

AMERICAN RESCUE PLAN ACT
SUBRECIPIENT AGREEMENT

Between
TILLAMOOK COUNTY
and
PORT OF TILLAMOOK BAY
FOR HYBRID MEETING TECHNOLOGY EQUIPMENT

THIS AGREEMENT is made between Tillamook County, a State of Oregon political subdivision (hereinafter “COUNTY”), and Port of Tillamook Bay, a special district (hereinafter “RECIPIENT”).

WHEREAS, on March 11, 2021, President Joseph R. Biden signed into law the American Rescue Plan Act of 2021 (hereinafter “ARPA”); and

WHEREAS, on May 10, 2021, the United States Department of the Treasury (hereinafter “US TREASURY”) published guidance regarding the allowable usage of the Coronavirus State and Local Fiscal Recovery Funds (hereinafter “SLFRF”) to be disseminated to local governments in accordance with the ARPA; and

WHEREAS, the grand total allocation of SLFRF funds to the COUNTY, as published by the US TREASURY, is \$5,251,426.00; and

WHEREAS, the COUNTY received the first fifty percent (50%) of its SLFRF allocation (\$2,625,713.00) on June 14, 2021; and

WHEREAS, the RECIPIENT, a special district, submitted a written request to the COUNTY on December 15, 2021 for **Twenty Thousand Dollars (\$20,000)** in SLFRF funds for **Hybrid Meeting Technology Equipment**; and

WHEREAS, the COUNTY intends to allocate a portion of its SLFRF funds to assist community partners within Tillamook County that have suffered negative economic impacts as a result of the COVID-19 pandemic in accordance with all federal, state, and local guidelines regarding the usage of SLFRF funds; and

WHEREAS, under section 602(c)(3) of the ARPA, the COUNTY may transfer funds to a special district for the purpose of meeting ARPA’s goals; and

WHEREAS, in an effort to provide additional guidance regarding the eligible uses of SLFRF funds, the US TREASURY published a document containing answers to Frequently Asked Questions regarding Coronavirus State and Local Fiscal Recovery Funds as of July 19, 2021 (hereinafter “FAQ”); and

WHEREAS, Section 2.11 of the FAQ states that addressing educational disparities exacerbated by COVID-19, such as educational services like tutoring or afterschool programs, qualifies as an eligible use of SLFRF Funds; and

WHEREAS, during its regular public meeting on April 17, 2022 the Board of County

Commissioners (hereinafter “BOARD”) approved the aforementioned request from the RECIPIENT subject to all federal, state, and local guidelines regarding the usage of SLFRF funds, including any contractual guidelines set forth by the BOARD, as well as any audit requirements established by the Oregon State Auditor's Office (hereinafter “SAO”); and

WHEREAS, the COUNTY and RECIPIENT desire to enter into this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

1. EFFECTIVE DATE AND TERM

This Agreement shall commence when last executed by all parties and remain in effect no later than December 31, 2024, unless terminated by the COUNTY in writing.

2. GRAND TOTAL SLFRF FUNDS TO BE DISSEMINATED TO RECIPIENT

The grand total subaward of SLFRF funds to be disseminated by the COUNTY to the RECIPIENT as part of this Agreement shall not exceed Twenty Thousand Dollars (\$20,000).

3. LIMITATIONS REGARDING THE USE OF SLFRF FUNDS

The RECIPIENT shall ensure that all expenditures utilizing SLFRF funds received in accordance with this Agreement shall be limited to only those eligible services outlined in Section 2.11 of the US TREASURY ARPA FAQ.

4. REPORTING REQUIREMENTS TO ENSURE COMPLIANCE WITH ARPA

In order to ensure compliance with the existing ARPA guidelines set forth by the US TREASURY – while also ensuring that all expenditures within the scope of this Agreement adhere to future guidelines that may be established by the US TREASURY during the term of this Agreement – the RECIPIENT, when requesting reimbursement for eligible ARPA expenditures, shall provide to the COUNTY a comprehensive and detailed list of all such expenditures on an itemized invoice, and shall also provide any backup documentation to support such expenditures. Said invoice must include a statement, signed by the RECIPIENT, indicating that all expenditures therein comport with the guidelines of the ARPA as set forth by the US TREASURY. Reimbursement requests shall be submitted to the COUNTY no more than once per month. No reimbursement requests may be submitted to the COUNTY after December 31, 2024.

5. TIMELINE REGARDING THE DISSEMINATION OF FUNDS TO RECIPIENT

Upon receipt of the RECIPIENT’s complete reimbursement request, the COUNTY shall disseminate funds for all eligible ARPA expenditures therein within thirty (30) days of receipt of said reimbursement request. The dissemination of SLFRF funds shall only occur after the COUNTY reviews the RECIPIENT’s reimbursement request to ensure that all expenditures detailed therein qualify for reimbursement in accordance with all published federal, state, and local guidance regarding the use of SLFRF funds as specified in the ARPA. All payments from the COUNTY to the RECIPIENT are contingent on the availability of SLFRF funds to the COUNTY, and further subject to all applicable federal, state, and local laws regarding the governance of SLFRF funds within the ARPA.

6. EVOLUTION OF ARPA GUIDANCE FROM THE US TREASURY

The COUNTY may request additional information from the RECIPIENT, as needed, to meet any additional guidelines regarding the use of SLFRF funds that may be established by the US TREASURY during the scope of this Agreement.

7. TERMINATION

The COUNTY may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the RECIPIENT.

8. INDEPENDENT CONTRACTOR

Each party under the Agreement shall be for all purposes an independent contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The RECIPIENT shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of the COUNTY for any purpose.

9. HOLD HARMLESS AND INDEMNIFICATION

The RECIPIENT agrees to defend, indemnify, and hold the COUNTY, its officers, officials, employees, agents, and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses, including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of the RECIPIENT, its officers, directors, employees, and/or agents relating to the RECIPIENT's performance or failure to perform under this Agreement. This section shall survive the expiration or termination of this Agreement.

10. COMPLIANCE WITH LAWS AND GUIDELINES

The RECIPIENT shall comply with all federal, state, and local laws and all requirements and published guidance set forth regarding the usage of any and all monies appropriated under the ARPA.

11. MAINTENANCE AND AUDIT OF RECORDS

The RECIPIENT shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by the COUNTY or its designees, the SAO, and the US TREASURY for five (5) years following termination of this Agreement. If it is determined during the course of the audit that the RECIPIENT was reimbursed for unallowable costs under this Agreement or any, the RECIPIENT agrees to promptly reimburse the COUNTY for such payments upon request.

12. NOTICES

Any notices desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the US Postal Service (postage fully prepaid, certified mail, return receipt requested), and addressed to the party to which it is intended at its last known address, or to such person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

RECIPIENT

Michele Bradley
4000 Blimp Boulevard, Suite 100
Tillamook, Oregon 97141
mbradley@potb.org
503-354-8043

COUNTY

Rachel Hagerty
201 Laurel Avenue
Tillamook, Oregon 97141
rhagerty@co.tillamook.or.us
503-842-3404

13. IMPROPER INFLUENCE

Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

14. CONFLICT OF INTEREST

The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

15. TIME

Time is of the essence in this Agreement.

16. SURVIVAL

The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Section 9. Hold Harmless and Indemnification and Section 11. Maintenance and Audit of Records.

17. AMENDMENT

No amendment or modification to the Agreement shall be effective without prior written consent of the authorized representatives of the parties.

18. GOVERNING LAW; VENUE

The Agreement shall be governed in all respects by the laws of the State of Oregon, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in conjunction with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Tillamook County, Oregon; provided however, if an action must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

19. NON-WAIVER

No failure on the part of the COUNTY to exercise, and no delay in exercising, any right

hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the COUNTY of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the COUNTY at law or in equity.

20. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

21. ASSIGNMENT

The RECIPIENT shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the COUNTY.

22. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the COUNTY and the RECIPIENT for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.

23. NO THIRD-PARTY BENEFICIARIES

Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either party has to the US TREASURY in connection with the use of ARPA funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

24. CIVIL RIGHTS COMPLIANCE

Recipients of Federal financial assistance from the US TREASURY are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the US TREASURY do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

25. SEVERABILITY

In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

26. COUNTERPARTS

This Agreement may be executed in on or more counterparts, any of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

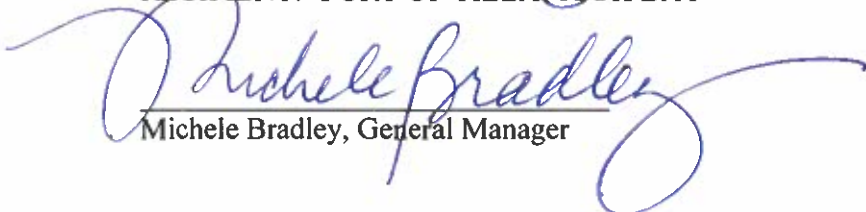
27. AUTHORIZATION

Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below:

Dated this 18 day of May, 2022.

RECIPIENT: PORT OF TILLAMOOK BAY


Michele Bradley, General Manager

Dated this ___ day of _____, 2022.

THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Aye Nay Abstain/Absent

David Yamamoto, Chair

___ ___ ___/___

Erin D. Skaar, Vice-Chair

___ ___ ___/___

Mary Faith Bell, Commissioner

___ ___ ___/___

ATTEST: Tassi O'Neil,
 County Clerk

APPROVED AS TO FORM:

By: _____
 Special Deputy

William K. Sargent,
County Counsel

**EXHIBIT A
CONTACT INFORMATION AND PROJECT DESCRIPTION**

COUNTY

Tillamook County
201 Laurel Avenue
Tillamook, Oregon 97141

RECIPIENT

Port of Tillamook Bay
4000 Blimp Boulevard, Suite 100
Tillamook, Oregon 97141

Contract Administrator: Rachel Hagerty

Title: Chief of Staff

Telephone: 503-842-3404

Email: rhagerty@co.tillamook.or.us

Contact: Michele Bradley

Title: General Manager

Telephone: 503-354-8043

Email: michele@potb.org

Project Description:

This project will install hybrid meeting equipment (cameras, microphones, accessories) in four meeting rooms for public and private events. The four meeting rooms in the RECIPIENT's buildings are the Mess Hall, main building conference room and small meeting room, and airport meeting room.

Reports:

RECIPIENT shall submit to COUNTY quarterly progress reports promptly by April 30, July 30, October 30, and January 30 of every year for the term of this Agreement and a final Project Completion Report no later than ten (10) days after the date the project is completed. The reports shall include details requested by COUNTY, including information required by the ARPA.

**EXHIBIT B
FEDERAL AWARD IDENTIFICATION (REQUIRED BY 2 CFR 200.331(A))**

(i) Subrecipient name*: <i>(must match DUNS registration)</i>	Port of Tillamook Bay
(ii) Subrecipient's DUNS number:	83645564
(iii) Federal Award Identification Number (FAIN):	1505-0271
(iv) Federal award date: <i>(date of award to DAS by federal agency)</i>	3 March 2021
(v) Grant period of performance start and end dates:	Start: 3 March 2021 End: 31 December 2024
(vi) Total amount of federal funds obligated by this Agreement:	\$20,000
(vii) **Total amount of federal award committed to Subrecipient by Agency: <i>(amount of federal funds from this FAIN committed to Recipient)</i>	\$20,000
(viii) Federal award project description	Coronavirus State and Local Fiscal Recovery Funds (SLFRF)
(ix) Federal awarding agency:	U.S. Department of the Treasury
(x) Name of pass-through entity:	Tillamook County
(xi) Contact information for awarding official of pass-through entity	Rachel Hagerty, Chief of Staff Tillamook County 503-842-3404 rhagerty@co.tillamook.or.us
(xii) CFDA number, name:	Number: 21.027 Name: American Rescue Plan Act
(xiii) Is award research and development?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(xiv) Indirect cost rate:	Not allowed per U.S. Treasury guidance
(xv) Is the 10% de minimis rate being used per §200.414?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

* For the purposes of this Exhibit B, "Subrecipient" refers to Recipient and "pass-through entity" refers to COUNTY.

** The total amount of federal funds obligated to the Subrecipient by the pass-through entity is the total amount of federal funds obligated to the Subrecipient by the pass-through entity during the current state fiscal year.

**EXHIBIT C
REPORTING FORM**