

**RESOLUTION NO. 2020-74**

**RESOLUTION AUTHORIZING CITY MANAGER TO EXECUTE AN  
INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN WASHINGTON  
COUNTY, OREGON, AND CITY OF FOREST GROVE, OREGON,  
TO RECEIVE FUNDS FROM THE CARES ACT AND SPECIAL DISTRICT  
ASSISTANCE PROGRAM**

**WHEREAS**, the Intergovernmental Agreement (“Agreement”) is made and entered between Washington County, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "County", and City of Forest Grove, acting by and through its City Council, hereinafter referred to as “City.” County and City may be jointly referred to herein as the “Parties” or individually as a “Party.”; and

**WHEREAS**, ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and

**WHEREAS**, on March 8, 2020, the Governor of Oregon declared an emergency under ORS 401.165 *et. seq.* due to the public health threat posed by the novel infectious coronavirus (COVID-19); and

**WHEREAS**, on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) became law and established the \$150 billion Coronavirus Relief Fund (Fund) from which the U.S. Department of the Treasury made payments to eligible units of local government, including the County; and

**WHEREAS**, the County received a payment from the Fund which, subject to the requirements of the CARES Act and 2 CFR 200, can be used to reimburse necessary expenses associated with the COVID-19 Public Health Emergency; and

**WHEREAS**, on June 2, 2020, the Washington County Board of Commissioners approved the distribution of \$7,000,000.00 from the County’s allocation of the Fund (City and Special District Assistance Program) to reimburse cities and special districts within Washington County for necessary expenses related to COVID-19 public health emergency; and

**WHEREAS**, the City, desires to request reimbursement, subject to the requirements of the CARES Act and County criteria, for necessary expenses due to the COVID-19 public health emergency.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:**

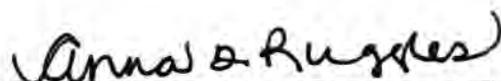
**Section 1.** The City Council hereby approves the Intergovernmental Agreement (IGA) with Washington County and City of Forest Grove to apply for

**Section 1.** The City Council hereby approves the Intergovernmental Agreement (IGA) with Washington County and City of Forest Grove to apply for reimbursement for unbudgeted expenses for needs made necessary by the COVID-19 public health emergency.

**Section 2.** The City Manager is hereby authorized to execute the final IGA on behalf of the City of Forest Grove, notwithstanding substantial changes to IGA as provided in the attached Exhibit A.

**Section 3.** This resolution is effective immediately upon its enactment by the City Council.

**PRESENTED AND PASSED** this 13<sup>th</sup> day of July, 2020.



Anna D. Ruggles, City Recorder

**APPROVED** by the Mayor this 13<sup>th</sup> day of July, 2020.



Peter B. Truax, Mayor

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN WASHINGTON COUNTY AND CITY OF FOREST GROVE**  
For Cities and Special District Assistance Program

This INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered between WASHINGTON COUNTY, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "County", and CITY OF FOREST GROVE, acting by and through its elected officials, hereinafter referred to as “Organization.” County and Organization may be jointly referred to herein as the “Parties” or individually as a “Party.”

**RECITALS**

1. WHEREAS, ORS 190.010 authorizes units of local government to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and
2. WHEREAS, on March 8, 2020 the Governor of Oregon declared an emergency under ORS 401.165 *et. seq.* due to the public health threat posed by the novel infectious coronavirus (COVID-19); and
3. WHEREAS, on March 11, 2020, COVID-19, which spreads person-to-person through coughing, sneezing and close personal contact, was declared a pandemic by the World Health Organization; and
4. WHEREAS on March 13, 2020 the President of the United States declared the COVID-19 outbreak a national emergency; and
5. WHEREAS on March 23, 2020, Oregon Governor Kate Brown issued Executive Order 20-12 (EO 20-12) which, among other things, ordered closure and prohibited operation of a wide range of business, restricted the operations of restaurants, bars, brew pubs, wine bars, cafes, food courts, and coffee shops, and required social distancing for other retail businesses; and
6. WHEREAS, on March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) became law and established the \$150 billion Coronavirus Relief Fund (Fund) from which the U.S. Department of the Treasury made payments to eligible units of local government, including the County; and
7. WHEREAS, the County received a payment from the Fund which, subject to the requirements of the CARES Act and 2 CFR 200, can be used to reimburse necessary expenses associated with the COVID-19 Public Health Emergency; and

8. WHEREAS, on June 2, 2020, the Washington County Board of Commissioners approved the distribution of \$7,000,000.00 from the County's allocation of the Fund (Cities and Special Districts Assistance Program) to reimburse cities and special districts within Washington County for necessary expenses related to COVID-19 public health emergency; and
9. WHEREAS, The Washington County Cities and Special Districts Assistance Program is funded by the CARES (Coronavirus Aid, Relief, and Economic Security) Act Coronavirus Relief Fund (CRF) to provide economic relief to cities and special districts that are located primarily in Washington County for necessary expenses related to the Coronavirus Disease 2019 (COVID-19) public health emergency.
10. WHEREAS the Organization has applied for allocation of a portion of the Cities and Special Districts Assistance Program funds as a Subrecipient under the CARES Act to cover expenses already incurred or to be incurred in the form of unbudgeted necessary expenses due to the COVID-19 public health emergency; and
11. WHEREAS, the County desires to provide the Organization a portion of the Cities and Special Districts Assistance Program funds to reimburse the Organization for unbudgeted expenses for needs made necessary by the COVID-19 public health threat;

## **AGREEMENT**

NOW, THEREFORE, the premises being in general as stated in the foregoing recitals and in consideration of the terms, conditions and covenants set forth below, the parties agree as follows:

### **Article 1 COUNTY OBLIGATIONS**

- 1.1 County shall distribute at total of up to \$231,227 from the Cities and Special Districts Assistance funds within ten days of receipt of the required reports including backup documentation for actual incurred expenses from Organization.
- 1.2 Review all monthly reports and reimbursement requests promptly and request any further clarifying documentation or information from Organization to verify and approve reports and requests.

### **Article 2 ORGANIZATION OBLIGATIONS**

- 2.1. Organization may request reimbursement from the County for up to \$231,227 of the Cities and Special Districts Assistance funds in their initial report and following monthly reports for actually incurred eligible expenditures.
- 2.2. Organization shall submit an initial report with reimbursement request no later than August 15th, 2020 to the County for expenditures actually incurred from March 1st, 2020 through July 31st, 2020 to be reimbursed with Cities and Special

Districts Assistance funds. This report and all other reports shall include copies of all receipts, invoices, payroll reports, or other relevant backup for all expenditures that the award recipient is asking to be reimbursed for. All reports and documentation are to be submitted to the Program Coordinator, Daniel Amaro, Daniel\_Amaro@co.washington.or.us

- 2.3. Organization shall submit monthly reports and reimbursement requests on or before the 15th day of each month following the initial report for the previous month's actually incurred expenditures that are to be reimbursed by the County (for example: September 15th's report contains August 1st through August 31st expenditures).
- 2.4. Organization shall submit a Final report and reimbursement request on or before November 30th, 2020 for expenditures incurred between November 1st, 2020 through November 15th, 2020.
- 2.5. Organization shall promptly provide any documentation requested by County in relation to the Cities and Special Districts Assistance Program.
- 2.6. Organization shall make available to Washington County Finance a final copy of all Organization's audits that cover any period during which CARES Act grant funds were expended.
- 2.7. Organization shall adhere to any and all compliance requirements from the federal government regarding Federal grant funds, as well as any additional guidance or restrictions on the funds instituted by the County.
- 2.8. Organization shall send updated insurance COI's for the duration of the agreement as they come available to the Contract Administrator, Will Culver, Will\_Culver@co.washington.or.us
- 2.9. Organization will ensure all expenditures covered by the Cities and Special Districts Assistance funds will be for programs and program costs that comply with the CARES Act.
- 2.10. Organization understands and agrees that while a broad range of activities, services and programs may be authorized under the CARES Act, the County recommends Organization only cover internal expenditures as allowed by the CARES Act. In any case, the Organization agrees to cover only its own expenditures that may be eligible expenditures under the CARES Act with the Cities and Special Districts Assistance funds and may not distribute funds to any other subrecipient for any reason.
- 2.11. Organization will ensure the monies provided from the Cities and Special Districts Assistance funds only and exclusively cover those expenditures and costs already incurred or to be incurred and:

- 2.11.1. Are necessary expenditures incurred due to the public health emergency with respect to the COVID-19 within the meaning the CARES Act; and
  - 2.11.2. Were not accounted for in the Organization's most recently approved budgets as of March 27, 2020; and
  - 2.11.3. Were incurred during the period that begins March 1, 2020 and ends on November 15th, 2020.
- 2.12. Organization will not use any of the Cities and Special Districts Assistance funds provided by the County as a revenue replacement for lower than expected tax or other revenue collections or for any other purpose not allowed by the CARES Act.
- 2.13. Organization will ensure all use of the Cities and Special Districts Assistance funds will adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Organization will review the guidance established by the U.S. Department of Treasury and will warrant that all expenditures have met the required guidance.
- 2.14. Organization will not use the Cities and Special Districts Assistance funds for expenditures for which the Organization has already received any other emergency COVID-19 supplemental funding for the same expenditure.
- 2.15. In the event Organization uses the Cities and Special Districts Assistance funds to reimburse expenditures for a qualifying expense and subsequently receives additional emergency COVID-19 supplemental funding to reimburse the Organization for the same qualified expense, the Organization will return to the County an amount equal to the Cities and Special Districts Assistance funds the Organization used to reimburse expenditures for the same program or expense. The return of Cities and Small Districts Assistance funds from the Organization to the County will occur within thirty (30) days of receipt of the additional supplemental funds.
- 2.16. Organization will retain all necessary documentation of all uses of the Cities and Special Districts Assistance funds including but not limited to invoices and receipts in a manner consistent with §200.333 Retention requirements for records of 2 CFR 2 Part 200 Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards (Uniform Guidance). Such documentation shall be produced to the County upon request and may be subject to audit by the County or County's authorized agent.
- 2.17. Organization will comply with all terms in Attachment R, Federal Grant Funds, 2 CFR Part 200, Appendix II.

## **Article 3 GENERAL PROVISIONS**

### **3.1 LAWS OF OREGON**

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.

### **3.2 DEFAULT**

Time is of the essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

### **3.3 INDEMNIFICATION**

This Agreement is for the benefit of the parties only. Organization agrees to indemnify and hold harmless the County, and its elected officials, directors, officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Organization shall give County immediate written notice of any action or suit filed or any claim made against the County that may result in litigation in any way related to this Agreement. County retains the right, in its discretion, to defend any action with Counsel of this choosing.

### **3.4 INSURANCE**

Organization shall maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.

### **3.5 MODIFICATION OF AGREEMENT**

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both Parties. The Parties agree that this Agreement may require modification as additional guidance becomes available.

### **3.6 DISBURSEMENTS REMAIN SUBJECT TO RECOVERY**

All disbursements and payments under this Agreement, remain subject to recovery from Organization in accordance with the following:

i. Notice of Underexpenditure, Overexpenditure, or Misexpenditure.

If County finds there has been an underexpenditure, overexpenditure or misexpenditure of moneys disbursed under this Agreement, County shall provide Organization with written notice thereof, with a detailed spreadsheet providing supporting data of an underexpenditure, overexpenditure or misexpenditure, and County and Organization shall engage in the process described in the Recovery of Underexpenditure, Overexpenditure or Misexpenditure section below.

ii. Recovery of Underexpenditure, Overexpenditure or Misexpenditure.

(a) Organization's Response. Organization shall have 90 calendar days from the effective date of the notice of underexpenditure, overexpenditure or misexpenditure or from the date of receipt of the notice, whichever is later, to pay County in full or notify County that it wishes to engage in the appeals process set forth in the Appeals Process section below. If Organization fails to respond within that 90 calendar-day time period, Organization shall promptly pay the noticed underexpenditure, overexpenditure or misexpenditure.

(b) Appeals Process. Upon receipt of the final notice, if Organization notifies County that it wishes to engage in the Appeals Process, Organization and County shall engage in non-binding discussions to give the Organization an opportunity to present reasons why it believes that there was no underexpenditure, overexpenditure or misexpenditure, or that the amount of the underexpenditure, overexpenditure or misexpenditure was different than the amount identified by County, and to give County the opportunity to reconsider its notice. Organization and County may negotiate an appropriate apportionment of responsibility for the repayment of an underexpenditure, overexpenditure or misexpenditure. At Organization request, County will meet and negotiate with Organization in good faith concerning appropriate apportionment of responsibility for repayment of an underexpenditure, overexpenditure or misexpenditure. In determining an appropriate apportionment of responsibility, Organization and County may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure. If County and Organization reach agreement on the amount owed to County, Organization shall promptly repay that amount to County by issuing payment to County. If County and Organization are unable to agree to whether there has been an underexpenditure, overexpenditure or misexpenditure or as to the amount

owed, the parties may agree to consider further appropriate dispute resolution processes, including mediation and arbitration.

### 3.7 DISPUTE RESOLUTION

The Parties shall attempt to informally resolve any dispute concerning any Party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution.

### 3.8 REMEDIES

Subject to the provisions in paragraph 3.6 and 3.7, any Party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in Washington County Circuit Court. The Parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

### 3.9 EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of GOD, governmental restrictions imposed on or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

### 3.10 SEVERABILITY

If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

### 3.11 INTEGRATION

This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

## **Article 4 TERM OF AGREEMENT and SURVIVAL**

4.1 This Agreement becomes effective on the last date signed below and shall

terminate on December 30th, 2020, unless extended by mutual written consent of the Parties.

4.2 Organization Obligations 2.15, 2.16 and 2.17 and General Provisions 3.3, 3.6 and 3.8 shall survive termination or expiration of this Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

**WASHINGTON COUNTY, OREGON**

DocuSigned by:  
*Sia Lindstrom*  
7AFC957C9D3943D

AUTHORIZED SIGNATURE

Sia Lindstrom

PRINTED NAME

N/A

RECORDING SECRETARY SIGNATURE

**Kevin Moss**

PRINTED NAME

8/27/2020 | 09:48 PDT

DATE

Deputy County Administrator

TITLE

DATE

**CITY OF FOREST GROVE, OREGON**

DocuSigned by:  
*Michael J. VanderZanden*  
23E1C28EFF73412

AUTHORIZED SIGNATURE #1

**Michael J VanderZanden**

PRINTED NAME

8/27/2020 | 09:35 PDT

DATE

**City Manager**

TITLE

DocuSigned by:  
*Paul Downey*  
F48AE1B22635450...

AUTHORIZED SIGNATURE #2

**Paul A. Downey**

PRINTED NAME

8/26/2020 | 09:26 PDT

DATE

Director of Administrative Services

TITLE

DocuSigned by:  
*Anna Ruggles*  
6C687A0B83E14D0...

8/25/2020 | 11:25 PDT

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CITY RECORDER SIGNATURE

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DATE

**Anna Ruggles**

---

PRINTED NAME

**APPROVED AS TO FORM:  
COUNTY**

N/A

---

COUNTY COUNCIL SIGNATURE

**Cortney Duke-Driessen**

---

PRINTED NAME

---

DATE



*A place where families and businesses thrive.*

<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>10.</u>
MEETING DATE:	<u>07/13/2020</u>
FINAL ACTION:	<u>RESO 2020-74</u>

**CITY COUNCIL STAFF MEMORANDUM**

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**TO:** *City Council*

**FROM:** *Jesse VanderZanden, City Manager*

**PROJECT TEAM:** *Michael Kinkade, Fire Chief/Emergency Manager*

**MEETING DATE:** *July 13, 2020*

**SUBJECT TITLE:** *Intergovernmental Agreement with Washington County to Receive Funds from the Cares Act and City and Special District Assistance Program*

**ACTION REQUESTED:**

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Ordinance	Order	X	Resolution	X	Motion	Informational

*X all that apply*

**BACKGROUND:** Due to the Covid-19 pandemic, Oregon’s Governor Brown issued a state of emergency and a number of executive orders that necessitated the expenditure of revenues to respond to the emergency. In March, 2020, Washington County approved the distribution of \$7,000,000 from the County’s allocation of the fund to reimburse cities and special districts within Washington County for necessary expenses related to the COVID-19 public health emergency.

**FISCAL IMPACT:** Forest Grove would receive reimbursement from the Washington County CARES ACT funds for necessary expenses related to the Coronavirus Disease 2019-20 public health emergency.

**STAFF RECOMMENDATION:** Staff recommends approval of the resolution.

**ATTACHMENT(s):**

- Resolution approving Intergovernmental Agreement (IGA) between Washington County and the City of Forest Grove
- Intergovernmental Agreement (IGA) between Washington County and the City of Forest Grove to Receive Funds from the Cares Act and City and Special District Assistance Program (Exhibit A)

**INTERGOVERNMENTAL AGREEMENT BETWEEN WASHINGTON COUNTY AND  
CITY OF FOREST GROVE**

For City and Special District Assistance Program

This INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered between WASHINGTON COUNTY, a political subdivision of the State of Oregon, acting by and through its elected officials, hereinafter referred to as "County", and the CITY OF FOREST GROVE, acting by and through its elected officials, hereinafter referred to as “Organization.” County and Organization may be jointly referred to herein as the “Parties” or individually as a “Party.”

**RECITALS**

1. WHEREAS, ORS 190.010 authorizes units of local government to enter into intergovernmental agreements for the performance of any or all functions and activities that a party to the agreement has the authority to perform; and
2. WHEREAS, on March 8, 2020 the Governor of Oregon declared an emergency under ORS 401.165 et. seq. due to the public health threat posed by the novel infectious coronavirus (COVID-19); and
3. WHEREAS, on March 11, 2020, COVID-19, which spreads person-to-person through coughing, sneezing and close personal contact, was declared a pandemic by the World Health Organization; and
4. WHEREAS on March 13, 2020 the President of the United States declared the COVID19 outbreak a national emergency; and
5. WHEREAS on March 23, 2020, Oregon Governor Kate Brown issued Executive Order 20-12 (EO 20-12) which, among other things, ordered closure and prohibited operation of a wide range of business, restricted the operations of restaurants, bars, brew pubs, wine bars, cafes, food courts, and coffee shops, and required social distancing for other retail businesses; and
6. WHEREAS, on March 27, 2020 the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) became law and established the \$150 billion Coronavirus Relief Fund (Fund) from which the U.S. Department of the Treasury made payments to eligible units of local government, including the County; and
7. WHEREAS, the County received a payment from the Fund which, subject to the requirements of the CARES Act and 2 CFR 200, can be used to reimburse necessary expenses associated with the COVID-19 Public Health Emergency; and
8. WHEREAS, on June 2, 2020, the Washington County Board of Commissioners approved the distribution of \$7,000,000.00 from the County’s allocation of the Fund (City and Special District Assistance Program) to reimburse cities and special districts within Washington County for necessary expenses related to COVID-19 public health emergency; and

9. 9. WHEREAS, The Washington County Cities and Special Districts Assistance Program is funded by the CARES (Coronavirus Aid, Relief, and Economic Security) Act Coronavirus Relief Fund (CRF) to provide economic relief to cities and special districts that are located primarily in Washington County for necessary expenses related to the Coronavirus Disease 2019 (COVID-19) public health emergency
10. WHEREAS the Organization has applied for allocation of a portion of the City and Special District Assistance Program funds as a Subrecipient under the CARES Act to cover expenses already incurred or to be incurred in the form of unbudgeted necessary expenses due to the COVID-19 public health emergency; and
11. WHEREAS, the County desires to provide the Organization a portion of the City and Special District Assistance Program funds to reimburse the Organization for unbudgeted expenses for needs made necessary by the COVID-19 public health threat;

#### AGREEMENT

NOW, THEREFORE, the premises being in general as stated in the foregoing recitals and in consideration of the terms, conditions and covenants set forth below, the parties agree as follows:

#### **Article 1 COUNTY OBLIGATIONS**

- (1) County shall distribute at total of up to \$\$\$ from the City and Special District Assistance funds within ten days of receipt of the required reports including backup documentation for actual incurred expenses from Organization.
- (2) Review all monthly reports and reimbursement requests promptly and request any further clarifying documentation or information from Organization to verify and approve reports and requests.

#### **Article 2 ORGANIZATION OBLIGATIONS**

- (1) Organization may request reimbursement from the County for up to \$\$\$ of the City and Special District Assistance funds in their initial report and following monthly reports for actually incurred eligible expenditures.
- (2) Organization shall submit an initial report with reimbursement request no later than August 15th, 2020 to the County for expenditures actually incurred from March 1st, 2020 through July 31st, 2020 to be reimbursed with City and Special Districts Assistance funds. This report and all other reports shall include copies of all receipts, invoices, payroll reports, or other relevant backup for all expenditures that the award recipient is asking to be reimbursed for. All reports and documentation are to be submitted by email to the Program Coordinator, Christine Thornhill, [Christine\\_Thornhill@co.washington.or.us](mailto:Christine_Thornhill@co.washington.or.us)

- (3) Organization shall submit monthly reports and reimbursement requests on or before the 15th day of each month following the initial report for the previous month's actually incurred expenditures that are to be reimbursed by the County (for example: September 15th's report contains August 1st through August 31st expenditures).
- (4) Organization shall submit a Final report and reimbursement request on or before November 30th, 2020 for expenditures incurred between November 1st, 2020 through November 15th, 2020.
- (5) Organization shall promptly provide any documentation requested by County in relation to the City and Special District Assistance Program.
- (6) Organization shall make available to Washington County Finance a final copy of all Organization's audits that cover any period during which CARES Act grant funds were expended.
- (7) Organization shall adhere to any and all compliance requirements from the federal government regarding Federal grant funds, as well as any additional guidance or restrictions on the funds instituted by the County.
- (8) Organization shall send updated insurance COI's for the duration of the agreement as they come available to the Contract Administrator, Will Culver, [Will\\_Culver@co.washington.or.us](mailto:Will_Culver@co.washington.or.us)
- (9) Organization will ensure all expenditures covered by the City and Special District Assistance funds will be for programs and program costs that comply with the CARES Act.
- (10) Organization understands and agrees that while a broad range of activities, services and programs may be authorized under the CARES Act, the County recommends Organization only cover internal expenditures as allowed by the CARES Act. In any case, the Organization agrees to cover only its own expenditures that may be eligible expenditures under the CARES Act with the City and Special District Assistance funds and may not distribute funds to any other subrecipient for any reason.
- (11) Organization will ensure the monies provided from the City and Special District Assistance funds only and exclusively cover those expenditures and costs already incurred or to be incurred and:
  - 2.11.1. Are necessary expenditures incurred due to the public health emergency with respect to the COVID-19 within the meaning the CARES Act; and
- (12) Were not accounted for in the Organization's most recently approved budgets as of March 27, 2020; and
- (13) Were incurred during the period that begins March 1, 2020 and ends on November 15th, 2020.

- (14) Organization will not use any of the City and Special District Assistance funds provided by the County as a revenue replacement for lower than expected tax or other revenue collections or for any other purpose not allowed by the CARES Act.
- (15) Organization will ensure all use of the City and Special District Assistance funds will adhere to official federal guidance issued or to be issued on what constitutes a necessary expenditure. Organization will review the guidance established by the U.S. Department of Treasury and will warrant that all expenditures have met the required guidance.
- (16) Organization will not use the City and Special District Assistance funds for expenditures for which the Organization has already received any other emergency COVID-19 supplemental funding for the same expenditure.
- (17) In the event Organization uses the City and Special District Assistance funds to reimburse expenditures for a qualifying City and Special District Assistance program expense and subsequently receives or becomes eligible for additional emergency COVID-19 supplemental funding to reimburse the Organization for the same qualified expended City and Special District Assistance program expense, the Organization will return the funds to the County, an amount equal to the City and Special District Assistance funds used to cover for the same program or expense within thirty (30) days of receipt of or eligibility verification of, whichever is first, the additional supplemental funds.
- (18) Organization will retain all necessary documentation of all uses of the City and Special District Assistance funds including but not limited to invoices and receipts in a manner consistent with §200.333 Retention requirements for records of 2 CFR 2 Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Such documentation shall be produced to the County upon request and may be subject to audit by the County or County's authorized agent.
- (19) Organization will comply with all terms in Attachment R, Federal Grant Funds, 2 CFR Part 200, Appendix II.

### **Article 3 GENERAL PROVISIONS**

#### **(1) LAWS OF OREGON**

The parties shall comply with all applicable laws and regulations regarding the handling and expenditure of public funds. This Agreement shall be construed and enforced in accordance with the laws of the State of Oregon.

#### **(2) DEFAULT**

Time is of the essence in the performance of the Agreement. Either party shall be deemed to be in default if it fails to comply with any provisions of this Agreement. The non-defaulting party

shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.

### (3) INDEMNIFICATION

This Agreement is for the benefit of the parties only. Organization agrees to indemnify and hold harmless the County, and its elected officials, directors, officers, employees, and agents, from and against all claims, demands and causes of actions and suits of any kind or nature for personal injury, death or damage to property on account of or arising out of services performed, the omissions of services or in any way resulting from the negligent or wrongful acts or omissions of the indemnifying party and its officers, employees and agents. To the extent applicable, the above indemnification is subject to and shall not exceed the limits of liability of the Oregon Tort Claims Act (ORS 30.260 through 30.300). Organization shall give County immediate written notice of any action or suit filed or any claim made against the County that may result in litigation in any way related to this Agreement. County retains the right, in its discretion, to defend any action with Counsel of this choosing.

### (4) INSURANCE

Organization shall maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.

### (5) MODIFICATION OF AGREEMENT

No waiver, consent, modification or change of terms of this Agreement shall be binding unless in writing and signed by both Parties. The Parties agree that this Agreement may require modification as additional guidance becomes available.

### (6) DISBURSEMENTS REMAIN SUBJECT TO RECOVERY

All disbursements and payments under this Agreement, remain subject to recovery from Organization in accordance with the following:

#### (1) Notice of Underexpenditure, Overexpenditure, or Misexpenditure.

If County finds there has been an underexpenditure, overexpenditure or misexpenditure of moneys disbursed under this Agreement, County shall provide Organization with written notice thereof, with a detailed spreadsheet providing supporting data of an underexpenditure, overexpenditure or misexpenditure, and County and Organization shall engage in the process described in the Recovery of Underexpenditure, Overexpenditure or Misexpenditure section below.

(2) Recovery of Underexpenditure, Overexpenditure or Misexpenditure.

- (1) Organization's Response. Organization shall have 90 calendar days from the effective date of the notice of underexpenditure, overexpenditure or misexpenditure or from the date of receipt of the notice, whichever is later, to pay County in full or notify County that it wishes to engage in the appeals process set forth in the Appeals Process section below. If Organization fails to respond within that 90 calendar-day time period, Organization shall promptly pay the noticed underexpenditure, overexpenditure or misexpenditure.
- (2) Appeals Process. Upon receipt of the final notice, if Organization notifies County that it wishes to engage in the Appeals Process, Organization and County shall engage in non-binding discussions to give the Organization an opportunity to present reasons why it believes that there was no underexpenditure, overexpenditure or misexpenditure, or that the amount of the underexpenditure, overexpenditure or misexpenditure was different than the amount identified by County, and to give County the opportunity to reconsider its notice. Organization and County may negotiate an appropriate apportionment of responsibility for the repayment of an underexpenditure, overexpenditure or misexpenditure. At Organization request, County will meet and negotiate with Organization in good faith concerning appropriate apportionment of responsibility for repayment of an underexpenditure, overexpenditure or misexpenditure. In determining an appropriate apportionment of responsibility, Organization and County may consider any relevant factors. An example of a relevant factor is the extent to which either party contributed to an interpretation of a statute, regulation or rule prior to the expenditure that was officially reinterpreted after the expenditure. If County and Organization reach agreement on the amount owed to County, Organization shall promptly repay that amount to County by issuing payment to County. If County and Organization are unable to agree to whether there has been an underexpenditure, overexpenditure or misexpenditure or as to the amount owed, the parties may agree to consider further appropriate dispute resolution processes, including mediation and arbitration.

(7) DISPUTE RESOLUTION

The Parties shall attempt to informally resolve any dispute concerning any Party's performance or decisions under this Agreement, or regarding the terms, conditions or meaning of this Agreement. A neutral third party may be used if the parties agree to facilitate these negotiations. In the event of an impasse in the resolution of any dispute, the issue shall be submitted to the governing bodies of both parties for a recommendation or resolution

(8) REMEDIES

Subject to the provisions in paragraph 3.6 and 3.7, any Party may institute legal action to cure, correct or remedy any default, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation of this Agreement. All legal actions shall be initiated in

Washington County Circuit Court. The Parties, by signature of their authorized representatives below, consent to the personal jurisdiction of that court.

(9) EXCUSED PERFORMANCE

In addition to the specific provisions of this Agreement, performance by any party shall not be in default where delay or default is due to war, insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of GOD, governmental restrictions imposed on or mandated by governmental entities other than the parties, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance that are not within the reasonable control to the party to be excused.

(10) SEVERABILITY

If any one or more of the provisions contained in this Agreement is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of the Agreement will not be affected or impaired in any way.

(11) INTEGRATION

This Agreement is the entire agreement of the parties on its subject and supersedes any prior discussions or agreements regarding the same subject.

**Article 5 TERM OF AGREEMENT and SURVIVAL**

1. This Agreement becomes effective on the last date signed below and shall terminate on December 30th, 2020, unless extended by mutual written consent of the Parties.
2. Organization Obligations 2.17, 2.18 and 2.19 and General Provisions 3.3, 3.6 and 3.8 shall survive termination or expiration of this Agreement.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ADD SIGNATURE BLOCKS

**ATTACHMENT R**  
**COVID-19 RESPONSE**

Required for all Agreements that are funded in whole or in part by Federal Grant Funds

Clauses required in non-Federal entity's contracts  
Source: 2 CFR Part 200, Appendix II

- I. Government Entity (Recipient) shall comply with all applicable provisions below.
  - A. Administrative, contractual, or legal remedies are addressed in the Intergovernmental Agreement (Term 3.3,3.4 and 5.1 ) as well as any other applicable provisions in the Agreement and Attachments
  - B. Termination provisions are addressed in the Intergovernmental Agreement (Term 5.1) as well as any other applicable provisions in the Agreement and Attachments
  - C. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 601.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
  - D. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). If required by the federal funding source and if this Agreement is a prime construction contract in excess of \$2,000, Recipient shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5 “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). If this section applies, Recipient must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Recipient must pay wages not less than once a week. If applicable, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation. The decision to award a Contract is conditioned upon the acceptance of the wage determination. If applicable, the County will place a copy of the current prevailing wage determination issued by the Department of Labor in the solicitation. If applicable, Recipient must accept the wage determination. If applicable, County will report all suspected or reported violations by Recipient to the Federal awarding agency. If applicable, Recipient must comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Government Entities and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each Recipient is

prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. If applicable, County will report all suspected or reported violations by Recipient to the Federal awarding agency.

- E. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). If the amount of this contract exceeds \$100,000 and involves the employment of mechanics or laborers Recipient shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, if applicable, Recipient shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- F. Rights to Inventions Made Under a Contract or Agreement. If the funding for this Contract meets the definition of "funding agreement" under 37 CFR 401.2(a) and Contract is a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under this Agreement, Recipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the federal awarding agency.
- G. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). If the amount of this contract exceeds \$150,000 Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- H. Debarment and Suspension (Executive Orders 12549 and 12689).
  - 1. Government Entity Certification Regarding Debarment, Suspension, Proposed Debarment and other Responsibility Matters. The Government Entity certifies to the best of its knowledge and belief that neither it nor any of its principals:
  - 2. Are presently debarred, suspended, proposed for debarment, or declared ineligible from submitting bids or proposals by any federal, state or local entity, department or agency;
  - 3. Have within a three-year period preceding this offer, been convicted or had a civil judgment rendered against them for: commission of fraud or a criminal offense in

connection with obtaining, attempting to obtain, or performance of a public (Federal, state or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, tax evasion, or receiving stolen property;

4. Are presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph H3 of this certification;
  5. Have within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal, state or local public agency.
  6. Are on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at:  
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf> 15.6 Are out of compliance with the tax laws of Oregon and all tax laws of political subdivisions of the State of Oregon, including, but not limited to, ORS 305.620 and ORS chapters 316, 317 and 318. Washington County may terminate the contract if Government Entity fails to comply with any tax laws during the term of the contract.
- I. 2 CFR Section 200.322 Procurement of recovered materials. Government Entity must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
  - J. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) By signing this Agreement, the Recipient certifies, to the best of the Recipient's knowledge and belief that:
    1. No federal appropriated funds have been paid or will be paid, by or on behalf of Recipient, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Recipient shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
3. The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
4. This certification is a material representation of fact upon which reliance was placed when this Agreement was made or entered into. Submission of this certification is a prerequisite for making or entering into this Agreement imposed by section 1352, Title 31 of the U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
5. No part of any federal funds paid to Recipient under this Agreement shall be used, other than for normal and recognized executive legislative relationships, for publicity or propaganda purposes, for the preparation, distribution before the United States Congress or any State or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government.
6. No part of any federal funds paid to Recipient under this Agreement shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive Order proposed or pending before the United States Congress or any State government, State legislature or local legislature or legislative body, other than for normal and recognized executive-legislative relationships or participation by an agency or officer of a State, local or tribal government in policymaking and administrative processes within the executive branch of that government.
7. The prohibitions in subsections 5 and 6 of this section shall include any activity increase, or any proposed, pending, or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.
8. No part of any federal funds paid to Recipient under this Agreement may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established under section 202 of the Controlled Substances Act except for normal and recognized executive congressional communications. This limitation shall not apply when there is

significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

II. FEMA Required Language:

- A. To be eligible for FEMA assistance under the County's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or construction change must be allowable, allocable, within the scope of the County's grant or cooperative agreement, and for the completion of project scope. All changes to this Agreement to alter the method, price or schedule of work must be approved by written amendment to this Agreement signed by both parties.
- B. Access to Records: In addition to any other term or condition regarding access to records in this Agreement, Government Entity agrees to provide the FEMA administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Government Entity which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcripts. The Government Entity agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. The Government Entity agrees to provide the FEMA Administrator or his/her authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.
- C. Government Entity shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.
- D. Government Entity acknowledges that FEMA financial assistance will be used to fund this Agreement only and can be used for no other purposes. Government Entity will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- E. The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the County, Government Entity, or any other party pertaining to any matter resulting from this Agreement.
- F. Government Entity acknowledges that 31 USC Chapter 38 (Administrative Remedies for False Claims and Statements) applies to Government Entity's actions pertaining to this Agreement.

III. If the work performed under this Contract is covered by the Health Insurance Portability and Accountability Act or the federal regulations implementing the Act (collectively referred to as HIPAA), Government Entity agrees to perform the work in compliance with HIPAA.