

SUBJECT: Authorize the Matanuska-Susitna Borough School District to award of RFP #22-08 Design Services for American Charter Academy School to Wolf Architecture, Inc.





AGENDA OF: September 6, 2022

ASSEMBLY ACTION:

Approved under the Consent Agenda
9-6-22 

MANAGER RECOMMENDATION: Present to the Assembly for consideration.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER: 

Route To:	Department/Individual	Initials	Remarks
	Purchasing Officer		
	Borough Attorney		
	Borough Clerk	 8/30/22	

ATTACHMENT(S): Request for Contract Approval (2pgs)
Proposed Agreement (7pgs)

SUMMARY STATEMENT: On August 17, 2022, the MSBSD Administration presented to the MSBSD School Board for a non-action item requesting award approval of RFP #22-08, Design Services for American Charter Academy School to Wolf Architecture, Inc.

In June 2022, the District published RFP #B22-08, Design Services for American Charter Academy School. A formal RFP solicitation process was held and Wolf Architecture, Inc. was determined to be the successful proposer based on the evaluation criteria set forth in the RFP.

In accordance with AS 14.14.060(e), "The borough school board is responsible for the design criteria of school buildings. To the maximum extent consistent with education needs, a design of a school building shall provide for multiple use of the building for community purposes.

Subject to the approval the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly. A design or revised design approved by the assembly shall be submitted by the board to the department in accordance with AS 14.07.020(a)(11)."

Having been approved by the School Board, this contract award is being provided to the Borough Assembly for consideration. If approved by both bodies, the contract will be awarded to Wolf Architecture, Inc.

RECOMMENDATION OF ADMINISTRATION: Authorize the **MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT** to award of **REQUEST FOR PROPOSAL 22-09** to provide **DESIGN SERVICES FOR AMERICAN CHARTER ACADEMY SCHOOL** to **WOLF ARCHITECTURE, INC.**



PURCHASING

BOARD MEETING DATE: August 3, 2022
THROUGH: Dr. Randy Trani, Superintendent
THROUGH: Luke Fulp, Assistant Superintendent
FROM: Zach Albert, Director of Finance
SUBJECT: Request for Contract Approval, RFP #B22-08, Design Services for American Charter Academy School

Objective

Administration recommends that the Board vote to approve a contract award to Wolf Architecture, Inc. for a total not-to-exceed amount of \$649,935.00 to design a new building for American Charter Academy School.

Background

In June 2022, the District published RFP #B22-08, Design Services for American Charter Academy School. A formal RFP solicitation process was held and Wolf Architecture, Inc. was determined to be the successful proposer based on the evaluation criteria set forth in the RFP. In addition to the base contract approval, Administration also requests approval of a 10% contingency to cover any additional unforeseen changes that may occur during the course of work.

Project Scope

The scope of services includes architectural, civil, electrical, mechanical, and structural design services for a new building for American Charter Academy School.

Contract Approval

Per BP3312 Contracts, all contracts for professional, technical, or other purchased services over \$250,000 must be approved or ratified by the School Board.

According to AS 14.14.060(e), "The borough school board is responsible for the design criteria of school buildings. To the maximum extent consistent with education needs, a design of a school building shall provide for multiple use of the building for community purposes. Subject to the approval the assembly, the school board shall select the appropriate professional personnel to develop the designs. The school board shall submit preliminary and subsequent designs for a school building to the assembly for approval or disapproval; if the design is disapproved, a revised design shall be prepared and presented to the assembly. A design or revised design approved by the assembly shall be submitted by the board to the department in accordance with AS 14.07.020(a)(11)." If approved by the School Board, this contract award will be sent to the Borough Assembly for consideration. If approved by both bodies, the contract will be awarded to Wolf Architecture for the amount listed below.

Contract costs are as follows:

RFP #B22-08, Design Services for American Charter Academy		
Base Contract	\$	590,850.00
10% Contingency	\$	59,085.00
Contract Total	\$	649,935.00

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AGREEMENT BETWEEN MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT AND WOLF ARCHITECTURE, INC.

THIS AGREEMENT is made this 18th day of August, 2022, by and between:

MATANUSKA-SUSITNA BOROUGH SCHOOL DISTRICT (hereinafter "MSBSD") and **WOLF ARCHITECTURE, INC.** (hereinafter the "CONTRACTOR").

The parties agree as follows:

SECTION 1. WORK: The Contractor will do all work described in the Proposal Documents and refer to the Standard Agreement for Services, as set forth herein. The work is more specifically identified as: **RFP #B22-08 to provide design services for American Charter Academy School as described in the RFP documents.**

SECTION 2. AGREEMENT COMMENCEMENT: This Agreement shall commence upon execution by both parties. The MSBSD will not be liable for work performed by the Contractor, prior to execution of the Agreement by both parties.

SECTION 3. AGREEMENT TIME: The Agreement term shall begin July 26, 2022 and shall be effective until May 5, 2023.

SECTION 4. AGREEMENT PRICE: The MSBSD will pay the Contractor \$590,850.00 as specified on the cost proposal for all work outlined in the Scope of Services. The costs of all licensing, certifications, permits, etc., required by the Matanuska-Susitna Borough, State of Alaska and/or Federal Government shall be the sole responsibility of the Contractor.

SECTION 5. METHOD OF PAYMENT: Payments shall be made to the Contractor within thirty (30) days after the MSBSD receives and approves a written Request for Payment or Invoice. Requests for Payment or Invoices shall be addressed to the Matanuska-Susitna Borough School District, Attn: Accounts Payable, 501 N. Gulkana Street, Palmer, AK 99645 or invoices can be emailed to accounting@matsuk12.us. The MSBSD desires monthly invoices.

SECTION 6. RELATIONSHIP OF THE PARTIES: The Contractor shall perform its obligations hereunder as an independent Contractor of the MSBSD. The MSBSD may administer this Agreement and monitor the Contractor's compliance with this Agreement but shall not supervise or otherwise direct the Contractor except to provide recommendations and to provide approvals pursuant to this Agreement.

SECTION 7. ASSIGNMENTS AND SUBCONTRACTORS:

- A. The Contractor 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 MSBSD.
- B. The MSBSD acknowledges that RESPEC, and Tonsina LLC will be providing subcontract work on this project. Please note that all subcontractors must meet all the requirements of the RFP documents as pertains to, but not limited to, licenses, permits and insurance.
- C. The Contractor shall not delegate additional duties or otherwise subcontract additional work or services under this Agreement without prior written approval of the MSBSD.

SECTION 8. PERSONNEL REQUIREMENTS: The MSBSD may, by serving notice in writing, require the Contractor to promptly remove from the site of work any employee or worker the MSBSD deems incompetent, careless, or otherwise objectionable, including, but not limited to, violation of MSBSD Policies relating to alcohol, tobacco, illegal drugs, or firearms on any MSBSD property.



SECTION 9. INDEMNIFICATION:

- A. Any and all employees of the Contractor and other persons, while engaged in the performance of any work or services required by the Contractor under this agreement, shall not be considered employees of the MSBSD.
- B. Any and all claims that might arise under the Worker's Compensation Act on behalf of the Contractor or other persons while engaged in the performance of the duties or services contemplated, and any and all claims that might be made by any third persons as a result of any act or failure to act, shall be the Contractor's sole obligation and the Contractor shall indemnify the MSBSD and hold it harmless from any liability for any act or failure to act on the part of the Contractor.
- C. Each party shall indemnify, defend, and hold the other party harmless from and against any claim of, or liability for, negligent acts, errors, and omissions of the other party under this agreement. However, a party is not required to indemnify, defend, or hold the other party harmless for a claim of, or liability for, the independent negligent acts, errors, and omissions of the other party. If there is a claim of, or liability for, a joint negligent act, error, or omission of both parties, the indemnification, defense, and hold harmless obligations of this provision shall be apportioned on a comparative fault basis. This indemnification shall survive the expiration or termination of this Agreement.

SECTION 10. TERMINATION FOR CAUSE:

- A. If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner their obligations under this Agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Agreement, the MSBSD shall thereupon have the right to terminate this Agreement by serving written notice to the Contractor of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination.
- B. The MSBSD reserves the right to cancel any agreement due to non-compliance unsatisfactory performance, and/or damage to any MSBSD property. In the event an incident occurs, the Contractor shall have three (3) business days to mitigate damages, unless otherwise agreed to. If the situation is not resolved to the satisfaction of the MSBSD, the contract will be immediately cancelled. Antonio Weese, Facilities Capital Planning and Construction Manager, or his designee, shall determine whether the duties and responsibilities of the Contractor are being performed satisfactorily.
- C. In the event it becomes necessary to cancel this Agreement, regardless of the circumstances or time remaining on the Agreement, the Contractor will be responsible for any and all expenses incurred by the MSBSD. These expenses can include, but not be limited to, cost of locating interim services, cost of re-issuing an RFP, and any additional costs to the MSBSD by the new Contractor greater than the current Agreement.
- D. The Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed in accordance with the payment provision as set forth under Section 5 of this Agreement. Equitable compensation shall not exceed the amount reasonable billed for work actually done and expenses reasonably incurred. Antonio Weese, Facilities Capital Planning and Construction Manager, or his designee, shall determine whether work completed is satisfactory.

SECTION 11. TERMINATION FOR CONVENIENCE OF THE MSBSD:

- A. The MSBSD may terminate this Agreement at any time by serving written notice to the Contractor of such termination and specifying the effective date of such termination at least ten (10) days prior to the effective date of termination.

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- B. Upon termination of any awarded Agreement, the MSBSD shall pay the Contractor for all work completed to the satisfaction of the Capital Planning and Construction Manager of Facilities, Antonio Weese, or his designee, as of the date termination is effective.

SECTION 12. DRUG, TOBACCO, AND ALCOHOL-FREE WORKPLACE: The Contractor agrees to comply with the "Drug, Tobacco and Alcohol-Free Workplace", as stated in the MSBSD School Board Policy, BP 4020. This policy states, in part: "In the interest of the health and safety of students and employees, it is a violation of this policy for students, staff, parents, visitors, contractors and all others to use, distribute or sell tobacco, any non FDA approved tobacco or nicotine delivery products or devices including but not limited to, cigarettes, cigars, dip, hookah pens, e-cigarettes, and dissolvable nicotine products on District premises, at school-sponsored activities on or off District premises and in District-owned, rented or leased vehicles."

SECTION 13. CODE OF ETHICS:

- A. The selected Proposer shall comply with the MSBSD Codes of Ethics as stated in the MSBSD School Board Policy, BP 4119.21.
- B. The selected Proposer shall comply with the MSBSD Restrictions on Sex Offenders on Campus as stated in the MSBSD School Board Policy, BP 3515.7. This policy states, in part: "To protect the morals, health, and safety of students, it is the policy of the district to deny entrance onto the premises of any district school or any building used for school activities to registered sex offenders or persons required to register under the sex offender registration act of whom the district has knowledge."
- C. The selected Proposer shall take affirmative action to ensure that no Contractor, employee or Subcontractor who will be working on MSBSD property have a criminal record of any conviction for child abuse or assault, be on the State of Alaska or any State Sexual Offender Registry, or have any prior conviction for property theft or burglary. The MSBSD has the right to verify such records at any time during the life of the contract.

SECTION 14. AGREEMENT DOCUMENTS AND INTEGRATION:

- A. This Agreement and those documents and appendices incorporated by reference in Section 14.B shall constitute the entire Agreement of the parties. There are no promises, terms, conditions, or obligations other than those stated in this Agreement and its appendices, and this Agreement shall supersede all previous communications, representations, or agreements, either oral or written, between the parties.
- B. The following documents are incorporated by reference into this Agreement as if fully set forth herein:
- RFP Documents to include, but not be limited to, Instructions to Proposers, Scope of Services, Cost Proposal or Bid Form and any and all attachments and appendices
 - All Addenda issued
 - Proposer's Response to the RFP with all attachments
 - Notice of Award
 - Certificates of Insurance as required by the MSBSD
 - All licenses, certificates or permits required by City, Borough, State and Federal Law as applicable.
 - List of all subcontractors, if applicable
 - Requests for additional information and Proposer's Responses

SECTION 15. MODIFICATIONS: The MSBSD may, from time to time, require modifications in the Scope of Services to be performed under this Agreement. However, it is expressly understood that this Agreement shall not under any circumstances be modified without written authorization from the MSBSD. All modifications in the terms of this Agreement shall be incorporated by written amendments to this Agreement executed by both parties.

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SECTION 16. EQUAL EMPLOYMENT OPPORTUNITY:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, gender, age, national or ethnic origin, disability, marital status, change in marital status, pregnancy, parenthood, or any other basis prohibited by Alaska State or Federal Laws. The Contractor will take affirmative action to insure non-discrimination. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor agrees to post in a conspicuous place, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- B. The Contractor shall state, in all solicitation or advertisements for employees to work on contract jobs, that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, age, gender, marital status or change in marital status, physical or mental handicap.
- C. The Contractor shall comply with all applicable reporting requirements which the MSBSD Equal Opportunity Employment contract compliance may establish by regulation.
- D. The Contractor shall include the provision of subsections A through C of this section in every subcontract or purchase order under this contract, so as to be binding upon every subcontractor or vendor of the Contractor under this contract.

SECTION 17. CONFLICT OF INTEREST:

- A. The Contracting party expressly represents that the contract is not contrary to MSBSD School Board Policy BP 2300 (Conflict of Interest) and that the contracting party has read and understands BP 2300. If this representation is false, the Superintendent may terminate the contract without regard to partial performance and in the event of such a termination the District will have no further liability or obligation to the contracting party.
- B. Any employee and/or employee with immediate family members that may have a financial interest in the contract must file an annual BP 2300 Conflict of Interest Affidavit with MSBSD.
 - 1. The following definitions apply to this policy: Immediate family member means an employee's grandparent, parent, child, grandchild, brother, sister, spouse, child of a spouse, or regular member of the employee's household.

SECTION 18. NON-WAIVER: The failure of the MSBSD at any time to enforce a provision of this Agreement shall in no way constitute a waiver of the provisions, nor in anyway effect the validity of this Agreement or any part thereof, or the right of the MSBSD thereafter to enforce each and every protection hereof.

SECTION 19. FERPA: If the Contractor has access to students and/or employees records, the Contractor shall limit its employees' access to the records to those persons for whom access is essential to the performance of this contract. At all times during this contract, the Contractor shall comply with the terms of the Family Educational Rights and Privacy Act of 1974 in all aspects.

SECTION 20. AUDITS AND INSPECTIONS: At any time during normal business hours and as often as the MSBSD 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 a representative of the MSBSD to audit, examine, and make excerpts or transcripts from such records, and to make audits of all Agreements, invoices, materials, payrolls, records, or personnel information, conditions of employment, and other data relating to all matters covered by this Agreement.

SECTION 21. 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 in Palmer.



The Law of the State of Alaska shall govern the rights and obligations of the parties.

SECTION 22. PERMITS, LAWS AND TAXES: The Contractor shall acquire and maintain in good standing all permits, licenses and other entitlement necessary to its performance under this Agreement. All actions taken by the Contractor under this Agreement shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall be responsible for any City, Borough, State and/or Federal taxes pertaining to its performance under this Agreement.

SECTION 23. SEVERABILITY, ILLEGALITY & IMPOSSIBILITY: If any provision of the Agreement or the application thereof to any person or circumstances is held invalid, the remainder of this Agreement and its application to other persons or circumstances shall not be affected thereby. However, should this contract be declared by a court of competent jurisdiction to be illegal, invalid, or otherwise impossible of performance, it may be cancelled without liability on the part of the MSBSD.

SECTION 24. CONTRACTOR'S VIOLATIONS OF MSBSD OBLIGATIONS:

- A. Any Contractor in arrears on a MSBSD obligation, including but not limited to lease, sale or rental payments, whether as an individual, or as a representative of a business, organization, firm, corporation, or partnership, shall not be awarded the Agreement if the delinquency is not cured within ten (10) calendar days of receipt of written notice sent by the MSBSD of the delinquency.
- B. This Agreement can be terminated for cause, pursuant to Section 11, if it is determined that a Contractor, whether the amounts owed are in the name of the Contractor as an individual or as a representative of a firm, business, corporation, or partnership, is in arrears of any lease or rental agreement that is due to the MSBSD that is not remedied within ten (10) calendar days of notification by certified mail, return receipt requested.
- C. The MSBSD reserves any right it may have to offset amounts owed by any corporation or business for delinquent monies owed on leases and rental agreements against any amount owing to the same under an Agreement between the MSBSD and the same.

SECTION 25. RULE OF INTERPRETATION: This Agreement shall not be interpreted for or against either party, but shall be interpreted according to its fair and reasonable intent.

SECTION 26. NOTICES: Any notice required pertaining to the subject matter of the Agreement shall be personally delivered or mailed by registered or certified mail to the following address:

MSBSD: Zachary Albert, Director of Finance
501 N. Gulkana Street
Palmer, AK 99645
Phone: (907) 746-9260

Contractor: Wolf Architecture, Inc.
Attn: Gary Wolf
625 South Cobb Street, Suite 200
Palmer, AK 99645
Phone: (907) 746-6670

SECTION 27. INSURANCE: It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of the Agreement to create in the public or any member thereof a third party benefit hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Contractor shall procure and maintain minimum insurance requirements as indicated in the RFP Documents and shall provide proof of coverage to the

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MSBSD within five (5) working days upon award of any contract. Failure to provide Certificate of Insurance may result in the RFP being awarded to the next highest scoring Proposer.

It is highly recommended that Contractors confer with their respective insurance companies or brokers to determine if their insurance program complies with the MSBSD's insurance requirements, as per the RFP Documents.

SECTION 28. AGREEMENT ADMINISTRATION:

- A. Zachary Albert, Director of Finance, or his designee, will be the representative of the MSBSD administering this Agreement.
- B. The services to be furnished by the Contractor shall be administered, supervised, and directed by Gary Wolf, or his designee (907) 746-6670. In the event that the individual named above or any of the individuals identified in the proposal to perform work under the contract are unable to serve for any reason the Contractor shall appoint a successor in interest subject to written approval of the MSBSD.

SECTION 29. UNDERSTANDING: The Contractor acknowledges that the Contractor has read and understands the terms of this Agreement, has had the opportunity to review the same with counsel of the Contractor's choice, and is executing this Agreement of the Contractor's own free will.

SECTION 30. TITLES: The titles of sections in this Agreement are for identification purposes only and are not to be construed as definitions or limitations on the terms of the Agreement.

SECTION 31. AGREEMENT PERSON: Any questions regarding the work to be performed under this Agreement will be directed to Antonio Weese, Facilities Capital Planning and Construction Manager, or his designee.

**MATANUSKA-SUSITNA BOROUGH
SCHOOL DISTRICT**

WOLF ARCHITECTURE, INC.

Signature

Signature

Zachary Albert

Printed Name

Printed Name

Director of Finance

Title

Title

Date

Date



ATTACHMENT C:
COST PROPOSAL FORM

BASE COST PROPOSAL		
Item No.	Proposal Item	Amount
1	Architectural, electrical, mechanical, civil, and structural design services for American Charter Academy School.	\$ <u>\$590,850</u>
	TOTAL BASE COST	\$ <u>\$590,850</u>

ADDITIVE ALTERNATE		
2	Construction Administration	\$ <u>186,000</u>
	TOTAL COST WITH ALTERNATE	\$ <u>\$776,850</u>

The undersigned hereby further proposes to furnish all services, including labor, supplies, and supervision necessary to provide design and construction administration services to the MSBSD in full accordance with the Request for Proposal documents:

Wolf Architecture, Inc.

Company Name



Jason Collins

7/8/2022

Authorized Signature

Printed Name

Date

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