



AGENDA ITEM #8.2

REPORT TO CITY COUNCIL

Report Prepared by: Nancy Malecha

Date: December 3, 2019

Subject: State of MN Joint Powers Agreement – Anti-Heroin Task Force Program

Report: Attached is a resolution and Joint Powers Agreement with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension (BCA) to utilize applicable state and federal laws to investigate illicit activities related to the distribution of heroin or unlawful distribution of prescription opioids. This will also allow for reimbursement to agencies that incur overtime during these types of investigations through a BCA grant.

Council Action Requested: Council motion adopting the resolution approving the State of Minnesota Joint Powers Agreement regarding the Anti-Heroin Task Force Program.

**CITY OF PEQUOT LAKES
RESOLUTION 19-___**

**RESOLUTION APPROVING THE STATE OF MINNESOTA JOINT POWERS
AGREEMENT REGARDING THE ANTI-HEROIN TASK FORCE PROGRAM**

WHEREAS, the City of Pequot Lakes, on behalf of its Police Department, desires to enter into a Joint Powers Agreement with the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension to utilize applicable state and federal laws to investigate illicit activities related to the distribution of heroin or unlawful distribution of prescription opioids.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF PEQUOT LAKES, MINNESOTA as follows:

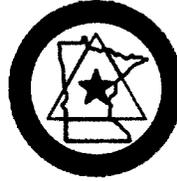
1. That the Joint Powers Agreement between the State of Minnesota, Department of Public Safety, Bureau of Criminal Apprehension and the City of Pequot Lakes, on behalf of its Police Department, is hereby approved and attached thereof.
2. That the Chief of Police is designated the Authorized Representative for the Pequot Lakes Police Department. The Authorized Representative is also authorized to sign any subsequent amendment or agreement that may be required by the State of Minnesota to maintain the City's connection to the systems and tools offered by the State.
3. That the Mayor and the City Administrator for the City of Pequot Lakes are authorized to sign the State of Minnesota Joint Powers Agreement regarding the Anti-Heroin Task Force Program.

Adopted by the City Council of the City of Pequot Lakes this 3rd day of December, 2019.

ATTEST:

James Tayloe
Mayor

Nancy Malecha
City Administrator



STATE OF MINNESOTA

JOINT POWERS AGREEMENT MINNESOTA ANTI-HEROIN TASK FORCE PROGRAM

This Joint Powers Agreement (“Agreement”) is between the State of Minnesota, acting through its Commissioner of Public Safety on behalf of the Bureau of Criminal Apprehension [“BCA”] (“State”), and the City of Pequot Lakes on behalf of its Police Department (“Governmental Unit”).

Recitals

Under Minnesota Statutes § 471.59, the BCA and the Governmental Unit are empowered to engage in agreements that are necessary to exercise their powers. The parties wish to work together to investigate illicit activities related to the distribution of heroin or unlawful distribution of prescription opioids. The Governmental Unit wants to participate in the Minnesota Anti-Heroin Task Force Program (AHTF) and receive overtime reimbursement as allowed under the Community Oriented Policing Services (COPS) Anti-Heroin Task Force Program.

Agreement

1. Term of Agreement

- 1.1 **Effective Date.** This Agreement is effective on the date BCA obtains all required signatures pursuant to Minnesota Statutes § 16C.05, subdivision 2.
- 1.2 **Expiration Date.** This Agreement expires five years from the date of execution, unless terminated earlier pursuant to clause 12.

2. Purpose

The Governmental Unit and BCA enter into this Agreement to provide overtime reimbursement to the Governmental Unit who investigates illicit activities related to the distribution of heroin, or unlawful distribution of prescription opioids or any opioid-related overdose death. Priority will be given to those investigations with a nexus to Minnesota Indian Country.

3. Standards

The Governmental Unit will adhere to the AHTF Program standards identified below.

- 3.1 Investigate illicit activities related to the distribution of heroin or unlawful distribution of prescription opioids with a nexus to Indian Country. Indian Country is defined as “(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.” (see 18 U.S.C. 1151).
- 3.2 Investigate traffickers linked to fatal opioid-related overdose deaths.
- 3.3 Investigate practitioners prescribing opioids in violation of state or federal law.
- 3.4 Investigators will follow appropriate state and/or federal laws in obtaining arrest warrants, search warrants, and civil and criminal forfeitures. Investigators will follow proper legal procedures in securing evidence, including electronic devices.
- 3.5 Investigators will understand and use appropriate legal procedures in the use of informants including documentation of identity, monitoring of activities, and use and recordation of payments.
- 3.6 Investigators will use, as appropriate, the most current investigative technologies and techniques.
- 3.7 Investigators must be licensed Minnesota peace officers.

- 3.8 Governmental Unit must de-conflict case investigations with Regional Information Sharing Systems (RISS).
- 3.9 Investigators will comply with the guidelines of the COPS Anti-Heroin Task Force Program as outlined in the 2017 COPS Office Anti-Heroin Task Force Program Grant Owner's Manual. This manual is located at <https://cops.usdoj.gov/pdf/2017AwardDocs/ahtf/AOM.pdf>. If Governmental Unit receives funding from a grant awarded to the BCA subsequent to the 2017 grant, Governmental Unit will comply with the guidelines established by the later grant.

4. Responsibilities of the Governmental Unit and the BCA

4.1 The Governmental Unit will:

- 4.1.1 Assign a Governmental Unit point of contact to act as the liaison between it and the AHTF Project Coordinator to assist in case submissions for overtime, monthly reporting and meeting overtime reimbursement deadlines.
- 4.1.2 Submit an AHTF case submission form for pre-approval of funds. This request shall include a case synopsis, an explanation of how it qualifies under the required criteria in clauses 3.1, 3.2, 3.3, and 3.4 above, and an operational plan.
- 4.1.3 Conduct investigations in accordance with provisions of the AHTF Program Standards, identified in clause 3 above, and conclude such investigations in a timely manner.
- 4.1.4 Maintain accurate records of enforcement activities to be collected and forwarded monthly to the BCA for statistical reporting purposes.
- 4.1.5 Submit case data as required by the AHTF Program on a monthly basis. This information will include a case synopsis and demographic information on cases submitted for overtime, the number of heroin or unlawful distribution of prescription opioids investigations, search warrants, arrests, seizures and NARCAN®/naloxone deployments.
- 4.1.6 Prepare an operational briefing sheet for each active operation.
- 4.1.7 Allow BCA to inform participating agencies of potential case connections based on data submitted to BCA through the AHTF Program.
- 4.1.8 Refrain from comingling AHTF funds with any other existing federal or state grant funded overtime or additional local Governmental Unit funding.
- 4.1.9 De-conflict case investigations with RISS.
- 4.1.10 Enter suspect traffickers telephone numbers into the DEA Internet Connectivity Endeavor (DICE) database system as a means of deconfliction of case investigations. The BCA is available to assist in this process.
- 4.1.11 Certify that it is in compliance with 8 U.S.C. §1373(a) and (b) and will remain in compliance for the life of this Agreement.

4.2 The BCA will:

- 4.2.1 Provide a Senior Special Agent who will serve as the Project Coordinator.
- 4.2.2 Provide a Special Agent who will be assigned to the Drug Enforcement Administration's (DEA) Drug Diversion Team.
- 4.2.3 Provide a Criminal Intelligence Analyst (CIA) who will provide analytical support to heroin and prescription opioid investigations.
- 4.2.4 Certify it is compliance with 8 U.S.C. §1373 (a) and (b) and will remain in compliance for the life of this Agreement.

- 4.3 Nothing in this Agreement shall otherwise limit the jurisdiction, powers, and responsibilities normally possessed by a Governmental Unit acting through its employees.

5. Payment

- 5.1 To receive reimbursement for overtime expense, Governmental Unit must make an AHTF case submission by providing a case synopsis, an explanation of how the case qualifies under the required criteria for case acceptance and an operational plan. The BCA will review the case submission and grant or deny the reimbursement request within seven (7) business days of receipt by the BCA Authorized Representative.
- 5.2 To receive approved reimbursement, Governmental Unit must submit an overtime expense form no later than 15 business days after the end of the month during which the expense is incurred. The form must be submitted to bca.heroingrant@state.mn.us.
- 5.3 The BCA will pay the Governmental Unit within thirty (30) calendar days of the submission of the expense form.
- 5.4 The Governmental Unit may receive payment for an AHTF case submission for overtime expense approved prior to the effective date of this Agreement if the Governmental Unit had a joint powers agreement in place with the BCA that expired prior to the effective date of this Agreement. Reimbursement will occur as provided in Clause 5.2.

6. Authorized Representatives

The BCA's Authorized Representative is the following person or his successor:

Name: Jeffrey Hansen, Deputy Superintendent
 Address: Department of Public Safety; Bureau of Criminal Apprehension
 1430 Maryland Street East
 Saint Paul, MN 55106
 Telephone: 651.793.7000
 E-mail Address: jeff.hansen@state.mn.us

The Governmental Unit's Authorized Representative is the following person or his/her successor:

Name: Eric Klang, Chief
 Address: Pequot Lakes Police Department
 4638 Main St
 Pequot Lakes, MN 56472
 Telephone: 218.568.8111
 E-mail Address: eklang@pequotlakes-mn.gov

If the Governmental Unit's Authorized Representative changes at any time during this Agreement, the Governmental Unit must immediately notify the BCA.

7. Assignment, Amendments, Waiver, and Agreement Complete

- 7.1 **Assignment.** The Governmental Unit may neither assign nor transfer any rights or obligations under this Agreement.
- 7.2 **Amendments.** Any amendment to this Agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original Agreement, or their successors in office.
- 7.3 **Waiver.** If the BCA fails to enforce any provision of this Agreement, that failure does not waive the provision or its right to enforce it.
- 7.4 **Agreement Complete.** This Agreement contains all negotiations and agreements between the BCA and the Governmental Unit. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

8. Liability

The BCA and the Governmental Unit agree each party will be responsible for its own acts and the results thereof to the extent authorized by law and shall not be responsible for the acts of any others and the results thereof. The BCA's liability shall be governed by provisions of the Minnesota Tort Claims Act, Minnesota Statutes § 3.736, and other applicable law. The Governmental Unit's liability shall be governed by provisions of the Municipal Tort Claims Act, Minnesota Statutes §§ 466.01-466.15, and other applicable law.

9. Audits

Under Minnesota Statutes, § 16C.05, subdivision 5, the Governmental Unit's books, records, documents, and accounting procedures and practices relevant to this Agreement are subject to examination by the BCA and/or the State Auditor and/or Legislative Auditor, as appropriate, for a minimum of six (6) years from the end of this Agreement.

10. Government Data Practices

The Governmental Unit and the BCA must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, and other applicable law, as it applies to all data provided by the BCA under this Agreement and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Governmental Unit under this Agreement. The civil remedies of Minnesota Statutes § 13.08 apply to the release of the data referred to in this clause by either the Governmental Unit or the BCA.

If the Governmental Unit receives a request to release the data referred to in this Clause, the Governmental Unit must immediately notify the State. The State will give the Governmental Unit instructions concerning the release of the data to the requesting party before the data is released.

11. Venue

The venue for all legal proceedings out of this Agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

12. Expiration and Termination

- 12.1 Either party may terminate this Agreement at any time, with or without cause, upon 30 days written notice to the other party. To the extent funds are available, the Governmental Unit shall receive reimbursement in accordance with the terms of this Agreement through the date of termination.
- 12.2 In the event that federal funding is no longer available, the BCA will notify the Governmental Unit and terminate the Agreement.
- 12.3 In the event the Governmental Unit breaches this Agreement, it will not be eligible to receive any further grant funds.

13. Continuing Obligations

The following clauses survive the expiration or cancellation of this Agreement: 8, Liability; 9, Audits; 10, Government Data Practices; and 11, Venue.

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The parties indicate their agreement and authority to execute this Agreement by signing below.

1. STATE ENCUMBRANCE VERIFICATION
Individual certifies that funds have been encumbered as required by Minnesota Statutes §§ 16A.15 and 16C.05.

Signed: _____

Date: _____

SWIFT PO Number: _____

3. DEPARTMENT OF PUBLIC SAFETY; BUREAU OF CRIMINAL APPREHENSION

By: _____
(with delegated authority)

Title: _____

Date: _____

2. GOVERNMENTAL UNIT
Governmental Unit certifies that the appropriate person(s) has(have) executed this Agreement on behalf of the Governmental Unit and its jurisdictional government entity as required by applicable articles, laws, by-laws, resolutions or ordinances.

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

4. COMMISSIONER OF ADMINISTRATION
As delegated to the Office of State Procurement

By: _____

Date: _____