

SUBJECT: ACCEPTING AND APPROPRIATING ADDITIONAL FUNDING IN THE AMOUNT OF \$132,000 FROM THE STATE OF ALASKA, DIVISION OF FORESTRY, AND APPROVING THE EXTENDED PERFORMANCE PERIOD AND REVISED BUDGET TO OPERATE COLLECTION SITES AND DISPOSE OF DEAD SLASH FROM BEETLE KILLED TREES FOR MAT-SU RESIDENTS.

AGENDA OF: APRIL 19, 2022

ASSEMBLY ACTION:

Adopted without objection

5-3-22

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY MICHAEL BROWN, BOROUGH MANAGER:

MB

Route To:	Department/Individual	Initials	Remarks
	Originator / DES	<i>CU</i>	
	Emergency Services Director	<i>KB</i>	
	Public Works Director	<i>MS</i>	
	Finance Director	<i>MS</i>	
	Borough Attorney	<i>↓</i>	
	Borough Clerk	<i>MS</i>	<i>4/11/22</i>

ATTACHEMENT (S) :

Fiscal Note: YES X NO
 Ordinance Serial No. 22-055 (2 pp)
 Resolution Serial No. 22-042 (2 pp)
 Division of Forestry Cooperative Agreement
 Amendment No. 1 (10 PP)

SUMMARY STATEMENT:

With Ordinance Serial No. 21-072, and Resolution Serial No. 21-074, the Borough accepted and appropriated a federal grant passed through the State of Alaska, Division of Forestry in the amount of \$50,000, and approved the scope of work and budget to operate collection sites and dispose of dead slash from beetle killed trees for Mat-Su residents.

With Amendment No. 1, the State of Alaska, Division of Forestry, has offered an additional \$132,000, and extended the performance period to December 31, 2022, to operate collection sites and dispose of dead slash from beetle killed trees for Mat-Su residents.

RECOMMENDATION OF ADMINISTRATION:

The administration recommends approval of the attached legislation, which will accept and appropriate an additional \$132,000 from the State of Alaska, Division of Forestry, and approve the extended performance period to December 31, 2022, for Project 45131-8403, Fund 480, to operate collection sites and dispose of dead slash from beetle killed trees for Mat-Su residents.

MATANUSKA-SUSITNA BOROUGH
FISCAL NOTE

Agenda Date: April 19, 2022

SUBJECT: Accepting and appropriating additional funding in the amount of \$132,000 from the State of Alaska, Division of Forestry, and approving the extended performance period and revised budget to operate collection sites and dispose of dead slash from beetle killed trees for Mat-Su residents.

ORIGINATOR: Ken Barkley

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>YES</u> NO
AMOUNT REQUESTED <u>\$132,000</u>	FUNDING SOURCE <u>Grant</u>
FROM ACCOUNT #	PROJECT #
TO ACCOUNT: <u>480.000.000 2XX.XXX</u>	PROJECT # <u>45131</u>
VERIFIED BY: <u>Kim W. W. W.</u>	CERTIFIED BY:
DATE: <u>4/7/22</u>	DATE:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

General Fund						
State/Federal Funds	<u>132.0</u>					
Other						
TOTAL	<u>132.0</u>					

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PREPARED BY: _____ PHONE: _____
 DEPARTMENT: _____ DATE: _____
 APPROVED BY: Chesapeake Hummel DATE: 4/7/2022

COOPERATIVE AGREEMENT

Between

Division of Forestry, DNR, State of Alaska Department of Natural Resources

And

The Matanuska Susitna Borough

To Support Workforce in Spruce Beetle Mitigation Work

Amendment 1

Section I Parties and Project Title:

This Cooperative Agreement is made and entered into between the State of Alaska, Department of Natural Resources, Division of Forestry, hereinafter referred to as "DOF", and the Matanuska Susitna Borough, hereinafter referred to as "Mat-Su Borough" to complete spruce beetle mitigation work and woody biomass disposal.

Section II Authority and General Intent:

AUTHORITIES: Pursuant to AS 41.17.055(e), the State Forester can enter into cooperative agreements as specified under that chapter to complete tasks identified in this document.

Mat-Su Borough is a "government agency" that the State Forester can enter into a/this cooperative agreement with.

Section III Project Scope and Responsibilities:

PURPOSE: This cooperative agreement will provide funding for the mitigation and disposal of spruce beetle infested wood due to the ongoing spruce beetle outbreak and other woody biomass generated during the recent wind events in the Mat-Su. The purpose of this project is to provide a means of disposing of woody biomass for Mat-Su residences in a safe effective manner and to reduce the potential for escaped debris burns. Received wood will be disposed of by chipping, mulching or burning. This will help slow the population growth of spruce beetles reducing the number of infected trees and the fire fuel load for future years. This cooperative agreement is intended to provide funding to the Mat-Su Borough to operate collection sites for borough residents to dispose of woody debris as a result of the ongoing spruce beetle outbreak and the recent wind events.

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THE ALASKA DEPARTMENT OF NATURAL RESOURCES, DIVISION OF FORSTRY WILL:

1. Provide funding for collection sites: The Mat-Su Borough will open two or three collection sites within the Matanuska Susitna Borough for residents to dump any spruce material infested by the Spruce beetle, as well as other woody debris generated during the recent wind events. This will include dead and newly killed spruce trees that will pose a hazard to health and property.
2. Provide funding for crews: This will include the labor costs for personnel to manage and secure the collection sites and to chip, grind or burn spruce materials received.

THE MATANUSKA SUSITNA BOROUGH WILL:

1. Provide two or three collection sites for borough residents to drop off woody debris.
2. Provide management and security at collection locations when open to the Mat-Su public.
3. Chip, grind or burn all materials that are received at dump locations.
4. Provide payment to contractors if or when used on this project.
5. Provide DOF with documentation of invoices from contractors and timesheet for all acquired costs to Mat-Su Borough.

Section IV Project Specific Term and Conditions:

IV. A- Federal Funds

Funding for this agreement is provided by the US Forest Service Federal Grant 20-DG-11100106-811 CFDA # 10.664 and administered by the State of Alaska, Division of Forestry. This is an award of Federal Financial Assistance.

Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adapted and supplemented by the USDA in 2 CFR Part 400. Adaption by USDA of the OMB guidance in 2 CFR 400 give regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: www.ecfr.gov.

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Funding under this agreement is not available for reimbursement of a recipient single item purchase or a piece of equipment over \$5,000.00.

IV. B- Financial Terms

The DOF will reimburse the Mat-Su Borough on the following terms and not to exceed (NTE), amounts. The total reimbursement under this agreement is NTE \$182,000.

1. DOF will reimburse Mat-Su Borough for the wages of the personnel who chipped, ground, or burned to dispose of the material, including costs for personnel to manage and secure the collection sites.
2. DOF will reimburse for the equipment that was used to chip, grind, mulch or burn the material received from the public.
3. DOF will reimburse the Mat-Su Borough for contractor expenses related to chipping or disposal of material collected from the public.

IV. C- Billing Process and Payment Schedule:

1. Request for payment shall be submitted on Mat-Su Borough letterhead. Requests shall have verification backup information attached.
2. Point of Contact for all pay items: Stephen Nickel, State of Alaska, Division of Forestry, 101 Airport Rd, Palmer, AK 99645, or electronically at stephen.nickel@alaska.gov.

IV. D - Reporting

The Mat-Su Borough will provide quarterly reports and a final project report to DOF. Quarterly reports will include information about amount and weight of material received at disposal sites, personnel assigned to disposal sites, contractors used along with other pertinent information. DOF encourages the Borough to include photos that help illustrate the quarterly accomplishments and may use these photos in reports and/or social media. A final report is due by December 31, 2022.

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IV. E- Performance Period and Cancellation/Termination:

The period of performance is July 1, 2021 - December 31, 2022. This Agreement Amendment becomes effective upon written execution by both parties and expires December 31, 2022. The Agreement can be terminated upon 30 days written notice by either party.

IV. F- Modification and Amendments:

Changes to this agreement must be mutually acceptable to both parties and will be agreed to in writing and approved by the appropriate authorizing officials.

IV. G- Project Managers/Contacts

Principal contacts:

ADNR Division of Forestry
Stephen Nickel, Project Manager
101 Airport Rd
Palmer, AK 99645
(907) 761-6264
stephen.nickel@alaska.gov

Matanuska Susitna Borough -Technical
Jeff Smith
Project Manager
680 N Seward Meridian Parkway
Wasilla, Alaska 99645
jeff.smith@matsugov.us

Matanuska Susitna Borough – Administrative
Casey Cook
Administrative
680 N Seward Meridian Parkway
Wasilla, Alaska 99645
casey.cook@matsugov.us

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Section V Standard Terms and Conditions:

1. Appendix A- State of Alaska required.

Section VI Authorization Representative Signatures:

By signature below, The Matanuska Susitna Borough and the Division of Forestry certify that the individuals listed in this document as representatives of the cooperators are authorized to act in their respective areas for matters related to this agreement.

Signatories:

Helge Eng
Director
Division of Forestry

Date

Mike Brown
Borough Manager
Matanuska Susitna Borough

Date

Michael Burkhead,
Procurement Specialist
Division of Forestry
Department of Natural Resources

Date

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APPENDIX A
STANDARD PROVISIONS

ARTICLE 1. Definition. In this Cooperative Agreement, attachments and amendments, "Certifying Officer" means that person who signs this Cooperative Agreement on behalf of the Department and includes a successor or authorized representative.

ARTICLE 2. State Saved Harmless. The Cooperator shall indemnify, save harmless, and defend the State, its officers, agents and employees from liability of any nature or kind, including costs and expenses, for or on account of any and all legal actions or claims of any character whatsoever resulting from injuries or damages sustained by any person or persons or property as a result of any error, omission or negligent act of the Cooperator relating to its performance of this grant.

ARTICLE 3. Inspections and Retention of Records. The State may inspect, in the manner and at reasonable times it considers appropriate, all of the Cooperator's facilities, records and activities directly attendant to this Cooperative Agreement.

ARTICLE 4. Disputes. Any dispute concerning a question of fact arising under this Cooperative Agreement which is not disposed of by mutual agreement, shall be decided without bias by the Certifying Officer. The decision shall be in writing and mailed or otherwise furnished to the Cooperator. The decisions of the Certifying Officer are final and conclusive, unless, within 30 days from the date of receipt of the decision, the Cooperator mails or otherwise furnishes a written appeal addressed to the Commissioner of the Department. The Commissioner shall hear the appeal. The decision of the Commissioner is final and conclusive of a dispute; the Cooperator shall proceed with the Performance of the Cooperative Agreement in accordance with the Certifying Officer's decision.

ARTICLE 5. Equal Employment Opportunity (EEO). The Cooperator may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, physical handicap, sex, and marital status, changes in marital status, pregnancy, or parenthood. The Cooperator shall post in a conspicuous place, available to employees and applicants for employment, a notice setting out the provisions of this paragraph.

The Cooperator shall state, in all solicitations or advertisements for employees to work on State funded projects, that it is an Equal Opportunity Employer (EEO) and that all qualified applications will receive consideration for employment without regard to race, religion, color, national origin, age, physical handicap, sex, and marital status, changes in marital status, pregnancy or parenthood.

The Cooperator shall include the provisions of the EEO article in every contract relating to this Cooperative Agreement and shall require the inclusion of these provisions in every agreement entered into by any of its contractors, so that those provisions will be binding upon each contractor and subcontractor.

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ARTICLE 6. Termination. The Certifying Officer, by written notice may terminate this Cooperative Agreement, in whole or in part, when it is in the best interest of the State. The State is liable only for payment in accordance with the provisions of this Cooperative Agreement for services rendered before the effective date of termination.

ARTICLE 7. No Assignment or Delegation. The Cooperator may not assign or delegate this Cooperative Agreement, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Certifying Officer.

ARTICLE 8. No Additional Work or Material. No claims will be allowed for services, not specifically provided for in this Cooperative Agreement, which are performed or furnished by the Cooperator.

ARTICLE 9. Independent Cooperator. The Cooperator and any agents and employees of the Cooperator act in an independent capacity and are not officers or employees or agents of the State in the performance of this Cooperative Agreement.

ARTICLE 10. Payment of Taxes. As a condition of this Cooperative Agreement, the Cooperator shall pay all Federal, State and Local taxes incurred by the Cooperator and shall require their payment by any contractor or any other persons in the performance of this Cooperative Agreement.

ARTICLE 11. Workers' Compensation Insurance. The Cooperator shall provide and maintain Workers' Compensation Insurance as required by AS 23.30 for all employees engaged in work under this Cooperative Agreement. The Cooperator shall require any contractor to provide and maintain Workers' Compensation Insurance for its employees as required by AS 23.30

ARTICLE 12. Insurance. The Cooperator is responsible for obtaining any necessary liability insurance.

ARTICLE 13. Current Prevailing Rates of Wage and Employment Preference. Certain grant projects are constrained by the provisions of AS 36. PUBLIC CONTRACTS. To the extent that such provisions apply to the project, which is the subject of this Cooperative Agreement, the Cooperator shall pay the current prevailing rates of wage to employees as required by AS 36.05.010. The Cooperator shall also require any contractor to pay the current prevailing rates of wage as required by AS 36.05.010.

ARTICLE 14. BUDGET FLEXIBILITY. Notwithstanding the provisions of Article 18, Appendix A, "Changes", the Cooperator may revise the project budget without a formal amendment to this agreement. Such revisions are limited to a maximum of 10% (percent) of the total amount of this agreement or \$8,800.00, whichever is less, over the entire term of this agreement. Such budget revisions shall be limited to changes to existing budget line items. And the creation of

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new budget line items which are within the scope of the project. Budget revisions may not be used to increase any budget item for project administrative expenses.

Changes to the budget beyond the limits authorized by this provision may only be made by a formal amendment to this Cooperative Agreement.

ARTICLE 15. Governing Law. This Cooperative Agreement is governed by the laws of the State of Alaska. The Cooperator shall perform all aspects of this project in compliance with all appropriate laws and regulations. It is the responsibility of the Cooperator to ensure that all permits required for the construction and operation of this project by the Federal, State or Local governments have been obtained.

ARTICLE 16. Officials Not to Benefit. No member of or delegate to Congress or the Legislature, or officials or employees of the State or Federal government may share any part of this agreement or any benefit to arise from it.

ARTICLE 17. Covenant Against Contingent Fees. The Cooperator warrants that no person or agency has been employed or retained to solicit or secure this Cooperative Agreement upon an agreement or understanding for a commission, percentage, contingent fee, or brokerage except employees or agencies maintained by the Cooperator for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this Cooperative Agreement without liability or in its discretion, deduct from the Cooperative Agreement price or consideration the full amount of the commission, percentage, brokerage, or contingent fee.

ARTICLE 18. Changes. Any changes which have been agreed to by both parties will be attached and made a part of this Cooperative Agreement by use of an Amendment. Any such Amendment must be dated and must be signed by both parties before the change is considered official and approved.

ARTICLE 19. Public Purposes. The Cooperator agrees that the project to which this Cooperative Agreement relates shall be dedicated to public purposes for its useful life. The benefits of the project shall be made available without regard to race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood.

ARTICLE 20. Site Control. If the grant project involves the occupancy and use of real property, the Cooperator assures that it has the legal right to occupy and use such real property for the purposes of the grant, and further that there is legal access to such property.

ARTICLE 21. Operation and Maintenance. Throughout the useful life of the project, the Cooperator shall be responsible for the operation and maintenance of any facility, equipment, or other items acquired under this grant.

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ARTICLE 22. Assurance. The Cooperator shall spend monies appropriated under this grant only for the purposes specified in the Cooperative Agreement.

ARTICLE 23. Remission. The Cooperator shall return all unexpended grant monies to the State within 90 days of the project completion.

ARTICLE 24. Reporting Requirements. The Cooperator shall submit progress reports to the Department according to the schedule established in Section IV D of this Cooperative Agreement.

ARTICLE 25. Right to Withhold Funds. The Department may withhold payments under this Cooperative Agreement for any violation of the provisions of this Cooperative Agreement.

ARTICLE 26. Sovereign Immunity. If the Cooperator is an entity which possesses sovereign immunity, it has been required as a condition of this grant to irrevocably waive its sovereign immunity with respect to the State enforcement of this Cooperative Agreement. The waiver of sovereign immunity, affected by a resolution of the entity's governing body, is hereby incorporated into this Cooperative Agreement.

ARTICLE 27. Lobbying Activities. In accepting these funds, the Cooperator agrees and assures that none of the funds will be used for the purpose of lobbying activities before the Alaska Legislature.

ARTICLE 28. Audits. This Cooperative Agreement is subject to 2AAC 45.010 single audit regulations for State Grants. The Cooperator must comply with all provisions of 2AAC 45.010 and any additional audit requirements arising from the Federal requirements outlined in section IV A of this agreement.

Article 29. Workplace Conduct The State of Alaska is an equal opportunity employer and does not discriminate in employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, changes in marital status, pregnancy, and parenthood. This includes behavior such as making threats, abusive language, slurs, unwelcome jokes, teasing and other such verbal or physical conduct. Creating a hostile work environment will not be condoned. This includes verbal or physical conduct of a sexual nature, making unwelcome sexual advances or requests for sexual favors, and unreasonably interfering with the work of others.

Article 30. Parties Responsible for their own Acts The Matanuska-Susitna Borough and the State of Alaska, including but not limited to the Alaska Department of Natural Resources and/or the Alaska Division of Forestry, each agree that they will be responsible for their own acts, omissions, or other culpable conduct and neither shall be responsible for the actions or inactions of the other. Each party agrees to defend itself individually from claims, demands, or liabilities arising out of any activities authorized by this Agreement or the performance thereof. In any claim arising out of the performance of this Agreement, whether sounding in tort, contract, or otherwise, and whether alleging sole liability, joint liability,

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vicarious liability, or otherwise, each party shall defend itself but may assert comparative fault, the sole liability of another, or any other defense, affirmative defense, or request for relief.

Article 31. Force Majeure The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

Article 32. Expenditure of Funds Nothing in this Agreement shall obligate any party in the expenditure of funds or future payments of money in excess of appropriations authorized by law.

Article 33. Agreement Effective Date and Termination This Agreement supersedes all other versions of this document. This agreement is effective as of the date of most recent signature and remains in effect until terminated in writing. Either party may terminate this Agreement at any time by giving written notice to the other party at least thirty (30) days before the effective date of such termination.

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