

MEMORANDUM OF AGREEMENT

BETWEEN

DEPARTMENT OF NATURAL RESOURCES, Division of Forestry and Fire Protection

AND

THE KENAI PENINSULA BOROUGH

TO SUPPORT WILDLAND FUEL DISPOSAL SITES

ARTICLE 1: PARTIES

The parties of this Agreement are the State of Alaska, Department of Natural Resources, (DNR) Division of Forestry and Fire Protection (DOF) and the Kenai Peninsula Borough (KPB).

ARTICLE 2: 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. The Cooperator is a “government agency” that the State Forester can enter into a/this cooperative agreement with.

ARTICLE 3: PROJECT SCOPE AND RESPONSIBILITIES

PURPOSE: Kenai Peninsula Borough is tasked with establishing, managing, and maintaining two public disposal sites. The sites are to accept woody debris removed during small landowner fuels projects (defensible space) undertaken by the landowner, tenant, or other private parties not working for financial gain. The two sites will be located in the census-designated places (CDP) of Cooper Landing, AK and Hope, AK, and will accept the materials in a safe and effective manner. The intent of this contract is to reduce the potential for escaped debris burns, reduce the intensity of wildfires, and mitigate spread of the spruce beetle through hazard fuels reduction in accordance with the terms of this agreement.

THE ALASKA DEPARTMENT OF NATURAL RESOURCES, DIVISION OF FORESTRY AND FIRE PROTECTION WILL:

1. Provide financial compensation for the entire duration of this Agreement, total funding not to exceed (NTE) of \$89,000.
2. The Division of Forestry will reimburse KPB for the wages of the personnel who assist with the prescribed hazardous fuels treatment, including for personnel to manage and secure the project sites. DOF will reimburse KPB for contractor expenses incurred in relation to the fuel treatment projects.

THE KENAI PENINSULA BOROUGH WILL:

1. Provide two collection sites for borough residents to drop off woody debris.
2. Provide management and security at the collection locations.
3. Chip, grind, mulch, or burn all woody debris that is received at the disposal locations.
4. Provide payment to employees and contractors if/when used on this project.
5. Develop a system to track amount of biomass received, a metric to determine estimated acres treated, and update the Division of Forestry quarterly.
6. Assist Division of Forestry with initial public outreach to inform residents of the project, inform the public of any available firewood, and provide updates for continued public information on the project.

ARTICLE 4: PROJECT SPECIFIC TERMS AND CONDITIONS

4.A—FUNDS

FEDERAL FUNDS

Funding for this agreement is provided by the US Forest Service federal Grant 23-DG-11100106-807 and is administrated by the Alaska Division of Forestry and Fire Protection. This award is 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 the

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.

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

4.B – FINANCIAL TERMS

The DOF will reimburse the Kenai Peninsula Borough on the following terms and not to exceed (NTE) amounts. The total reimbursement of this agreement is NTE \$89,000.00.

1. DOF will reimburse KPB for the wages of personnel who chipped, ground, or burned to dispose of the material.
2. DOF will reimburse KPB for the wages of personnel to manage and secure the locations.
3. DOF will reimburse KPB for contractor expenses incurred in relation to chipping, grinding, mulching, or burning the woody materials.
4. DOF will reimburse KPB for equipment that was used to chip, grind, mulch, or burn the material received from the public.

4.C – BILLING PROCESS

1. Request for payment shall be submitted on Kenai Peninsula Borough letterhead.
Requests shall have verification backup information attached linking to the scope of work outlined in Article 3.

Point of Contact for all pay items:

Ethan DeBauche

Coastal Region Fuels Specialist

101 Airport Rd Palmer, AK 99645

Ethan.debauche@alaska.gov

4.D – REPORTING

The Kenai Peninsula Borough will provide quarterly reports and a final project report to the Division of Forestry. Quarterly reports will include information on estimated acres treated, personnel assigned to the collection site(s), contractors used, photos that help illustrate the quarterly accomplishments, along with other pertinent information. DOF may use any photos in other reports and/or social media. A final report is due by June 1, 2025.

ARTICLE 5. POINTS OF CONTACT

Ethan DeBauche

Coastal Region Fuels Specialist

State of Alaska Division of Forestry and Fire Protection

101 Airport Rd Palmer, AK 99645

Ethan.debauche@alaska.gov

Marcus A Mueller

Land Management Officer

Kenai Peninsula Borough

144 N. Binkley Street Soldotna, AK 99669

Mmueller@kpp.us

ARTICLE 6: EFFECTIVE DATE AND PERIOD OF AGREEMENT

The KPB will provide quarterly reports and a final project report to the Division of Forestry. Reports will include information on estimated acres treated, personnel assigned to project site, and contractors used along with other pertinent information. DOF encourages the KPB to include photos that help illustrate the accomplishments and may use these photos in reports and/or social media. A final report is due by June 1, 2025.

ARTICLE 7: CHANGES AND AMENDMENTS

Changes and/or amendments to this Agreement shall be formalized by written amendment that will outline—in detail—the exact nature of the change, including any changes to funding sources, scope of work, location, etc. Any amendment to this Agreement will be executed in writing and signed by the authorized representative of each party. The parties signing this Agreement and any subsequent amendment(s) represent that each has the authority to execute the same on behalf of their respective organizations. No oral statement by any person shall be interpreted as amending or otherwise affecting the terms of this Agreement. Any party to this Agreement may request that it be amended, whereupon the parties will consult to consider such amendment.

This Agreement includes renewal options, to be exercised solely at the discretion of The Division of Forestry and Fire Protection. Renewal periods will not extend past one calendar year. If a renewal option is not exercised by DOF, the Agreement shall be considered expired on the expiration date noted in Article 6 and does not require notification of such by DOF. All exercised renewal options shall be executed via written amendment to the Agreement.

ARTICLE 8. TERMINATION

Either party may terminate this Agreement at any time prior to its expiration date, with or without cause, by giving the other party at least thirty days prior written notice of termination. The party initiating the written notice of termination will not incur any liability or obligation to the terminated party, other than payment of amounts due and owing and performance of obligations accrued, in each case on or prior to the termination date. The party receiving the written notice of termination will take immediate steps to stop the accrual of any additional obligations which might require payment. All funds due after termination will be established based on payments issued prior to termination and, as appropriate, a refund or bill will be issued.

ARTICLE 9: DISPUTES

Where possible, disputes will be resolved by informal discussion between the parties. In the event the parties are unable to resolve any dispute through good faith negotiations, the dispute will be resolved by alternative dispute resolution using a method to be agreed upon by the parties. The outcome of the alternative dispute resolution will be final.

ARTICLE 10. 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 11: PARTIES RESPONSIBLE FOR THEIR OWN ACTS

The Kenai Peninsula Borough and the State of Alaska, including but not limited to the Alaska Department of Natural Resources and/or the Alaska Division of Forestry and Fire Protection, 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, 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 12: LEGISLATIVE APPROPRIATIONS

The State is a government entity, and it is understood and agreed that the State's payments herein provided for may be paid from Alaska State Legislative appropriations; and approval or continuation of an agreement is contingent upon Legislative appropriation. The State reserves the right to terminate the agreement in whole or part if, in its sole judgment, the Legislature of the State of Alaska fails, neglects, or refuses to appropriate sufficient funds as may be required for the State to continue such payments; or if the Executive Branch mandates any cuts or holdbacks in spending, or if funds are not budgeted or otherwise available. Further, in the event of non-appropriation, the State shall not be liable for any penalty, expense, or liability; or for general, special, incidental, consequential, or other damages resulting therefrom.

ARTICLE 13: 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 14: LAWS AND REGULATIONS

Nothing in this Agreement is intended to conflict with the Federal, State, or local laws or regulations. If there are conflicts, this Agreement will be amended to bring it into conformation with applicable laws and regulations.

ARTICLE 15: 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.

This document is the entire Agreement of the parties, who accept the terms of this Agreement as shown by their signatures below. In the event the parties duly execute any amendment to this Agreement, the terms of such amendment will supersede the terms of this Agreement to the extent of any inconsistency.

Digitally signed by Ethan DeBauche
Date: 2024.01.02 13:00:19 -09'00'

Date _____

Date _____

Date _____

Date _____

Date _____

WILDLAND FUEL DISPOSAL SITES