

Kenai Peninsula Borough

Community & Fiscal Projects

MEMORANDUM

TO: Brent Johnson, Assembly President
Members, Kenai Peninsula Borough Assembly

THRU: Charlie Pierce, Mayor *AR for CP*
Brandi Harbaugh, Finance Director *BA*

FROM: Rachel Chaffee, Community & Fiscal Projects Manager *RC*
Sean Kelley, Borough Attorney *SK*

DATE: April 21, 2022

RE: Ordinance 2021-19- 50: Accepting and Appropriating the Opioid Settlement Funds and Establishing the Opioid Settlement Fund Grant Program (Mayor)

The State of Alaska (the "state") has agreed to a settlement agreement with three major distributors (Cardinal, McKesson and AmerisourceBergen) and one marketer and manufacturer (Johnson & Johnson) of opioids as part of a national settlement agreement. Resolution 2021-074 authorized the Kenai Peninsula Borough (Borough) to join the settlement as one of the nine political subdivisions of the state. Approximately \$58 million in settlement funds will be distributed to the State of Alaska with distributions occurring annually over the next 18 years.

Under the default terms of the national settlement agreements, 15% of the settlement funds, or approximately \$8.7 million, will be distributed over 18 years to the nine political subdivisions that signed-on to the agreement, this fund is referred to as the "Subdivision Fund". Per the settlement, the allocation of the Subdivision Fund distributions will be based on population with the Borough set to receive 9.4922% of the ~\$8.7 million over 18 years (the remaining distribution based on population is as follows: Anchorage will receive 47.6578%, Mat-Su Borough - 15.4726%, Fairbanks North Star Borough - 10.9627%, Juneau - 5.2324%, Fairbanks 5.1226%, Ketchikan - 2.2406%, Kodiak - 2.1839%, Wasilla - 1.6351%).

Therefore, based on available information it is anticipated that the Borough will receive, at a minimum, approximately \$45,916 a year annually for the next 18 years

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In addition, 15% of the settlement funds will go directly to the state ("State Fund") and 70% of the settlement funds will be distributed to the Abatement Accounts Fund, which will be under the control and direction of the state.

This ordinance appropriates the settlement funds distributed by the state to the Borough pursuant to the terms of the applicable settlement agreements for opioid remediation purposes as defined, outlined, and allowed pursuant to the Final Distributor Settlement Agreement and establishes an Opioid Settlement Fund Grant Program to evaluate grant applications and distribute funds.¹

Allowed Uses

Pursuant to the Final Distributor Settlement Agreement dated March 25, 2022 (Agreement), use of fund is restricted to Opioid Remediation. The definition that the Agreement offers for Opioid Remediation is provided below and the non-exhaustive list of expenditures or uses known as Exhibit E to the Agreement is attached to this memo. Also included in the "Exhibit E and Exhibit G(excerpt) of Settlement Agreement" attachment is the allocation percentages for the "Qualified Subdivisions" within Alaska.

Opioid Remediation definition:

" SS. "Opioid Remediation." Care, treatment, and other programs and expenditures (including reimbursement for past such programs or expenditures¹ except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Exhibit E provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses." (See Page 6 of Final Distributor Settlement Agreement dated March 25, 2022).

Grant Program

After gathering information to determine community needs, a common theme that was heard was that there were gaps in federal and state funding and that

¹ The exact figure will be inserted once the first payment is received from the State of Alaska.

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this funding could be used to bridge gaps and assist in ways to support needs. The needs were of a wide variety ranging from support personnel to incentives to complete treatments.

These funds are for designated use and are limited. Allowing the funds to be utilized through a competitive grant process that issues grants to no more than 5 agencies will allow for use of funds to multiple agencies or providers throughout the Borough, and will also allow for a wide variety of ability to utilize the funds to meet a greater need.


The Kenai Peninsula Borough has existing procedures in place to manage and issue grants to agencies with these funds. This ordinance will establish the grant program under the following criteria:

1. The Borough's Opioid Settlement Fund Grant Program will be open to no more than 5 entities or providers given the limited funds that are expected to be received and based on information received from community stakeholders regarding the best use of the funds.
 - a. All opioid settlement funds are intended to be managed by and through this grant program.
 - b. Increased funds received through this program will increase the grant funding available and will therefore allow for greater ability to meet remediation and prevention needs.
2. This grant program will expire when the funding is no longer in place.
3. Funding is subject to annual appropriation by the Borough Assembly.
4. Funding is subject to the parameters and terms of the settlement agreement related to these funds. In addition, the grant funding will comply with applicable Borough code and controlling law.
5. Eligible entities are:
 - a. Nonprofit entities who are current on all legal filings with the State of Alaska, United States, and Kenai Peninsula Borough and who are not in arrears in any amounts owed to the Kenai Peninsula Borough
 - b. Medical providers and mental health providers with active licenses to practice under their respective Alaskan Boards with no actions against their licenses in the prior three years, and who are not in

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- arrears in any amounts owed to the Kenai Peninsula Borough.
- c. Businesses who employ medical providers or mental health providers with active licenses to practice under their respective Alaskan Boards with no actions against their licenses in the prior three years, and who are not in arrears in any amounts owed to the Kenai Peninsula Borough.
 - d. Native Tribes and Corporations that have not received opioid settlement funds previously, and have by resolution waived immunity from suit for claims arising out of activities of the council related to the grant.
6. Services by the entities must be provided to Kenai Peninsula Borough residents.
7. Additional funds, or funds received mid-year can be applied to existing grantees as appropriated by the assembly, and as allowed under the applicable settlement agreement.
- a. The Assembly may elect to hold mid-year receipts until a subsequent year for increased grant should funding restrictions permit.
8. Notification of grants will be placed on the Grants webpage on the Kenai Peninsula Borough's Website, and initial notice will be emailed to known partners, providers and stakeholders managing the opioid crisis.

Your consideration of this ordinance is appreciated.

FINANCE DEPARTMENT FUNDS/ACCOUNT VERIFIED	
Account: <u>271.94910.OPD22.49999</u>	
Amount: \$ _____	
Comment: Contingent upon actual amount received and acceptance of funds by Assembly.	
By: 	Date: <u>4/20/2022</u>