



December 10, 2020

Board of County Commissioners
 Clackamas County

Members of the Board:

Approval of Local Grant Agreement between Clackamas County and Micro Enterprise Services of Oregon (MESO) for MESO to provide a small grants program on behalf of Clackamas County in an effort to support the local business and childcare provider community impacted by the COVID-19 pandemic

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| Purpose/Outcomes | Approve a Local Grant Agreement between Clackamas County and MESO for MESO to provide assistance to the Clackamas County small business and childcare provider community by providing \$1,000,000 in small grants to small businesses and childcare providers (25 employees or under) in Clackamas County impacted by COVID-19. Up to \$500,000 is dedicated for childcare providers. |
| Dollar Amount and Fiscal Impact | \$1,100,000 of CARES Act dollars for Clackamas County Business and Community Services (BCS) to provide \$1,100,000 to MESO to fund a \$1,000,000 grant program and the required \$100,000 administrative fee. |
| Funding Source | CARES Act via the Clackamas County Emergency Operations Center |
| Duration | October 1, 2020 through December 30, 2020 |
| Previous Board Action | Information on this program has been shared via the EOC Commander Nancy Bush, as well as during monthly Economic Development updates to the BCC. |
| Strategic Plan Alignment | <ol style="list-style-type: none"> 1) This grant agreement supports the BCS goal of giving businesses access to innovative tools and programs to help them locate or expand in Clackamas County. Providing much needed cash to business impacted by COVID-19 will help them make it through the pandemic so they can reopen under the new normal, and eventually expand when economic times improve. 2) This grant agreement supports County strategic priority of Growing a Vibrant Economy by providing much needed assistance to Clackamas County small businesses so they can remain in business throughout the COVID-19 pandemic. |
| County Counsel Review | County Counsel Review Date: November 23, 2020 Counsel Initials: KR |
| Procurement Review | Was the item processed through procurement? N/A |
| Contact Person | Laura Zentner, BCS Director (503) 742-4351 Sarah Eckman, BCS – Deputy Director (503) 894-3135 |
| Contract No. | N/A |

BACKGROUND:

Earlier this year, Business and Community Services developed a program with MESO to provide economic and social assistance to those Clackamas County businesses affected by COVID-19. The program helps vulnerable businesses impacted by COVID-19 by providing much needed cash, as well as technical support to develop new talents and skills that make them more marketable.

We are now entering into a new agreement with MESO for them to facilitate a grant application and award process, distributing \$1,000,000 in grants to Clackamas County businesses and childcare providers. Up to 50% (\$500,000) of the dollars are dedicated to childcare providers. Businesses may

apply for up to \$5,000 per award and childcare providers may apply for up to \$9,999 per award. Eligibility criteria are listed in Exhibit A of the local grant agreement.

Childcare providers are among the hardest-hit and least supported industries during the COVID-19 pandemic. The Clackamas Workforce Partnership has continued to ask for support and has emphasized the critical need in this County for our childcare providers.

We have over 225 childcare businesses that are struggling to balance the cost of providing quality, developmentally appropriate care with the limited revenues available to get them through the forced periods of closure. Many have decreased enrollment and increased instability due to the ongoing impacts of the virus. Our grant aims to help them transition and be sustainable during these times.

Additionally, our Chambers of Commerce and other partners have communicated to us that the greatest need for businesses right now is cash.

RECOMMENDATION:

Staff respectfully recommends the BCC approve the grant agreement with MESO.

ATTACHMENT:

Local Grant Agreement between Clackamas County and Micro Enterprise Services of Oregon (MESO)

Respectfully submitted,

A handwritten signature in cursive script that reads "Laura Zentner".

Laura Zentner, CPA
Director, Business & Community Services

**CLACKAMAS COUNTY, OREGON
SUBRECIPIENT GRANT AGREEMENT 21-011**

Project Name: **CARES Small Business/Childcare Relief Funding**
Project Number:

This Agreement is between **Clackamas County** (“COUNTY”), a political subdivision of the State of Oregon, acting by and through its Business and Community Services Department, and **Micro Enterprise Solutions of Oregon** (“SUBRECIPIENT”), An Oregon Nonprofit Corporation.

Clackamas County Data

| | |
|--|---|
| Grant Accountant: Michael Morasko | Program Manager: Sarah Eckman |
| Clackamas County – Finance 2051 Kaen Road Oregon City, OR 97045 503-742-5435 mmorasko@clackamas.us | Clackamas County 150 Beaver creek Road Oregon City, OR 97045 503-894-3135 sarahste@clackamas.us |

Subrecipient Data

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|--|--|
| Finance/Fiscal Representative: David Wilcox | Program Representative: Nita Shah |
| Micro Enterprise Solutions of Oregon 4800 NE MLK Jr. Blvd. Portland, OR 97212 971-344-6805 dwilcox@mesopdx.org | Micro Enterprise Solutions of Oregon 4800 NE MLK Jr. Blvd. Portland, OR 97212 503-841-3351 nshah@mesopdx.org |
| DUNS: 009646203 | |

RECITALS

1. Micro Enterprise Solutions of Oregon (“SUBRECIPIENT”) has over 12 years helping small-scale entrepreneurs succeed. SUBRECIPIENT’s staff has technical expertise in all areas of micro-enterprise development and small business growth. SUBRECIPIENT emphasizes development of a core business foundation and implementation of strategies focused on financial management, basic and advanced business planning, marketing, customer service and effective operations. Services are based on proven models that are shaped for the local community and individual entrepreneurs.
2. Clackamas County (“COUNTY”) desires to have its residents benefit from business recovery payments provided through the State of Oregon and its Department of Administrative Services (“DAS”) passed through the U.S. Treasury Department under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”).

3. Project description: SUBRECIPIENT will provide business recovery payments to qualifying businesses and childcare providers resulting from the coronavirus pandemic.
4. This Grant Agreement of Federal financial assistance sets forth the terms and conditions pursuant to which SUBRECIPIENT agrees on delivery of the Program.

NOW THEREFORE, according to the terms of this Subrecipient Grant Agreement (this “Agreement”) the COUNTY and SUBRECIPIENT agree as follows:

AGREEMENT

1. **Term and Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law. Funds issued under this Agreement may be used for expenses approved in writing by County relating to the project incurred no earlier than **October 1, 2020** and not later than **December 30, 2020**, unless this Agreement is sooner terminated or extended pursuant to the terms hereof. No grant funds are available for expenditures after the expiration date of this Agreement.
2. **Program.** The Program is described in Attached Exhibit A: Subrecipient Scope of Work. SUBRECIPIENT agrees to carry out the program in accordance with the terms and conditions of this Agreement and according to SUBRECIPIENT scope of work in Exhibit A.
3. **Standards of Performance.** SUBRECIPIENT shall perform all activities and programs in accordance with the requirements set forth in this Agreement and all applicable laws and regulations, including the CARES Act and P.L. 116-136. Furthermore, SUBRECIPIENT shall comply with the requirements of the OHCS award number 5084 and all accompanying amendments that is the source of the grant funding, which is incorporated herein by reference. SUBRECIPIENT shall further comply with any requirements, terms, conditions, and other obligations as may be required by the applicable local, State or Federal agencies providing funding for performance under this Agreement, whether or not specifically referenced herein. SUBRECIPIENT agrees to take all necessary steps, and execute and deliver any and all necessary written instruments, to perform under this Agreement including, but not limited to, executing all additional documentation necessary to comply with applicable State or Federal funding requirements.
4. **Grant Funds.** The maximum, not to exceed, grant amount COUNTY will pay is **\$1,100,000.00**. Grant funds will be issued in two advances and disbursements will be made in accordance with the schedule and requirements contained in Exhibit D: Required Financial Reporting and Payment Request and Exhibit E: Weekly / Final Performance Report. Failure to comply with the terms of this Agreement may result in withholding of payment. Funding on this award is sourced as follows:
 - 4.1. **CARES Act (Catalogue of Federal Domestic Assistance [CFDA] #: 21.019)** issued to COUNTY by DAS and the U.S. Department of the Treasury (Federal Award Identification #]: Unavailable): **\$1,000,000**
 - 4.2. **COUNTY local dollars** reserved for the purposes outlined herein: **\$100,000**
5. **Amendments.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed

by both parties. **SUBRECIPIENT must submit a written request including a justification for any amendment to COUNTY in writing at least forty five (45) calendar days before this Agreement expires.** No payment will be made for any services performed before the beginning date or after the expiration date of this Agreement. If the maximum compensation amount is increased by amendment, the amendment must be fully executed before SUBRECIPIENT performs work subject to the amendment.

6. **Termination.** This Agreement may be suspended or terminated prior to the expiration of its term by:
 - a. Written notice provided by COUNTY resulting from material failure by SUBRECIPIENT to comply with any term of this Agreement, or;
 - b. Mutual agreement by COUNTY and SUBRECIPIENT.
 - c. Written notice provided by COUNTY that OHCS has determined funds are no longer available for this purpose.
 - d. Written notice provided by COUNTY that it lacks sufficient funds, as determined by COUNTY in its sole discretion, to continue to perform under this Agreement.

Upon completion of recovery payment distribution or upon termination of this Agreement, any unexpended balances of CARES funds shall remain with COUNTY.

7. **Effect of Termination.** The expiration or termination of this Agreement, for any reason, shall not release SUBRECIPIENT from any obligation or liability to COUNTY, or any requirement or obligation that:
 - a. Has already accrued hereunder;
 - b. Comes into effect due to the expiration or termination of the Agreement; or
 - c. Otherwise survives the expiration or termination of this Agreement.

Following the termination of this Agreement, SUBRECIPIENT shall promptly identify all unexpended funds and return all unexpended funds to COUNTY. Unexpended funds are those funds received by SUBRECIPIENT under this Agreement that (i) have not been spent or expended in accordance with the terms of this Agreement; and (ii) are not required to pay allowable costs or expenses that will become due and payable as a result of the termination of this Agreement.

8. **Funds Available and Authorized.** COUNTY certifies that it has received an award sufficient to fund this Agreement. SUBRECIPIENT understands and agrees that payment of amounts under this Agreement is contingent on COUNTY receiving appropriations or other expenditure authority sufficient to allow COUNTY, in the exercise of its sole administrative discretion, to continue to make payments under this Agreement.
9. **Future Support.** COUNTY makes no commitment of future support and assumes no obligation for future support for the activity contracted herein except as set forth in Section 7.
10. **Administrative Requirements.** SUBRECIPIENT agrees to its status as a subrecipient, and accepts among its duties and responsibilities the following:
 - a) **Financial Management.** SUBRECIPIENT shall comply with the following federal requirements:

1. 2 CFR 200.303 – Internal Controls
 2. 2 CFR 200.330 through 200.332 – Subrecipient Monitoring and Management
 3. 2 CFR 200 Subpart F – Audit Requirements
- b) **Revenue Accounting.** Grant revenue and expenses generated under this Agreement should be recorded in compliance with generally accepted accounting principles and/or governmental accounting standards. This requires that the revenues are treated as unearned income or “deferred” until the compliance requirements and objectives of the grant have been met. Revenue may be recognized throughout the life cycle of the grant as the funds are “earned.” All grant revenues not fully earned and expended in compliance with the requirements and objectives at the end of the period of performance must be returned to COUNTY within 15 days.
- c) **Personnel.** If SUBRECIPIENT becomes aware of any likely or actual changes to key systems, or grant-funded program personnel or administration staffing changes, SUBRECIPIENT shall notify COUNTY in writing within 30 days of becoming aware of the likely or actual changes and a statement of whether or not SUBRECIPIENT will be able to maintain compliance at all times with all requirements of this Agreement.
- d) **Cost Principles.** This award is excluded from 2 CFR 200 Subpart E – Cost Principles by statute. Funds may be used only in accordance with and for the purposes outlined in Exhibit A (SUBRECIPIENT Scope of Work) and Attachment 1 (Coronavirus Relief Fund Frequently Asked Questions [updated frequently]).
- e) **Period of Availability.** SUBRECIPIENT may charge to the award only allowable costs resulting from obligations incurred during the funding period.
- f) **Match.** Matching funds are not required for this Agreement.
- g) **Budget.** SUBRECIPIENT use of funds may not exceed the amounts specified in the Exhibit B: SUBRECIPIENT Program Budget. SUBRECIPIENT may not transfer grant funds between budget lines without the prior written approval of COUNTY. At no time may budget modification change the scope of the original grant application or Agreement.
- h) **Indirect Cost Recovery.** Indirect cost recovery is statutorily unavailable on this award. Administrative funding on this award will be provided with COUNTY local funds as outlined in Exhibit B: SUBRECIPIENT Budget.
- i) **Research and Development.** SUBRECIPIENT certifies that this award is not for research and development purposes.
- j) **Payment.** SUBRECIPIENT must submit a final request for payment no later than fifteen (15) days after the end date of this Agreement, if applicable. Payment shall be made according to the schedule in Exhibit D: Required Financial Reporting and Payment Schedule. All funds advanced to SUBRECIPIENT and not obligated by 12/30/20 shall be returned to COUNTY by January 15, 2021.

- k) **Performance Reporting.** SUBRECIPIENT must submit Performance Reports as specified in Exhibit E for each period (weekly) during the term of this Agreement.
- l) **Financial Reporting.** Methods and procedures for payment shall minimize the time elapsing between the transfer of funds and disbursement by the grantee or SUBRECIPIENT, in accordance with Treasurer regulations at 31 CFR Part 205. Therefore, upon execution of this Agreement, SUBRECIPIENT will submit completed Exhibit D: Required Financial Reporting and Payment Request on a biweekly basis.
- m) **Specific Conditions.** SUBRECIPIENT shall provide a general ledger printout of all program recipient payments with each weekly program report.
- n) **Closeout.** COUNTY will closeout this award when COUNTY determines that all applicable administrative actions and all required work have been completed by SUBRECIPIENT, pursuant to 2 CFR 200.343—*Closeout*. SUBRECIPIENT must liquidate all obligations incurred under this award and must submit all financial (Exhibits D & F), performance, and other reports as required by the terms and conditions of the Federal award and/or COUNTY, no later than 90 calendar days after the end date of this agreement.
- o) **Universal Identifier and Contract Status.** SUBRECIPIENT shall comply with 2 CFR 25.200-205 and apply for a unique universal identification number using the Data Universal Numbering System (DUNS) as required for receipt of funding. In addition, SUBRECIPIENT shall register and maintain an active registration in the Central Contractor Registration database, located at <http://www.sam.gov>.
- p) **Audit.** SUBRECIPIENT shall comply with the audit requirements prescribed in the Single Audit Act Amendments and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, located in 2 CFR 200.501. SUBRECIPIENT expenditures of \$750,000 or more in Federal funds require an annual Single Audit. SUBRECIPIENT is required to hire an independent auditor qualified to perform a Single Audit. Subrecipients of Federal awards are required under the Uniform Guidance to submit their audits to the Federal Audit Clearinghouse (“FAC”) within 9 months from SUBRECIPIENT’s fiscal year end or 30 days after issuance of the reports, whichever is sooner. The website for submissions to the FAC is <https://facweb.census.gov/>. At the time of submission to the FAC, SUBRECIPIENT will also submit a copy of the audit to COUNTY. If requested and if SUBRECIPIENT does not meet the threshold for the Single Audit requirement, SUBRECIPIENT shall submit to COUNTY a financial audit or independent review of financial statements within 9 months from SUBRECIPIENT’s fiscal year end or 30 days after issuance of the reports, whichever is sooner.
- q) **Monitoring.** SUBRECIPIENT agrees to allow COUNTY access to conduct site visits and inspections of financial records for the purpose of monitoring in accordance with 2 CFR 200.331. COUNTY, the Federal government, and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of SUBRECIPIENT that are pertinent to this Agreement, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Monitoring may be performed onsite or offsite, at COUNTY’s discretion. Depending on the outcomes of the

financial monitoring processes, this Agreement shall either a) continue pursuant to the original terms, b) continue pursuant to the original terms and any additional conditions or remediation deemed appropriate by COUNTY, or c) be de-obligated and terminated.

- r) **Record Retention.** SUBRECIPIENT will retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of five (5) years, or such longer period as may be required by the Federal agency or applicable state law, following final payment and termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later, according to 2 CFR 200.333-337.
- s) **Fiduciary Duty.** SUBRECIPIENT acknowledges that it has read the award conditions and certifications in Exhibit G: Federal Terms and Conditions and all accompanying amendments, that it understands and accepts those conditions and certifications, and that it agrees to comply with all the obligations, and be bound by any limitations applicable to the Clackamas County, as grantee, under those grant documents.
- t) **Failure to Comply.** SUBRECIPIENT acknowledges and agrees that this Agreement and the terms and conditions therein are essential terms in allowing the relationship between COUNTY and SUBRECIPIENT to continue, and that failure to comply with such terms and conditions represents a material breach of the original grant and this Agreement. Such material breach shall give rise to COUNTY's right, but not obligation, to withhold SUBRECIPIENT grant funds until compliance is met, reclaim grant funds in the case of omissions or misrepresentations in financial or programmatic reporting, require repayment of any funds used by SUBRECIPIENT in violation of this Agreement, to terminate this Agreement, and to pursue any right or remedy available to COUNTY at law, in equity, or under this Agreement.

11. Compliance with Applicable Laws

- a) **Public Policy.** SUBRECIPIENT expressly agrees to comply with all public policy requirements, laws, regulations, and executive orders issued by the Federal government, to the extent they are applicable to the Agreement: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, "Equal Employment Opportunity" as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) all regulations and administrative rules established pursuant to the foregoing laws; and (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and 2 CFR Part 200 as applicable to SUBRECIPIENT.
- b) **Rights to Inventions Made Under a Contract or Agreement.** SUBRECIPIENT agrees that contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants,

Contracts and Cooperative Agreements," and any further implementing regulations issued by the U.S. Treasury Department.

- c) **State Statutes.** SUBRECIPIENT expressly agrees to comply with all statutory requirements, laws, rules, and regulations issued by the State of Oregon, to the extent they are applicable to the Agreement.
- d) **Conflict Resolution.** If potential, actual or perceived conflicts are discovered among federal, state and local statutes, regulations, administrative rules, executive orders, ordinances or other laws applicable to the Services under the Agreement, SUBRECIPIENT may in writing request County to resolve the conflict. SUBRECIPIENT shall specify if the conflict(s) create a problem for the design or other Services required under the Agreement. COUNTY shall undertake reasonable efforts to resolve the issue but is not required to deliver any specific answer or product. SUBRECIPIENT shall remain obligated to independently comply with all applicable laws and no action by COUNTY shall be deemed a guarantee, waiver, or indemnity for non-compliance with any law.
- e) **Disclosure of Information.** Any confidential or personally identifiable information (2 CFR 200.82) acquired by SUBRECIPIENT during the execution of the project should not be disclosed during or upon termination or expiration of this Agreement for any reason or purpose without the prior written consent of COUNTY. SUBRECIPIENT further agrees to take reasonable measures to safeguard such information (2 CFR 200.303) and to follow all applicable federal, state and local regulations regarding privacy and obligations of confidentiality.
- f) **Human Trafficking.** In accordance with 2 CFR Part 175, SUBRECIPIENT, its employees, contractors and subrecipients under this Agreement and their respective employees may not:
 - Engage in severe forms of trafficking in persons during the period of the time the award is in effect;
 - Procure a commercial sex act during the period of time the award is in effect; or
 - Used forced labor in the performance of the Agreement or subaward under this Agreement.

SUBRECIPIENT must inform COUNTY immediately of any information SUBRECIPIENT receives from any source alleging a violation of any of the above prohibitions in the terms of this Agreement. COUNTY may terminate this Agreement, without penalty, for violation of these provisions. COUNTY's right to terminate this Agreement unilaterally, without penalty, is in addition to all other remedies under this Agreement. SUBRECIPIENT must include these requirements in any subaward made to public or private entities under this Agreement.

12. General Agreement Provisions.

- a) **Non-appropriation Clause.** If payment for activities and programs under this Agreement extends into COUNTY's next fiscal year, COUNTY's obligation to pay for such work is subject to approval of future appropriations to fund the Agreement by the Board of County Commissioners.

- b) **Indemnification.** SUBRECIPIENT agrees to indemnify and hold COUNTY and its elected officials, officers, employees, and agents harmless with respect to any claim, cause, damage, action, penalty or other cost (including attorney's and expert fees) arising from or related to SUBRECIPIENT's negligent or willful acts or those of its employees, agents or those under SUBRECIPIENT's control. SUBRECIPIENT is responsible for the actions of its own agents and employees, and COUNTY assumes no liability or responsibility with respect to SUBRECIPIENT's actions, employees, agents or otherwise with respect to those under its control.
- c) **Insurance.** During the term of this Agreement, SUBRECIPIENT shall maintain in force, at its own expense, each insurance noted below:
- 1) **Commercial General Liability.** SUBRECIPIENT shall obtain, at SUBRECIPIENT's expense, and keep in effect during the term of this Agreement, Commercial General Liability Insurance covering bodily injury and property damage on an "occurrence" form in the amount of not less than \$1,000,000 per occurrence/ \$2,000,000 general aggregate for the protection of COUNTY, its officers, elected officials, and employees. This coverage shall include Contractual Liability insurance for the indemnity provided under this Agreement. This policy(s) shall be primary insurance as respects to COUNTY. Any insurance or self-insurance maintained by COUNTY shall be excess and shall not contribute to it.
 - 2) **Commercial Automobile Liability.** SUBRECIPIENT shall obtain at SUBRECIPIENT expense, and keep in effect during the term of this Agreement, Commercial Automobile Liability coverage including coverage for all owned, hired, and non-owned vehicles. The combined single limit per occurrence shall not be less than \$1,000,000 for bodily injury and property damage. This coverage may be written in combination with the commercial general liability insurance (with separate limits for commercial general liability and automobile liability).
 - 3) **Excess/Umbrella Insurance.** A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.
 - 4) **Workers' Compensation.** Insurance in compliance with ORS 656.017, which requires all employers that employ subject workers, as defined in ORS 656.027, to provide workers' compensation coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). If contractor is a subject employer, as defined in ORS 656.023, contractor shall obtain employers' liability insurance coverage limits of not less than \$1,000,000.
 - 5) **Additional Insured Provisions.** All required insurance, other than Professional Liability, Workers' Compensation, and Personal Automobile Liability and Pollution Liability Insurance, shall include "the State of Oregon, its officers, employees and agents and Clackamas County, its agents, elected officials, officers, and employees" as additional insureds.

- 6) **Notice of Cancellation.** There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 60 days written notice to COUNTY. Any failure to comply with this provision will not affect the insurance coverage provided to COUNTY. The 60 days' notice of cancellation provision shall be physically endorsed on to the policy.
 - 7) **Insurance Carrier Rating.** Coverage provided by SUBRECIPIENT must be underwritten by an insurance company deemed acceptable by COUNTY. Insurance coverage shall be provided by companies admitted to do business in Oregon or, in the alternative, rated A- or better by Best's Insurance Rating. COUNTY reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.
 - 8) **Certificates of Insurance.** As evidence of the insurance coverage required by this Agreement, SUBRECIPIENT shall furnish a Certificate of Insurance to COUNTY. The State of Oregon, its officers, employees and agents and Clackamas County, its agents, elected officials, officers, and employees must be named as an additional insured on the Certificate of Insurance. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. No Agreement shall be in effect until the required certificates have been received, approved, and accepted by COUNTY. A renewal certificate will be sent to COUNTY 10 days prior to coverage expiration.
 - 9) **Primary Coverage Clarification.** SUBRECIPIENT coverage will be primary in the event of a loss and will not seek contribution from any insurance or self-insurance maintained by, or provided to, the additional insureds listed above.
 - 10) **Cross-Liability Clause.** A cross-liability clause or separation of insured's condition will be included in all general liability, professional liability, and errors and omissions policies required by the Agreement.
 - 11) **Waiver of Subrogation.** SUBRECIPIENT agrees to waive their rights of subrogation arising from the work performed under this Agreement. SUBRECIPIENT shall obtain any endorsement that may be necessary to affect this waiver of subrogation.
- d) **Assignment.** This Agreement may not be assigned in whole or in part without the prior express written approval of COUNTY.
 - e) **Independent Status.** SUBRECIPIENT is independent of COUNTY and will be responsible for any federal, state, or local taxes and fees applicable to payments hereunder. SUBRECIPIENT is not an agent of COUNTY and undertakes this work independent from the control and direction of COUNTY excepting as set forth herein. SUBRECIPIENT shall not seek or have the power to bind COUNTY in any transaction or activity.
 - f) **Notices.** Any notice provided for under this Agreement shall be effective if in writing and (1) delivered personally to the addressee or deposited in the United States mail, postage paid, certified mail, return receipt requested, (2) sent by overnight or

commercial air courier (such as Federal Express), (3) sent by facsimile transmission, with the original to follow by regular mail; or, (4) sent by electronic mail with confirming record of delivery confirmation through electronic mail return-receipt, or by confirmation that the electronic mail was accessed, downloaded, or printed. Notice will be deemed to have been adequately given three days following the date of mailing, or immediately if personally served. For service by facsimile or by electronic mail, service will be deemed effective at the beginning of the next working day.

- g) **Governing Law.** This Agreement is made in the State of Oregon, and shall be governed by and construed in accordance with the laws of that state without giving effect to the conflict of law provisions thereof. Any litigation between COUNTY and SUBRECIPIENT arising under this Agreement or out of work performed under this Agreement shall occur, if in the state courts, in the Clackamas County court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the State of Oregon.
- h) **Severability.** If any provision of this Agreement is found to be illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the provision shall be stricken.
- i) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which together will constitute one and the same Agreement. Facsimile copy or electronic signatures shall be valid as original signatures.
- j) **Third Party Beneficiaries.** Except as expressly provided in this Agreement, there are no third party beneficiaries to this Agreement. The terms and conditions of this Agreement may only be enforced by the parties.
- k) **Binding Effect.** This Agreement shall be binding on all parties hereto, their heirs, administrators, executors, successors and assigns.
- l) **Integration.** This Agreement contains the entire Agreement between COUNTY and SUBRECIPIENT and supersedes all prior written or oral discussions or Agreements.
- m) **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.
- n) **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.

(Signature Page Follows)

SIGNATURE PAGE TO SUBRECIPIENT GRANT AGREEMENT

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their duly authorized officers.


CLACKAMAS COUNTY

MICRO ENTERPRISE SOLUTIONS OF OREGON

Commissioner: Jim Bernard, Chair
Commissioner: Sonya Fischer
Commissioner: Ken Humbertson
Commissioner: Paul Savas
Commissioner: Martha Schrader

Signing on Behalf of the Board,

By: _____
Jim Bernard, Chair

By:  _____
Nita Shah, Executive Director

Dated: _____

Dated: 11 / 30 / 2020

By: _____
Recording Secretary

Dated: _____

Approved to Form

By: _____
County Counsel

Dated: _____

- Exhibit A: SUBRECIPIENT Scope of Work
- Exhibit B: SUBRECIPIENT Program Budget
- Exhibit C: Lobbying Certificate
- Exhibit D: Required Financial Reporting and Payment Request
- Exhibit E: Weekly/Final Performance Report
- Exhibit F: Final Financial Report
- Exhibit G: Federal Terms and Conditions
- Attachment 1: Coronavirus Relief Fund Frequently Asked Questions

Clackamas County – Small Business Relief Funding
Exhibit A: SUBRECIPIENT Scope of Work
Part A: Small Business & Part B: Childcare Providers

Clackamas County – Small Business Relief Funding
Exhibit A: SUBRECIPIENT Scope of Work
Part A: Small Business & Part B: Childcare Providers

Strategic Goals

Part A: Small Business

1. Ensure funds are managed and used in accordance with all federal requirements
2. Ensure that business owners from historically disadvantaged populations have equitable access
3. Prioritize businesses that have not received city, county, state or federal assistance

Part B: Childcare Providers

1. Ensure funds are managed and used in accordance with all federal requirements
2. Prioritize childcare providers that have not received city, county, state or federal assistance
3. Up to \$500,000 of grant funds will be dedicated for childcare providers. Unsubscribed funds dedicated for childcare providers will be redirected for distribution to small business applicants.
4. Given limited funding at this time, the focus of this proposal is to preserve the current licensed and supply of childcare. Childcare in the Clackamas County is essential to economic recovery and sustainability during and after COVID-19.
5. Ensure providers from and serving representing underserved populations have equitable access to funding including application assistance in preferred language.
6. Provide economic relief to childcare providers with small operating capacities and budgets. These providers not only serve but also represent a sector of low-income workers.
7. Protect the role of childcare providers as a valuable resource for underserved families.
8. Maintain and preserve the health and public safety of children and families seeking care and the childcare workforce; through investment to adhere to OHA COVID-19 enhanced health and safety regulations.

SUBRECIPIENT Deliverables – Parts A & B

1. SUBRECIPIENT will create a new web-based application form substantially similar to previous Clackamas County Small Business Relief Funding grant application periods.
2. SUBRECIPIENT will include in the application, any questions necessary for the selection process, grant award amount (not to exceed \$9,999.00) and voluntarily provided demographic (**REAL D race/ethnicity, preferred language spoken, gender**) information on the applicants.
3. After applications have closed, SUBRECIPIENT will refine the applications per the instructions in this document and provide relevant statistics for the final list of eligible applications using appropriate data points and for any data requested by COUNTY.
4. SUBRECIPIENT will apply the selection process described in this document and provide a list of tentative grant finalists to COUNTY, along with statistics on the ownership demographics, location, industry type, and employee counts, and any other data points requested by COUNTY, for the list of tentative finalists.
5. Once COUNTY has reviewed this information and approved processing of the grants, SUBRECIPIENT will begin its due diligence in verifying the finalists' relevant information and process grants for all eligible finalists.
 - a. If SUBRECIPIENT discovers information that creates a reasonable suspicion that the finalist is not eligible, is deemed ineligible for other appropriate reasons, or has been deceptive, SUBRECIPIENT will notify COUNTY, share the information it has discovered and provide a recommendation on action. COUNTY will make all final decisions on whether to award a grant to a finalist about which SUBRECIPIENT has raised concerns.
6. Once due diligence is complete and COUNTY approves list, SUBRECIPIENT will issue award letters and disperse funds to applicants.
7. SUBRECIPIENT will report to COUNTY as outlined in Exhibit A.

Marketing and Outreach – Parts A & B

COUNTY will work in conjunction with SUBRECIPIENT to provide outreach and engage potential applicants through a variety of mechanisms:

- COUNTY webpage posting announcing opportunity and allowing applicants to provide their contact information for follow-up
- Announcement of open application period via:
 - Both Clackamas County and SUBRECIPIENT websites
 - Clackamas County Social Media Accounts
 - COUNTY networks known coordinated partners such as Business and Community Services and the Emergency Operations Center
 - Open application period via known existing child care provider lists and connection points such as: Child Care Resource and Referral Team, Early Learning Division records, and Community Based

Organizations

- Applicants will be supported through the application process via SUBRECIPIENT staff, Child Care Resource and Referral staff and Clackamas County Small Business Recovery Centers

Max award per qualified applicant

Part A: Small Business - \$5,000.00

Part B: Childcare Providers - \$9,999.00 per licensed (or licensed exempt) site

Eligibility Criteria – Part A: Small Business

In order to qualify for a grant a business must:

1. Be physically located in Clackamas County
2. Be an individually owned franchise if part of a chain
3. Have either been closed by the “Stay Home, Save Lives” Executive Order or have lost at least 30% of revenue in any month since March 2020 compared to the previous month or compared to the same month in 2019
NOTE: Applicants will be required to submit documentation to verify their revenue loss
4. Have not had more than 25 full-time employees at any one time in the last 12 months
5. Have been in operation for one year or more, prior to March 1, 2020
6. Not be a passive real estate holding company or other entity holding a passive investment in a small business but with no operational ties to that business
7. Had no more than \$5M in gross revenue in 2019
8. Was current on all federal, state and local taxes as of December 30, 2019
9. Be in compliance with all federal, state and local laws and regulations (marijuana-related businesses are not eligible due to federal status)
10. Not be an adult-oriented business or derive a majority of income from gambling activities
11. Be registered with the state or be exempted from the requirement to register with the state
12. Grant award proceeds may not be used for expenses already covered with other local, state or federal award proceeds.

Eligibility Criteria – Part B: Childcare Providers

In order to become eligible for Childcare Assistance Grant funds an Applicant must:

- 1) Must be physically located in Clackamas County
- 2) Must have held an active license until March 23rd, 2020 (Issue date of Governor’s Exec. Order 20-12), or;

- 3) has been listed with Department of Human Services for from June 2019 to June 2020 per DHS provided listings, or;
- 4) can provide proof they have been listed with the Department of Human Services
- 5) Have been in operation for one year or more, and have at least one eligible employee/owner/operator on or before March, 23rd 2020
- 6) Must be licensed or registered or designated as exempt by the Office of Child Care, in good standing
- 7) Was current on all federal, state and local taxes as of December 30, 2019
- 8) Be in compliance with all federal, state and local laws and regulations (marijuana-related business are not eligible due to federal status)
- 9) Applicant must certify the financial impact of COVID 19 meets or exceeds the grant award amount for which they are applying.
- 10) Grant award proceeds may not be used for expenses already covered with other local, state or federal award proceeds.
- 11) Multiple location providers that can provide eligible, unduplicated expenses for each site.

Eligible Expenditures – Parts A & B

1. Any business-related operating expenses not covered by any other assistance programs (including but not limited to payroll, rent/mortgage, utilities, perishable inventory losses due to required closures, payments to suppliers, costs associated with reopening, PPE and cleaning supplies).

Application Process – Parts A & B

Applications will open on November 25, 2020 and close December 5, 2020.

Only one application will be accepted for any one business *owner*. A business owner may apply on behalf of any business in which they have any ownership stake but may not apply on behalf of a second or any subsequent business. If that same person owns less than 51% of another business, that second business may apply under another owner's name.

Selection Process – Part A: Small Business Relief

Once the application window has closed, the complete list of all initial applications will be refined by MESO to remove any that appear ineligible, are duplicates, or are multiple applications from the same owner. For those owners found to have submitted multiple applications, only the first application received from that owner will be considered.

Scores will be automatically calculated by the system created through a collaboration of the

County and MESO using the responses provided in the applications and the scoring system described below. The tentative grant recipient selections will be made by going down the list of applications, sorted from highest to lowest score, until all slots have been filled. If a situation arises in which there are fewer slots left than businesses with the same score that would make them eligible for the spot(s), a lottery using a random-number generator and the relevant row numbers on the Excel sheet used for managing applications will be used to select the finalists for the remaining slot(s).

If a tentative grant recipient drops out for any reason, MESO will select a new recipient by going down the score-prioritized list to the next business on the list and use the lottery described above if there are multiple businesses with that same score.

MESO will verify the following application information for each final grant recipient business before processing that business's grant:

1. Gross revenue for 2019 and revenue loss claimed on application
2. Years of operation
3. Industry
4. Number of full-time equivalent employees
5. Primary business owner's sources of income if business is claimed as primary source
6. Primary business owner's income level on MFI scale if claiming below 80% of MFI

Selection Process – Part B: Childcare Providers

Once the application window has closed, the complete list of all initial applications will be refined by MESO to remove any that appear ineligible, are duplicates. An owner/operator may apply on behalf of multiple sites so long as the sites are individually licensed.

Scores will be automatically calculated by the system created through a collaboration of the Clackamas County and MESO using the responses provided in the applications and the scoring system described below. The tentative grant recipient selections will be made by going down the list of applications, sorted from highest to lowest score, until all slots have been filled. If a situation arises in which there are fewer slots left than businesses with the same score that would make them eligible for the spot(s), a lottery using a random-number generator and the relevant row numbers on the Excel sheet used for managing applications will be used to select the finalists for the remaining slot(s).

If a tentative grant recipient drops out for any reason, MESO will select a new recipient by going down the score-prioritized list to the next business on the list and use the lottery described above if there are multiple businesses with that same score.

MESO will verify following application information for each County approved grant recipient before processing that beneficiaries' grant:

1. Applicant must certify the financial impact of COVID 19 meets or exceeds the grant award amount for which they are applying.
 - a. For those Owner/Operators applying for multiple sites, they must submit proof of financial impact
2. Applicant must certify this grant award will be expended on costs not previously claimed by other CRF CARES funded awards (ELD Emergency Grant, PPP, Municipal Grants)
3. License type
 - a. OR proof of 12 consecutive months registered with DHS as licensed-exempt
4. Program Address
5. Applicant was not previously awarded a Child Care Assistance Grant

Evaluation – Parts A & B

Clackamas County will issue a survey to grant recipients in December 2020. The survey will contain the following:

Is the provider still in operation?

- Has the provider increased their capacity?
- Does the provider plan to continue in Operation past the expiration of their current license?
- Qualitative statements as to the impact of the grant on their operation.

Success will be measured by the number of applicants who responded positively to the questions and those who plan to continue past their current licensed period.

EXHIBIT B: SUBRECIPIENT BUDGET

| | CARES CFDA #21.019 | Lottery # 00501 | Total | |
|-----------------------|-----------------------|--------------------|------------------|--|
| Small Business Relief | 1,000,000 | | 1,000,000 | |
| Admin Fee | | 100,000 | 100,000 | |
| Total | 1,000,000 | 100,000 | 1,100,000 | |
| | | | | |

EXHIBIT C
CONGRESSIONAL LOBBYING CERTIFICATE

The undersigned certifies, to the best of his or her knowledge and belief, that:
No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 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.

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 undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

The undersigned 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 shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The Authorized Representative certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Organization understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Organization Name

Award Number or Project Name

Name and Title of Authorized Representative

Signature

Date

EXHIBIT D: Required Financial Reporting and Payment Schedule

SUBRECIPIENT shall receive payment according to the following schedule:

1. Administrative fee (\$100,000) payable upon execution of this Agreement.
2. Advance #1 (\$500,000) payable upon execution of this Agreement.
3. Advance #2 (\$500,000) payable upon mutual agreement of COUNTY Program Manager and SUBRECIPIENT based on rate of payout of previous funds advanced and anticipated need. If anticipated need is less than \$500,000 in Advance #2, COUNTY shall negotiate an accepted amount with MESO for the second advance.

At the second advance request, SUBRECIPIENT shall submit the most up-to-date general ledger (with line item detail) for payouts to program participants. The second advance request shall be in a format showing amounts received from COUNTY, minus expenses to-date, and showing balance on hand. Program participant expenses to-date on the second advance request should reconcile to the reported amounts expended in the submitted general ledger.

EXHIBIT E

WEEKLY/FINAL PERFORMANCE REPORTING

PERFORMANCE REPORTING SCHEDULE

MESO will hold weekly phone check-ins until all funds are distributed. A final performance report consolidating all data collected on the award shall be submitted by January 20, 2021.

PERFORMANCE REPORTING REQUIREMENTS

Grants Program – discussed weekly on the phone until all grants/loans are distributed, quarterly thereafter if needed.

Final Performance Reporting

Data elements shall be submitted in an excel spreadsheet and include the following information collected from program recipients:

- Number of applications received
- Number of awards made
 - Awards as #, \$ and % of allocation by voluntary reported demographic information
 - Award as #, \$, and % of allocation by region
 - Award as #, \$, and % of allocation by company size
 - Award as #, \$ and % of allocation to sole proprietors
- Program recipient data
 - Name of company
 - Employer Identification Number (EIN)
 - Oregon Business Identification Number (BIN)
 - Business Owner(s) Social Security Number
 - Address of company
 - Industry/NAICS
 - Amount of award
 - Legal business structure
 - # of employees as of February 29, 2020

| | |
|---|-------------------------------------|
| Project Name: Small Business Relief Funding - CARES | Agreement #: 21-011 |
| Federal Award #: N/A | Date of Submission: XX/XX/XX |
| Subrecipient: Micro Enterprise Solutions of Oregon | |
| Has Subrecipient submitted all requests for reimbursement? Y/N | |
| Has Subrecipient met all programmatic closeout requirements? Y/N | |

EXHIBIT E: Final Financial Report

Report of Funds received, expended, and reported as match (if applicable) under this agreement

| | |
|--|--|
| Total Federal Funds <u>authorized</u> on this agreement: | |
| Total Federal Funds <u>paid to SUBRECIPIENT</u> on this agreement: | |
| Balance of unexpended Federal Funds (Line 1 minus Line 2): | |

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

Subrecipient's Certifying Official (printed): _____

Subrecipient's Certifying Official (signature): _____

Subrecipient's Certifying Official's title: _____

EXHIBIT G: FEDERAL TERMS AND CONDITIONS

- 1) Federal Provisions
 - a) The use of all federal funds paid under this Agreement are subject to all applicable federal regulations, including the provisions described below.
 - b) SUBRECIPIENT must ensure that any further distribution or payment of the federal funds paid under this Agreement by means of any contract, subgrant, or other agreement between SUBRECIPIENT and another party for the performance of any of the activities of this Agreement, includes the requirement that such funds may be used solely in a manner that complies with the provisions of this Agreement.
 - c) SUBRECIPIENT must include and incorporate the provisions described below in all contracts and subgrants that may use, in whole or in part, the funds provided by this Agreement.
 - d) SUBRECIPIENT must comply, and ensure the compliance by subcontractors or subgrantees, with 41 USC 4712, Program for Enhancement of Employee Whistleblower Protection. SUBRECIPIENT must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC 4712.
- 2) In accordance with US Treasury guidance, SUBRECIPIENT is subject to the following provisions, as applicable:
 - a) If SUBRECIPIENT has not used funds it has received to cover costs that were incurred by December 30, 2020, as required by the statute, those funds must be returned to COUNTY.
 - b) For the purposes of these provisions, the following definitions apply:
 - i) “Contract” means this Agreement or any contract or subgrant funded by this Agreement.
 - ii) “Contractor” and “Subrecipient” and “Non-Federal entity” mean SUBRECIPIENT or SUBRECIPIENT’s contractors or subgrantees, if any.
 - c) 2 CFR 200.303 Internal Controls
 - d) 2 CFR 200.330 through 200.332 Subrecipient Monitoring and Management
 - e) Subpart F – Audit Requirements of 2 CFR 200.5XX
 - i) Contractor must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.
 - ii) If Contractor receives federal awards in excess of \$750,000 in a fiscal year, Contractor is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to COUNTY within 30 days of completion.
 - iii) Contractor must save, protect and hold harmless DAS and COUNTY from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Contract. Contractor acknowledges and agrees that any audit costs incurred by Contractor as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Contractor and COUNTY.

- 3) System for Award Management. SUBRECIPIENT must comply with applicable requirements regarding the System for Award Management (SAM), accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM. SUBRECIPIENT must also comply with applicable restrictions on subawards (“subgrants”) to first-tier subrecipients (first-tier “subgrantees”), including restrictions on subawards to entities that do not acquire and provide (to the Grantee) the unique entity identifier required for SAM registration.

Attachment 1: Coronavirus Relief Fund Frequently Asked Questions

SUBRECIPIENT is responsible to read and implement guidance found in the Coronavirus Relief Fund Frequently Asked Questions (“CRFFAQ”), published by the US Department of Treasury, as it relates to this Agreement. The CRFFAQ is updated frequently and the most up-to-date version can be found at: <https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf>