

Introduced by: Mayor
Date: 06/02/20
Hearing: 06/16/20
Action: Enacted as Amended
Vote: 9 Yes, 0 No, 0 Absent

**KENAI PENINSULA BOROUGH
ORDINANCE 2019-19-39**

AN ORDINANCE ACCEPTING AND APPROPRIATING FUNDING FROM THE STATE OF ALASKA IN THE AMOUNT OF \$37,458,449.47 FOR A FEDERAL PASS-THROUGH AWARD UNDER THE U.S. DEPARTMENT OF THE TREASURY, CORONAVIRUS RELIEF FUND AND AUTHORIZING A PARTIAL TEMPORARY WAIVER OF THE PROHIBITION AGAINST CONTRACTING WITH A CORONAVIRUS RELIEF FUND APPLICANT IF THE APPLICANT IS IN VIOLATION OF CERTAIN SALES TAXATION REQUIREMENTS

WHEREAS, the Alaska State Legislature has provided funding to municipalities through the Coronavirus Relief Fund (CRF), a federal pass-through program as approved under the Coronavirus Aid, Relief, and Economic Security Act (CARES); and

WHEREAS, the CRF program is governed by way of Section 601 of the Social Security Act as added by section 5001 of the CARES Act, Public Law 116-136; and

WHEREAS, Section 601(d) of the Social Security Act requires that units of local government use the funds received to cover only those costs that (1) are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19), (2) were not accounted for in the budget most recently approved as of March 27, 2020, for the state or local government, and (3) were incurred during the performance period March 1, 2020 through December 30, 2020; and

WHEREAS, the borough will receive the first payment in the amount of \$21,325,715.47 after the grant agreement has been fully executed; and

WHEREAS, the second and third payments of \$8,066,367 will only be made when at least 80 percent of the prior payments have been expended; and

WHEREAS, it is in the best interest of the borough to accept these funds to help defray costs resulting from the impacts of the coronavirus pandemic; and

WHEREAS, it would be consistent with the purposes of these grant funds to authorize the administration to temporarily waive the prohibition against awarding a contract to Coronavirus Relief Fund applicants (“Applicants”) found to be in violation of certain borough sales tax payment requirements solely for purposes of awarding a grant to an otherwise qualified Applicant under the program to be established using the funds appropriated in this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the mayor is authorized to accept \$37,458,449.47 from the State of Alaska to respond to the public health emergency resulting from the coronavirus pandemic.

SECTION 2. That the mayor is authorized to execute any documents deemed necessary to accept and expend the Coronavirus Relief Fund funds and to fulfill the intents and purposes of this ordinance.

SECTION 3. That the federal pass-through funds in the amount of \$37,458,449.47 are appropriated to account 271.94910.20CAR.49999.

SECTION 4. The Kenai Peninsula Borough agrees that upon award of the CRF grant funds from the State of Alaska described above in this ordinance, it shall waive its sovereign immunity with respect to State enforcement of the Coronavirus Relief Fund Grant Agreement to the extent required by Article 37 of the Department of Commerce, Community, and Economic Development Division of Community and Regional Affairs.

SECTION 5. That the mayor is authorized to waive the prohibition in KPB 5.28.140 against contracting with an entity if it is in violation of any borough sales taxation ordinance, solely for purposes of issuing a grant under the borough Coronavirus Relief Fund Program subject to the following provisions:

To qualify for this waiver an otherwise qualified Applicant must be current in its sales tax payments through the filing period ending December 31, 2019 and otherwise current in its sales tax registration, all filings and all other sales tax requirements as of the date of the grant application. Additionally, an Applicant currently in bankruptcy or subject to a Borough lien for unpaid sales taxes is not eligible for this waiver. This waiver shall sunset on September 30, 2020 with the sales tax payments and returns due November 1, 2020. This applies to all Applicants, including businesses and nonprofit organizations.

SECTION 6. That due to the length and nature of the grant performance period, the borough will return funds not liquidated within thirty (30) days following the completion of the grant or before January 30, 2021 whichever comes first.


SECTION 7. This ordinance shall become effective retroactively on March 1, 2020.

ENACTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 16TH DAY OF JUNE, 2020.

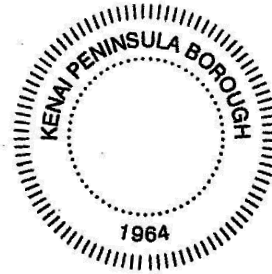


Kelly Cooper, Assembly President

ATTEST:



Johni Blankenship, MMC, Borough Clerk



Yes: Bjorkman, Blakeley, Carpenter, Cox, Dunne, Hibbert, Johnson, Smalley, Cooper
No: None
Absent: None