



**MEMORANDUM OF AGREEMENT REGARDING FUNDING AND MANAGEMENT  
OF THE KAYHI BOILER #2 REPLACEMENT PROJECT**

This Agreement is made by and between the Ketchikan Gateway Borough and the Ketchikan Gateway Borough School District on the date last written below.

**RECITALS**

- A. WHEREAS**, Ketchikan High School is a 110,000sf facility constructed in 1953 and expanded and remodeled extensively in the mid 1990's and serves 600 students in grades 9-12; and
- B. WHEREAS**, Kayhi has three Well McLain series 94 Boilers, installed in 1993, and two of which have had multiple failures over the last two years; and
- C. WHEREAS**, Boiler #2 is inoperable and was scheduled for replacement in FY 2021. Boiler #1 has been repaired four times in the last two years, but was operable, and was scheduled for replacement at a later date; and
- D. WHEREAS**, Boiler #1 has now failed, leaving only one of the three boilers operational; and
- E. WHEREAS**, If a catastrophic failure occurred on Boiler #3, there would be grave risk of serious physical damage to the school building; and
- F. WHEREAS**, At its meeting of May 13, 2020, the School Board awarded a contract to PDC Engineers, Inc. for design and engineering of this project; and
- G. WHEREAS**, At its meeting of June 1, the Assembly adopted Ordinance 1914 appropriating \$359,799 to fund the project; and
- H. WHEREAS**, The School District and Borough find the projects to be of benefit to the residents of the Borough School District; and
- I. WHEREAS**, AS 14.11.135(1) defines a school construction project to include "major rehabilitation of an existing school;" thus, the project constitutes a school construction project for purposes of Title 14 of the Alaska Statutes; and
- J. WHEREAS**, AS 14.14.060(f) calls for the Borough Assembly, through the Borough Manager, to provide for all major rehabilitation, all construction and major repair of school buildings; and
- K. WHEREAS**, AS 14.14.060(i) authorizes the Borough Assembly and the School Board to agree to alter the assignment of responsibilities under AS 14.14.060(e) and (f).

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**SECTION 1. PURPOSE:**

This Memorandum of Agreement outlines the terms under which the Borough agrees to authorize the School District to manage all aspects of the Kayhi Boiler #2 Replacement Project for which the School District is designated as having primary responsibility.

The proposed agreement between the Ketchikan Gateway Borough and the Ketchikan Gateway Borough School District describes the scope of the project as follows:

This project will include design engineering and replacement of boiler #2 at Ketchikan High School. Boiler #2 will be completely dismantled. Plumbing header work will happen to make ready for installation. Two smaller more efficient series 888 boilers will be placed in the location where boiler #2 was. Both 888 boilers running will give the output of one series 94 running. We will have the ability to stage the 2 boilers off during warmer days via our DDC (Direct Digital Control) network. This will allow the district to save on fuel oil costs. Because there will be a future need to replace boiler #1. We will have the design and engineering to replace this added to this project to save on future costs.

**SECTION 2. AGREEMENT EFFECTIVE DATE:**

This Agreement shall be effective upon the execution of this Agreement by the Manager of the Borough and the Superintendent of the School District.

**SECTION 3. AGREEMENT TERMINATION DATE:**

This Agreement shall be terminated upon completion of the project.

**SECTION 4. LIMITATIONS ON SCOPE:**

The parties recognize that the Borough has the authority and duty to provide for all major rehabilitation, construction, and major repair of school buildings, but that the Borough Assembly and the Borough School Board may reallocate the duties imposed under AS 14.14.060(f) and Section 2.35.080(a) of the Borough Code by this Agreement. The parties agree that the project is a major rehabilitation, construction or major repair project.

Further, the parties desire that such delegation of authority and duty be given to the District for the project listed above. This delegation is strictly limited to the project listed, and that the division of the responsibility and authority for all other major rehabilitation, construction and major repair projects will remain as provided in AS 14.14.060 and KGB Code 2.35.070 – 2.35.080.

**SECTION 5. RESPONSIBILITIES OF THE DISTRICT:**

The District shall:

- a) Establish design criteria for the project for which the District has primary authority under this agreement;
- b) Engage design professionals as necessary;
- c) Supervise the design of the project;
- d) Consult with the Borough when selecting the methodology to accomplish the project;
- e) Engage construction contractors as necessary;
- f) Supervise the construction of the project;
- g) Provide for administration of monies that fund the projects;
- h) Comply with the terms of all laws governing the expenditure of funds including, but not limited to, the provisions in Titles 14 and 36 of the Alaska Statute;
- i) Provide the Borough with a copy of all design and procurement records relating to the projects listed in this Agreement.

**SECTION 6. TERMINATION:**

This agreement may be terminated by either party for any reason, prior to its expiration date on ninety days' written notice to the other party provided to the following:

Ketchikan Gateway Borough  
Ruben Duran  
Borough Manager  
1900 First Avenue, Suite 210  
Ketchikan, Alaska 99901

Ketchikan Gateway Borough  
School District  
Beth Lougee, Superintendent  
333 Schoenbar Road  
Ketchikan, Alaska 99901

**SECTION 7. SUPERSEDING EFFECT**

To the extent that this Agreement conflicts with prior agreements between the Ketchikan Gateway Borough School District and the Ketchikan Gateway Borough, this agreement supersedes those other agreements and the provisions of this Agreement shall apply to the conflicting terms.

**SECTION 8. ENTIRE AGREEMENT:**

This Agreement constitutes the entire agreement between the Borough and the District 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 District, its successors, executors, administrators, assigns and legal representatives.

DATED the day and year last written below.

Date: \_\_\_\_\_

Ketchikan Gateway Borough

By: \_\_\_\_\_  
Ruben Duran  
Manager

Attest

By: \_\_\_\_\_  
Kacie Paxton  
Borough Clerk

Certified Funds Available

By: \_\_\_\_\_  
Cynna Gubatayao  
Finance Director

Approved as to Form

By: \_\_\_\_\_  
Glenn Brown  
Borough Attorney

Ketchikan Gateway  
Borough School District

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Beth Lougee  
Superintendent

BOROUGH ACKNOWLEDGMENTS

STATE OF ALASKA                    )  
                                                  ) ss.  
FIRST JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Ruben Duran to me known to be the Borough Manager of the Ketchikan Gateway Borough, a municipal corporation, the corporation which executed the above and foregoing instrument; who on oath stated that he was duly authorized to execute said instrument on behalf of said corporation; who acknowledged to me that he signed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in the certificate first above written.

(Seal)

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires:\_\_\_\_\_

STATE OF ALASKA                    )  
                                                  ) ss.  
FIRST JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Kacie Paxton to me known to be the Borough Clerk of the Ketchikan Gateway Borough, a municipal corporation, the corporation which executed the above and foregoing instrument; who on oath stated that she was duly authorized to execute said instrument on behalf of said corporation; who acknowledged to me that she signed the same freely and voluntarily on behalf of said corporation for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in the certificate first above written.

(Seal)

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires:\_\_\_\_\_

DISTRICT ACKNOWLEDGMENTS

STATE OF ALASKA                    )  
                                                  ) ss.  
FIRST JUDICIAL DISTRICT        )

THIS IS TO CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned, a notary public in and for the State of Alaska, duly commissioned and sworn, personally appeared Beth Lougee to me known to be the Superintendent of the Ketchikan Gateway Borough School District, which executed the above and foregoing instrument; who on oath stated that he was duly authorized to execute said instrument on behalf of the District; who acknowledged to me that he signed the same freely and voluntarily on behalf of the District for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in the certificate first above written.

(Seal)

\_\_\_\_\_  
NOTARY PUBLIC FOR ALASKA  
My Commission Expires:\_\_\_\_\_