

Non-Code Ordinance

By: Public Works Department

Introduced: June 10, 2019

Public Hearing: June 24, 2019

Adopted: June 24, 2019

Yes: Dryden, Graham, Harvey, Ledford, O'Barr

No: None

Absent: Burney

**City of Wasilla  
Ordinance Serial No. 19-14**

**An Ordinance Of The Wasilla City Council Amending The Fiscal Year 2020 Budget By Accepting And Appropriating \$100,000 From The Matanuska-Susitna Borough For The Veterans Wall Of Honor Project.**

---

**Section 1. Classification.** This is a non-code ordinance.

**Section 2. Purpose.** To accept and appropriate funding from the Matanuska-Susitna Borough for the Veterans Wall of Honor Project.

**Section 3. Appropriation of Funds.** The funds are appropriated to the following:

Veterans Wall of Honor MSB	110-4330-433.45-71	\$100,000
----------------------------	--------------------	-----------

**Section 4. Source of Funds.**

Matanuska-Susitna Borough	110-4300-337.11-04	\$100,000
---------------------------	--------------------	-----------

**Section 5. Effective Date.** This ordinance shall take effect upon adoption by the Wasilla City Council.

ADOPTED by the Wasilla City Council on June 24, 2019.

  
BERT L. COTTLE, Mayor

ATTEST:

  
JAMIE NEWMAN, MMC, City Clerk

[SEAL]


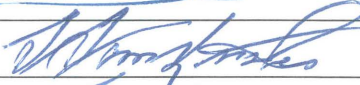
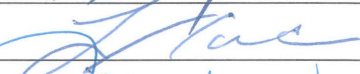

## CITY COUNCIL LEGISLATION STAFF REPORT

**Ordinance Serial No. 19-14: Amending The Fiscal Year 2020 Budget By Accepting And Appropriating \$100,000 From The Matanuska-Susitna Borough For The Veterans Wall Of Honor Project.**

Originator: Public Works Director

Date: May 30, 2019

Agenda of: June 10, 2019

Route to:	Department Head	Signature	Date
X	Public Works Director		5/30/19
X	Finance Director		5/30/19
X	Deputy Administrator		5/30/19
X	City Clerk		6/3/19

Reviewed by Mayor Bert L. Cottle:  5/30/2019**Fiscal Impact:**  yes      **Funds Available:**  yes      \$100,000 MSB Fiscal Year 2020**Account name/number:** Veterans Wall of Honor MSB/110-4330-433.45-71**Attachments:** Ordinance Serial No. 19-14 (1 page)  
MSB 2018 Memorandum of Agreement (11 pages)

**Summary Statement:** This ordinance is proposed to accept and appropriate funding from the Mat-Su Borough for the Veterans Wall of Honor Project. The 2018 Memorandum of Agreement is proposed to be amended to include the new funding in the amount of \$100,000 from the Mat-Su Borough's FY2020 budget. The scope of work for this funding is to add a second row of 6 concrete walls and sidewalk for future engraved granite panels.

**Recommended Action:** Adopt ordinance.

**MEMORANDUM OF AGREEMENT (MOA)**

Between

MATANUSKA-SUSITNA BOROUGH

And

THE CITY OF WASILLA

This agreement is made and entered into by and between the **MATANUSKA-SUSITNA BOROUGH** (hereinafter the "Borough") and the **CITY OF WASILLA** (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, the Borough provided funding for the design of the project and has a remaining balance which is intended to be spent on construction of the project; 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 intends to transfer funding to the Grantee in the total sum of **\$79,220** to carry out the purposes, terms and conditions set forth herein and described in the attached Exhibit "A"; and

NOW, THEREFORE, the parties agree as follows:

Section 1. Definitions. In this agreement:

A. The term "funds" means the total sum of **\$79,220** made available to the Grantee by the Borough for the purposes stated in Exhibit "A."

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 City of Wasilla.

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, 2018. This period of performance may be extended by the mutual agreement of both parties with the execution of an amendment to this agreement.

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 Borough has agreed to carry out a formal competitive bid process for the project. The Grantee shall not award a public construction contract involving the expenditure of funds unless the Borough's bidding process is complete.

D. 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. Audits, Financial Reports and Records.

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. Also, an audit by the Borough of the Grantee's expenditures of monies made available to the Grantee under this agreement and of transactions related to those expenditures may be performed one year and each year thereafter, following the execution of this agreement or after all funds have been expended, whichever occurs first.

C. The Grantee shall provide a semi-annual (twice yearly) report on a Borough approved reporting form (Exhibit "B"); and a Summary of Expenditures (Exhibit "C") detailing all expenditures of monies made available to the Grantee under this agreement and of transactions related to those expenditures as well as the progress that has been made during the reporting period. The reporting periods shall be July 1<sup>st</sup> through December 31<sup>st</sup> of 2018 and January 1<sup>st</sup> through June 30<sup>th</sup> of 2019. The reports shall be due no later than January 20<sup>th</sup> for the period July 1<sup>st</sup> through December 31<sup>st</sup> 2018 and July 20<sup>th</sup> for the period January 1<sup>st</sup> through June 30<sup>th</sup> 2019. The reports must be accompanied by copies of invoices and payment advices that match the Summary of Expenditures.

Section 9. Indemnification.

A. The Grantee shall indemnify, defend, 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/Shortage of Funds.      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. Regardless of the availability of additional funds, or shortage of funds, Grantee remains obligated to complete the Scope of Work in Exhibit A.

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 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: City of Wasilla  
Attn: Department of Public Works  
290 E. Herning Avenue  
Wasilla, AK 99654

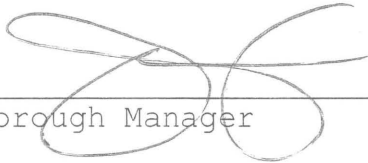
Section 23. Severability. Any provision of this agreement decreed invalid by a court of competent jurisdiction or otherwise by law shall not invalidate the remaining provisions of this agreement.

MATANUSKA-SUSITNA BOROUGH

CITY OF WASILLA

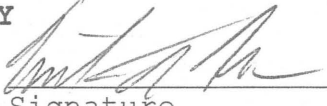
Date: 07/16/18

Date: 7/12/2018

  
Borough Manager

  
Authorized Representative

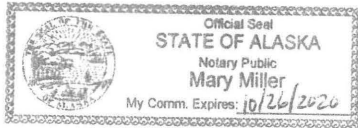
Attachments: Exhibit "A" - Scope of Work and Budget

BOROUGH USE ONLY			
Fund Verified:	<u>\$ 79,200</u>		<u>7-17-18</u>
	<u>10154-2300-2301</u>	Signature	Date

**BOROUGH' S ACKNOWLEDGEMENT**

STATE OF ALASKA )  
 ) ss  
Third Judicial District )

On July 16, 2018, 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.



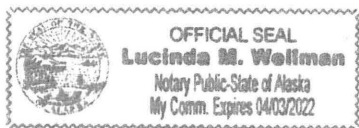
Mary Miller  
Notary Public for the  
State of Alaska  
My commission expires: 10/26/2020

**GRANTEE' S ACKNOWLEDGEMENT**

STATE OF ALASKA )  
 ) ss  
Third Judicial District )

On July 12, 2018, 2018, Mayor Bert Cottle, authorized representative of the City of Wasilla appeared before me X 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.



Lucinda M. Wellman  
Notary Public for the  
State of Alaska  
My commission expires: 04/03/2022

EXHIBIT "A"

VETERANS WALL RELOCATION PROJECT  
MEMORANDUM OF AGREEMENT

SCOPE OF WORK

**Project Purpose and Description:**

Relocate the Veterans Memorial Wall from its current location near the Mat-Su Regional Hospital to a City of Wasilla parcel planned to be the future location of new police station. Project will entail construction and construction assistance from the design firm.

PROJECT BUDGET

TOTAL PROJECT BUDGET

\$79,200

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.