BOROUGH'S ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss
Third Judicial District)

On _____, 2020, John Moosey, Manager of the Matanuska-Susitna Borough, who is personally known to me, appeared and acknowledged before me that he signed the Memorandum of Agreement on behalf of the municipal corporation.

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

*1M 20-059
RS 20-025*

GRANTEE'S ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss
Third Judicial District)

On _____, 2020, _____

_____, authorized
representative of the PALMER VOLUNTEER FIREMEN'S ASSOCIATION
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/she signed the Memorandum of
Agreement for the purposes stated therein.

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

EXHIBIT "A" TO FISCAL YEARS 2009-2011 MEMORANDUM OF AGREEMENT

SCOPE OF WORK

Project Purpose and Description:

To encourage outdoor recreation opportunities, education, beautification, and any other public purpose for the benefit of our community.

- Lazy Mountain Fire Station Parking Lot Upgrade
- Administrative and project management costs

PROJECT BUDGET

TOTAL PROJECT BUDGET	\$50,000
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The above scope of work and budget is subject to revisions by Borough and Grantee as mutually agreed upon by prior written amendment.

If Grantee has any questions whether expenditure is appropriate for reimbursement, ask before committing to the expense.