

MEMORANDUM OF AGREEMENT

**BETWEEN NORTH SLOPE BOROUGH
DEPARTMENT OF CAPITAL IMPROVEMENT PROGRAM MANAGEMENT (CIPM)
AND
NORTH SLOPE BOROUGH SCHOOL DISTRICT (NSBSD)**

PURPOSE:

The purpose of this Memorandum of Agreement between said parties is to: allow for replacement of gym lighting in Hopson Middle School in Utqiagvik, Alaska through CIP Project No. 06-201. The not to exceed amount of this agreement is \$60,000.00.

EFFECTIVE DATE: Notice to Proceed

COMPLETION DATE: June 30, 2019

SCOPE OF SERVICES: This MOA will facilitate the procurement of gym lighting for the North Slope Borough School District through CIP Project No. 06-201.

The North Slope Borough School District will:

1. Prepare and submit all purchase orders and other MOA-related documents along with a detailed project budget to CIPM Project Administrator Sean Gucco for review and approval. All purchases are to comply with the current NSB Bidding Requirements and Purchasing Procedures.
2. Submit invoices to the CIPM Project Administrator at a minimum of every ninety (90) days, or more frequently, if necessary. All invoices shall be on the NSB Invoicing Format and shall contain all necessary backup documentation. An invoice shall be submitted by August 15th of every year to complete billing of all past fiscal year expenditures.
3. Ensure compliance with the Borough insurance requirements and the prevailing Title 36 wage rates for all contracted work as set forth in Exhibit A of this contract.
4. All NSB insurance requirements and payment of the most current prevailing wages for public construction are explicitly required under this MOA for any contracted work. Requirements are attached and hereby made a part of this agreement.

NSB Department of Capital Improvement Program Management will:

1. Make available to NSBSD funds not to exceed \$60,000.00 for this project through CIP No.: 06-201, for Hopson Middle School Gym Lighting Replacement.
2. Expeditiously review and process all purchase orders submitted by NSBSD and monitor all account activities under this agreement.
3. Provide administrative and technical expertise as follows: review of submittals, review of equipment specifications, review of bid procedures and purchase order awards, review of approval of NSBSD payment and applications, or as mutually agreed upon during the performance of this project.

ADDITIONALLY, THE PARTIES AGREE AS FOLLOWS:

1. Total Compensation. The total compensation for the service of NSBSD shall not exceed \$60,000.00 unless modified by change order.
2. Manner of Payment. The Borough shall make payments to the NSBSD as follows: The NSBSD shall submit invoices within ninety (90) days of performance of the service or incurring the expenses. This invoice shall itemize the tasks addressed. If the Borough objects to any statements or portions thereof submitted by the NSBSD, the undisputed portion shall be paid and the objects shall be deemed a dispute.
3. Termination. This MOA may be terminated by either party for any reason prior to its expiration date on thirty days (30) written notice to the other party.
4. Insurance. The NSBSD will submit certificates of insurance or letters of self-insurance for this MOA and agrees to the conditions regarding insurance as set forth above and in Exhibit A, which is attached herein attached by reference and made a part of this MOA.
5. Indemnity. NSBSD agrees to indemnify, defend [with legal counsel approved by the Borough], and hold the Borough and its administrators, officers, agents, employees, volunteers and servants harmless from and against any and all claims, demands, actions, losses, expenses, and liabilities for or related to loss of or damage to property or injury to or death of any person relating to or arising or resulting in any way from the performance by the NSBSD or any of its subcontractors under the Agreement or the WORK or SERVICES provided or the condition or use thereof, regardless of any negligence of the Borough or their respective agents or employees, excepting only such loss, damage, injury or death which results solely from the negligence or willful misconduct of the Borough or solely from the joint negligence or willful misconduct of Borough and a third party directed by the Borough.

6. NSBSD may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood. NSBSD shall post in a conspicuous place, available to employees and applicants for employment, a notice setting out the provisions of this paragraph.

7. Law and Venue. This MOA shall be governed by the laws of the State of Alaska. Venue for any legal proceeding relating to this MOA shall be in the Superior Court in Barrow, Alaska.

8. Unless otherwise provided herein, any notices or other communications required or permitted by this MOA to be delivered to the Borough or the NSBSD shall be in writing and shall be considered delivered when personally delivered to the party to whom it is addressed, or in lieu of such personal delivery, when deposited in the United States mail, first class, postage prepaid, addressed to the Borough or the NSBSD at the address set forth below:

North Slope Borough CIPM Attn: Sean Gueco PO Box 1050 Barrow, AK 99723 Phone: 907-852-0489 Fax: 907-852-0257	North Slope Borough School District Attn: Jill Crooks PO Box 455 Barrow, AK 99723 Phone: 907-852-4710 Fax: 907-852-9760
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9. Entire Agreement. This MOA constitutes the entire agreement between the Borough and the NSBSD as to the matters stated herein. It supersedes all prior oral and written understandings and agreements as to such matters. It may be amended, supplemented, modified or canceled only by a duly executed written instrument. It shall bind the Borough and the NSBSD, its successors, executors, administrators, assigns and legal representatives.

**NORTH SLOPE BOROUGH
SCHOOL DISTRICT:**

 Jeff Cook, Director of M&O
 Date: _____

DEPARTMENT OF CIPM

 Bernadette Adams, Director
 Date: _____

NORTH SLOPE BOROUGH:

 Harry K. Brower, Jr., Mayor
 Date: _____

REVIEWED AS TO FORM:

 NSB Law Department
 Date: _____

EXHIBIT A
Hopson Middle School Gym Lighting Replacement

(SCOPE OF SERVICES)

1) The work to be performed under this Agreement shall be commenced effective on the Notice to Proceed, subject to certification of availability of funds, and shall be substantially completed not later than the 30th day of May, 2019 unless modified by change order. For purposes of final billing, contract close out and other document processing, the final completion date of this Agreement shall be the 30th day of June, 2019, unless modified by change order.

2) The NSBSD shall perform all work required by the Contract for the above described project. The work which the NSBSD is required to perform for this project consists of the following:

CIP PROJECT NO. 06-201 BUDGET ALLOCATION

Item No.	Project Description	Amount
1	Gym Lighting	\$60,000.00
Total	Procurement of contracted services, labor, materials, equipment, shipping/freight, and all other direct costs associated with the projects are to be included in the amount listed above.	\$60,000.00

EXHIBIT B
Hopson Middle School Gym Lighting Replacement

INSURANCE REQUIREMENTS

A. Insurance Requirements for Contractors

It is highly recommended that Contractors confer with their respective insurance companies or brokers to determine if their insurance program complies with the Borough's insurance requirements.

The Contractor shall procure and maintain the following insurance:

1. **Minimum Scope of Insurance**
Coverage shall be at least as broad as:
 - (a) Insurance Services Office form number CG 0001 (Edition 04 13) covering Commercial General Liability.
 - (b) Insurance Services Office form number CA 0001 (Edition 03 10) covering Automobile Liability, symbol 1 "any auto".
 - (c) Workers' Compensation insurance as required by the State of Alaska and Employer's Liability Insurance.
 - (d) Professional Liability insurance against liability arising out of the rendering or failure to render professional services under this Agreement on a form acceptable to the Borough.
 - (e) Employee Dishonesty insurance for loss to the Borough's property or money, caused by the fraudulent or dishonest acts of the Consultant's employees, or subconsultants, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, whether acting alone or in collusion with others. Note: Employee Dishonesty insurance is required only for those Agreements where the Consultant has access to Borough money, securities, purchase orders, checks or any other Borough funds.

2. **Minimum Limits of Insurance**
Contractor shall maintain limits no less than:
 - (a) **General Liability:**
 - i. \$1,000,000 combined single limit per occurrence for bodily injury, property damage, personal injury and advertising injury. The general aggregate limit shall be \$2,000,000. The general aggregate limits shall apply separately to each project.
 - ii. General liability insurance shall be maintained in effect until final acceptance by the Borough of the completed construction and, for products liability and completed operations liability, at least two years thereafter.
 - iii. If the general liability insurance is written on a claims-made form, the Contractor shall provide insurance for a period of five years after final payment of this agreement. The policy(s) shall evidence a retroactive date, no later than the beginning of this agreement.
 - iv. If the Contractor utilizes a subcontractor(s) to perform any part of the work under this contract, the general liability insurance shall not contain any endorsements that exclude the work of the subcontractor(s).

 - (b) **Auto Liability:**
 - i. \$1,000,000 combined single limit per accident for bodily injury and property damage.

ii. For any Borough auto(s) being driven by the Contractor (including any employee, supervisor, manager, agent, subcontractor or its employee, supervisor, manager, agent, etc.), the Contractor agrees to insure that vehicle(s) as a scheduled auto(s) to its auto policy. It is agreed that the Contractor's auto policy shall:

iii. Provide the primary liability insurance for the Borough auto(s) as though the auto(s) were a leased auto(s), naming the Borough as an additional insured and loss payee; and

iv. Provide for physical damage losses (both comprehensive and collision) with a deductible of no more than \$1,000 per accident and naming the Borough as an additional insured and loss payee.

(c) Workers' Compensation and Employer's Liability:

i. Workers' Compensation shall be statutory as required by the State of Alaska. Employer's Liability shall be endorsed to the following minimum limits:

Bodily Injury By Accident - \$1,000,000 each accident;

Bodily Injury By Disease - \$1,000,000 each employee;

Bodily Injury By Disease - \$1,000,000 policy limit.

(d) Professional Liability:

\$1,000,000 combined single limit per occurrence. The general aggregate limit shall be \$1,000,000. The professional liability insurance shall be maintained in effect until final acceptance by the Borough of the completed project.

If the professional liability insurance is written on a claims-made form, the Consultant shall provide insurance for a period of five years after final payment of this Agreement. The policy(s) shall evidence a retroactive date, no later than the beginning of this Agreement.

(e) Employee Dishonesty:

\$500,000 per claim.

(f) Excess Liability:

i. In order to meet the required minimum limits of insurance it is permissible for the Contractor to combine an excess liability or umbrella policy with the general liability, auto liability or employer's liability. In the instance where the Contractor purchases an excess liability or umbrella policy the occurrence limit and the aggregate limit may be of the same amount on the excess liability or umbrella policy.

ii. Excess liability insurance shall be maintained in effect until final acceptance by the Borough of the completed construction and, for products liability and completed operations liability, at least five years thereafter.

iii. If the excess liability insurance is written on a claims-made form, the Contractor shall provide insurance for a period of five years after final payment of this agreement. The policy(s) shall evidence a retroactive date, no later than the beginning of this agreement.

(g) Property Insurance

The Contractor shall secure and maintain through the life of the contract either Builder's Risk or an Installation Floater in the full amount of the contract. The Borough shall be named as an additional insured.

Personal property of the Contractor, including but not limited to personal tools and equipment, is the Contractor's responsibility.

3. Deductibles and Self-Insured Retention

(a) Prior to work commencing any deductible or self-insured retention must be declared and approved by the Borough. The Contractor may be requested to demonstrate how the deductible or self-insured retention will be funded in the event of a claim. At the option of the Borough, the Contractor shall reduce or eliminate such deductibles or self-insured retention as respects the Borough, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

(a) **General Liability, Automobile Liability and Excess Liability**

i. The Borough, its Administrator, officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitation on the scope of protection afforded to the Borough, its Administrator, officers, officials, employees and volunteers.

ii. The Consultant's insurance coverage shall be primary insurance as respects the Borough, its Administrator, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the Borough, its Administrator, officers, officials, employees and volunteers shall be excess of the Consultant's insurance and shall not contribute to it.

iii. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

iv. The insurer shall agree to waive all rights of subrogation against the Borough, its Administrator, officers, officials, employees and volunteers for losses arising from work performed by the Contractor or any Subcontractor for the Borough.

(b) **Workers' Compensation and Employer's Liability**

The Contractor's insurer shall agree to waive all rights of subrogation against the Borough, its Administrator, officers, officials, employees and volunteers for losses arising from work performed by the Contractor or any subcontractor for the Borough.

(c) **All Insurance**

Each insurance policy required by this agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after 30 days prior written notice for nonpayment of premium or fraud on the part of the Contractor or 60 days prior written notice for any other reason by certified mail, return receipt

requested, has been given to the Borough. Such notice shall be mailed by the Contractor's insurer(s) to the attention of the Project Administrator and the Borough's Risk Manager.

5. **Acceptability of Insurers**

Insurance is to be placed with insurers with a Best's rating of no less than A-: VII.

6. **Verification of Coverage**

Contractor shall furnish the Borough with approved certificates of insurance and with certified copies of all endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be on forms provided by the Borough, or which meet industry standard. The North Slope Borough questionnaire shall be completed and submitted to the Borough for review and approval. All certificates are to be received and approved by the Borough before the contract is processed. The Borough reserves the right to require complete, certified copies of all required insurance policies, at any time.

7. **Subcontractors**

Contractor shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all requirements stated herein.