

SUBJECT: AN ORDINANCE OF THE MATANUSKA-SUSITNA BOROUGH ASSEMBLY ACCEPTING AND APPROPRIATING FISCAL YEAR 2021 COMMUNITY ASSISTANCE PROGRAM FUNDS IN THE AMOUNT OF \$299,991 TO FUND 475, PROJECT NO. 47033.

AGENDA OF: NOVEMBER 17, 2020

ASSEMBLY ACTION:

*Adopted without objection
12-1-20 BOM*

MANAGER RECOMMENDATION: Introduce and set for public hearing.

APPROVED BY GEORGE HAYS, ACTING BOROUGH MANAGER:

George Hays

Route To:	Department/Individual	Initials	Remarks
	Originator	EP-FIN	
	Finance Director	<i>AK</i>	
	Borough Attorney	<i>MS</i>	
	Borough Clerk	<i>BOM for LKM</i>	<i>11-9-20</i>

ATTACHMENT(S): Fiscal Note: YES X NO
Ordinance Serial No. 20-096 (3 pp)
Resolution Serial No. 20-104 (3 pp)
Memorandum of Agreement (8 pp)

SUMMARY STATEMENT: During the 2008 state legislative session a bill was passed that would allow a portion of the Fiscal Year 2009 Community Revenue Sharing Program (now known as Community Assistance Program) funds to be passed through to a community council. The program has been funded each year thereafter, most recently for fiscal year 2021.

To qualify for the program, the communities must have at least 25 residents and pay for three of the following services: fire protection, emergency medical, water and sewer, solid waste management, public road or ice road maintenance, public health, and search and rescue.

The amount of the pass-through grant for fiscal year 2021 is \$15,789 for each community council. These funds can only be spent

for the public benefit of the unincorporated area.

Some examples of the scopes of work that community councils have submitted for the program are as follows:

- Improve, maintain and groom trails
- Rental of portable toilets at public access to lakes and trailheads
- Funding to local non-profits who aid the community, such as food banks, Meals on Wheels, and MyHouse
- Planning, preparation, and construction of community parks, pavilions, and community center buildings
- Provide funding to libraries for preschool and teen programs
- Provide educational programs for the community
- Assist community schools with art and sports programs
- Purchase materials and equipment for public facilities, such as the local public safety building, ice rink and schools

On April 7, 2020, the Assembly adopted Resolution Serial No. 20-026 which approved nineteen community councils for participation in the program. The FY2021 Community Assistance Program funds have been approved by the State of Alaska and the attached ordinance will accept and appropriate the funds. The resolution will approve the scope of work and budget. Once this legislation is approved, the Borough can complete the pass-through of funds to the councils providing the following requirements are met:

- The council must be registered as an incorporated nonprofit entity with the state of Alaska.
- The council must enter into the applicable agreement with the borough prior to payment.
 - A copy of the Memorandum of Agreement the Borough Manager and Community Council will be asked to sign is attached.

RECOMMENDATION OF ADMINISTRATION:

Accept and appropriate Fiscal Year 2021 Community Assistance Program Funds in the amount of \$299,991, to Fund 475, Project No. 47033.

MATANUSKA-SUSITNA BOROUGH
FISCAL NOTE

Agenda Date: November 17, 2020

SUBJECT: ACCEPT AND APPROPRIATE FISCAL YEAR 2021 COMMUNITY ASSISTANCE PROGRAM FUNDS IN THE AMOUNT OF \$299,991 TO FUND 475, PROJECT NO. 47033

ORIGINATOR: Finance

FISCAL ACTION (TO BE COMPLETED BY FINANCE)	FISCAL IMPACT <u>(YES)</u> NO
AMOUNT REQUESTED \$299,991	FUNDING SOURCE State Community Assistance Program
FROM ACCOUNT #	PROJECT #
TO ACCOUNT : 475.000.000 3xx.xxx	PROJECT # 47033
VERIFIED BY: <i>Linda White</i>	CERTIFIED BY:
DATE: 10/8/2020	DATE:

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025
Personnel Services						
Travel						
Contractual						
Supplies						
Equipment						
Land/Structures						
Grants, Claims						
Miscellaneous						
TOTAL OPERATING						
CAPITAL						
REVENUE		300.				

FUNDING:

(Thousands of Dollars)

General Fund						
State/Federal Funds		300.				
Other						
TOTAL		300.				

POSITIONS:

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

PREPARED BY:

PHONE:

DEPARTMENT:

DATE:

APPROVED BY:

DATE:

Chesenne D. [Signature]

10/12/2020

MEMORANDUM OF AGREEMENT (MOA)

Between

MATANUSKA-SUSITNA BOROUGH

And

[INSERT NAME] COMMUNITY COUNCIL

This agreement is made and entered into by and between the MATANUSKA-SUSITNA BOROUGH (hereinafter the "Borough") and the [INSERT NAME] COMMUNITY COUNCIL (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, all funds expended by the Grantee will be for materials, equipment, or services used in the completion of the project; and

WHEREAS, the Borough has allocated the total sum of \$15,789 to carry out the purposes, terms and conditions set forth herein and described in the attached Exhibit "A".

NOW, THEREFORE, the parties agree as follows:

Section 1. Definitions. In this agreement:

A. The term "funds" means \$15,789 which is the total sum made available to the Grantee by the Borough for the purposes stated in Exhibit "A."

OR 20-096
RS 20-104
IM 20-199

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 [INSERT NAME] Community Council.

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, 2021.

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. Upon execution of this agreement, the Borough shall pay to the Grantee the funds of the grant.

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.

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 Grantee shall not award a public construction contract involving the expenditure of funds unless a reasonable effort is made to obtain the price through a competitive process. No formal competitive bid procedure is required. The Grantee shall keep records of the contractors contacted and proposals received.

D. The Grantee shall not permit the involvement of a person with a financial or other private interest in the contractor or contract to participate in the contract award or supervision. Any conflict of interest arising from the award of a contract shall be disclosed to the Borough prior to the contract award. "Conflict of Interest" is defined as in MSB 2.52.460, as applicable. The Borough shall not be liable for reimbursement to the Grantee for any contract awarded by the Grantee in violation of this subsection.

E. 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. Records Accounting and Audits.

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
FY2021 Community Assistance Program

expenditures.

Section 9. Indemnification.

A. The Grantee shall indemnify, defend, and 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. 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 11. 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 12. Additional Work. 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.

Section 13. 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 14. 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 15. 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 16. 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 17. 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 18. 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 19. 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 20. Notices. Any notice required pertaining to the subject matter of the agreement shall be emailed, 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: [INSERT NAME] Community Council
Address
City, AK Zip

Section 21. 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.

BOROUGH USE ONLY

Fund Verified:

475.000.000.449.500 47033-5000-XXXX

Signature

Date

MATANUSKA-SUSITNA BOROUGH

[INSERT NAME] COMMUNITY
COUNCIL

Date: ____/____/____

Date: ____/____/____

Acting Borough Manager

Authorized Representative

Printed Name and Title

EXHIBIT "A" - SCOPE OF WORK

Project Purpose and Description:

To encourage outdoor recreation opportunities, education, beautification, and any other public purpose for the benefit of our community to include:

- [INSERT ITEMS IDENTIFIED BY COUNCIL]
- Administrative costs for the operations of the community council

PROJECT BUDGET

TOTAL PROJECT BUDGET	\$15,789
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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.