

**AGREEMENT BETWEEN THE CITY OF SALEM
AND WILLAMETTE WORKFORCE PARTNERSHIP FOR
SALEM COVID BUSINESS GRANT PROGRAM**

THIS AGREEMENT, made and entered into by and between the City of Salem, an Oregon municipal corporation with offices located at 350 Commercial St. NE, Salem, OR 97301 in Marion County ("City"), and WILLAMETTE WORKFORCE PARTNERSHIP, an Oregon Non-Profit corporation, with offices located at 626 High Street NE, #305, Salem, Oregon 97301 ("Recipient"), (collectively the "Parties").

WITNESSETH:

WHEREAS, City wishes to engage Recipient to administer the City's COVID Business Grant Program (Program);

NOW, THEREFORE, in consideration of the mutual promises, and obligations herein contained, including the Attachments, and subject to the terms and conditions hereinafter stated, the Parties understand and agree as follows:

**ARTICLE I
Funding**

- 1.1 City has allocated a maximum of one hundred and eighty eight thousand dollars (\$188,000) in 2019-2020 non-federal funding for the Program (\$100,000 in FY 19-20 General Fund, \$73,000 in Enterprise Zone repayment from non-performing beneficiaries, and \$15,000 in Marion County grant) to be administered by Recipient, with up to \$10,000 to cover administrative costs related to the Program .

**ARTICLE II
Terms**

- 2.1 The City expects that the Recipient will launch the Program in June 2020 and make grant awards to businesses in July, under this agreement.

**ARTICLE III
Scope of Service**

- 3.1 Recipient will be responsible for administering the Program, described as attached hereto as Exhibit A and incorporated herein by this reference, in a manner satisfactory to the City and consistent with any standards required as a condition of providing these funds.
- 3.2 The Program will be conducted within Salem, Oregon, and serve businesses within the city limits.

- 3.3 All activities funded through this Agreement must benefit Salem businesses with less than 40 employees that have not previously received COVID financial assistance for their businesses from Marion County, Willamette Workforce Partnership, or other COVID grant sources.
- 3.4 Recipient agrees to provide Program service as outlined in the attached hereto as Exhibit A.
- 3.5 *This was intentionally deleted.*
- 3.6 City will monitor the performance of Recipient against goals and performance standards as stated in sections 3.1 through 3.4. Substandard performance, as determined by City, will constitute noncompliance with this Agreement. If action to correct such substandard performance is not taken by Recipient within a reasonable period of time after being notified by City, contract suspension or termination procedures will be initiated.

ARTICLE IV
Time of Performance

- 4.1 Services of Recipient shall start on June 1, 2020, and end on August 30, 2020. The terms of this Agreement and the provisions herein may be extended to cover any additional time period, upon written request and approval by City.

ARTICLE V
Budget

- 5.1 Program expenditures for Business Grant Program consistent with the guidelines in Exhibit A.

ARTICLE VI
Payment

- 6.1 It is expressly agreed and understood that the total amount to be paid by City under this Agreement shall not exceed (\$198,000). Payment requests for eligible expenses shall be consistent with the guidelines in Attachment B herein and in accordance with performance. Up to ten percent of the contract amount will be dispersed at front, following contract execution, with another 35 percent following WWP's completion of the Grant Program application and launch of the Program, 35 percent of the contract amount will be paid after WWP issues grant awards for the \$188,000. The final 20 percent of the contract amount will be paid after the City's receipt of a final report, detailing the business grant awards. Pay requests must be submitted to the City, along with the documentation of the above milestones.
- 6.2 Release of final payment will be contingent on Program completion final desk audit review completed by City, if determined applicable by the City.

ARTICLE VII
Notices

- 7.1 Notices required by this Agreement shall be in writing and delivered via mail, commercial courier, or personal delivery or sent by facsimile or other electronic means. Any notice delivered or sent as aforesaid shall be effective on the date of delivery or sending. All notices and other written communications under this Agreement shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice.

Communication and details concerning this Agreement shall be directed to the following representatives:

City
Annie Gorski, Economic Development Manager
City of Salem, Urban Development Department
350 Commercial St. NE
Salem, OR 97301
503-588-6178
Fax: 503-589-2054

Recipient
Kim Parker – Llerenas
Executive Director
Willamette Workforce Partnership
626 High Street, Suite 305
Salem, OR 97301
503-581-1002
Kparker-llerenas@willwp.org

ARTICLE VIII
Special Conditions

- 8.1 None.

ARTICLE IX
General Conditions

- 9.1 *This was intentionally deleted.*

ARTICLE X
Hold Harmless

- 10.1 Recipient shall defend, indemnify, and hold City harmless from and against any and all claims, suits, actions, debts, damages, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any kind and nature whatsoever, including but not limited to property damage, personal injury, and wrongful death arising out of or in connection with Recipient's conduct of the Program under this agreement. City will hold Recipient harmless for the information provided by businesses and used to verify the size or income of a business applying for the Program, or information provided by businesses regarding the receipt of other federal COVID19 business support or assistance funds, discovered through an audit or from any other formal review.

ARTICLE XI
Employees Taxes

- 11.1 Recipient shall also defend, indemnify, and hold City harmless against all liability and loss in connection with and shall assume full responsibility for, payment of all federal, state, and local taxes or contributions imposed or required under unemployment insurance, Social Security, and income tax laws, with respect to Recipient's employees engaged in the performance of this Agreement.

ARTICLE XII
Worker's Compensation

- 12.1 Recipient, its Recipients, if any and all employees working under this Agreement are subject to Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

ARTICLE XIII
Change or Modification

- 13.1 No change, modification, or waiver of any provision in this Agreement shall be valid or binding upon the parties hereto unless such change, modification, or waiver is in writing signed by all parties hereto.

ARTICLE XIV
Change of Use

- 14.1 *This was intentionally deleted.*

ARTICLE XV
No Agency

- 15.1 Recipient is not considered an agent of City for any purpose, and employees of Recipient are not employees of City, and not entitled to any benefit the City may provide for City's employees, including but not limited to retirement benefits, medical and dental insurance, workers' compensation insurance, and unemployment insurance.

ARTICLE XVI
Insurance & Bonding

- 16.1 Recipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud, and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from City. Recipient shall obtain, maintain and provide a policy of liability insurance in form and coverage approved by the City, providing coverage is not less than \$1,000,000 "single limits" for bodily injury, personal injury, property damage, and \$2,000,000 Annual Aggregate and naming "the City of Salem, Oregon, its officers, agents and employees" as loss payee; and the Recipient shall, prior to commencing service, furnish to the City a certificate evidencing such coverage and any renewal of such coverage, and providing for not less than 30-day written notice to be given to the City in the event of cancellation or reduction in coverage. Flood insurance will be required if the project is in a designated flood zone as described in the Federal Emergency Management Agency Flood Hazard Boundary Maps or Flood Insurance Rate Maps.

ARTICLE XVII
City Recognition

- 17.1 Recipient shall ensure recognition of the role of City in providing services through this Agreement. All activities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, Recipient will include the following statement as a reference to the support provided herein in all publications made possible with funds made available under this Agreement: *"This Program made possible by funding from the City of Salem."*

ARTICLE XVIII
Amendments

- 18.1 Except as permitted in section 18.2 of this Agreement, this Agreement may be amended only by written instrument executed with the same formalities as this Agreement may be amended only in writing signed by both parties.

- 18.2 City may, in its discretion, amend this Agreement to conform with federal, state, or local governmental guidelines, policies and available funding amounts, or for other reasons, and shall promptly notify Recipient of any such amendments. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Agreement, such modifications will be incorporated only by written amendment signed by both City and Recipient.

ARTICLE XIX
Accounting Standards

- 19.1 Recipient agrees to comply with Generally Accepted Accounting Principles (GAAP) and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all cost incurred.

ARTICLE XX
Documentation and Record Keeping

- 20.1 Recipient shall maintain all records that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
- 20.2 Records providing a full description of each activity undertaken;
- 20.3 Records demonstrating that each activity undertaken serves small businesses, including the size, type, name of businesses, as well as what the business intends to use the grant funds for;
- 20.4 Records that determine the eligibility of activities or clientele;
- 20.5 *This was intentionally deleted.*
- 20.6 Recipient shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement for a period of five (5) years after Program close out. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the five-year period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the five-year period, whichever occurs later.
- 20.7 Recipient understands that certain client information collected under this Agreement may be private and the use or disclosure of such information, when not directly connected with the administration of City's or Recipient's responsibilities with respect to services provided under this Agreement, is prohibited by the ORS 192.445. Recipient's obligations under this subsection shall survive the expiration or termination of this Agreement, as required by state law.
- 20.8 Recipient's obligation to City shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to; making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to City), and determining the custodianship of records. Notwithstanding the foregoing, the terms of this Agreement shall remain in effect during any period that Recipient has control over the City's funds.
- 20.9 City shall have access to all books, documents, papers, and records of Recipient which are relevant to this agreement for the purpose of making audit, examination, excerpts, copies, and transcriptions.

ARTICLE XXI
Reporting and Payment Procedures

21.1 *This was intentionally omitted.*

21.2 City will pay to Recipient funds available under this Agreement based upon information submitted by Recipient and consistent with any approved budget and City policy concerning payments. With the exception of certain advances, payments will be made for eligible expenses actually incurred by Recipient, and not to exceed actual cash requirements. In addition, City reserves the right to liquidate funds available under this contract for costs incurred by City on behalf of Recipient.

Reporting schedule: The City requests that Willamette Workforce Partnership provide a final report to the City, following disbursement of grant funds, describing the number of applications received as well as awarded, name and type of business, number of employees, and activity the grant is to be used for. The City requests that a monthly update be provided, with an update on the application process, and that the City be given an opportunity to review the application materials, prior to be published.

ARTICLE XXII
Procurement

22.1 *This was intentionally omitted.*

ARTICLE XXIII
Personnel and Participant Conditions

23.1 Recipient agrees to comply with local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Article 104(b) and Article 109 of Title I of the Housing and Community Development Act of 1974 as amended, Article 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and Executive Order 11246 as amended by Executive Orders 11375, 11478, 12107, and 12086.

23.2 Recipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations

23.3 *This was intentionally omitted.*

23.4 *This was intentionally omitted.*

23.5 *This was intentionally omitted.*

23.6 Recipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in Article 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are African Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian Americans, and American Indians. Recipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

ARTICLE XXIV
Employment Restrictions

24.1 Recipient is prohibited from using funds provided herein or personnel employed in the administration of the Program for: political activities; inherently religious activities; lobbying; political patronage; and nepotism activities.

24.2 *This was intentionally omitted.*

ARTICLE XXV

Other Program Requirements

25.1 **Non-discrimination and Equal Opportunity:** In carrying out this Agreement, the Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, marital status, domestic partnership, disability, familial status, sexual orientation, gender identity and source of income. The Recipient shall take the necessary steps to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, sex, age, marital status, domestic partnership, disability, familial status, sexual orientation, gender identity and source of income. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Recipient shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the government setting forth the provisions of this non-discrimination clause. The Recipient, upon execution of this Agreement, shall agree that all qualified candidates will receive consideration for employment without regard to race, color, religion, national origin, sex, age, marital status, domestic partnership, disability, familial status, sexual orientation, gender identity and source of income. The Recipient shall comply with City Ordinance, regarding Equal Employment Opportunity and Affirmative Action.

25.2 **Disclosure Requirements:** Accurate, current and complete disclosure of the financial results of activities under this Agreement in accordance with generally accepted business practice. If Recipient accounting records are maintained on a cash basis, Recipient must develop information of accounts payable and accounts receivable through an analysis of the documents in the file, or on the basis of its best estimates.

25.3 *This was intentionally omitted.*

25.4 **Drug Free Work Place:** The Recipient will provide a drug-free workplace by:

- a Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- b Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
- c Make good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) and (b).

25.5 *This section was intentionally omitted.*

25.6 *This section was intentionally omitted.*

ARTICLE XXVI

26.1 *This was intentionally omitted,*

Article XXVII

Conduct

- 27.1 Recipient shall not assign or transfer any interest in this Agreement without the prior written consent of City thereto; provided, however, that claims for money due or to become due to Recipient from City under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to City.
- 27.2 Recipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of City prior to the execution of such agreement.
- 27.3 Recipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports, the status reports, and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.
- 27.4 Recipient shall cause all of the provisions of this contract in its entirety to be included in and made a part of any subcontract executed in the performance of this Agreement.

ARTICLE XXVIII Political Activities

- 28.1 Recipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Federal, State or Local laws.

ARTICLE XXIX Conflict of Interest

- 29.1 No employee, agent, consultant, officer, elected or appointed official of City, or Recipient of funds under this agreement, may obtain a financial interest or benefit from the Program covered by this agreement, or have any interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- 29.2 Recipient shall maintain a written code or standard of conduct that shall govern the performance of its officers, employee, or agents engaged in the award and administration of contracts supported by federal funds.

ARTICLE XXX Lobbying

- 30.1 *This was intentionally omitted.*

ARTICLE XXXI

- 31.1 This was intentionally omitted.

ARTICLE XXXII Heading and Subheadings

- 32.1 The Article headings and subheadings contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.

ARTICLE XXXIII Severability

- 33.1 Invalidity of any term or provision herein by judgment or court order shall not affect any other provisions, which shall remain in full force and effect.

ARTICLE XXXIV
Entire Agreement

- 34.1 This Agreement constitutes the entire agreement between City and 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 City and Recipient with respect to this Agreement.

ARTICLE XXXV
Termination/Withdraw

- 35.1 For purposes of this Agreement, cause shall mean material breach of the terms and conditions of this Agreement. Either party, believing it has cause to terminate the Agreement, shall give written notice of not less than ten (10) days, specifying the cause and the date selected for termination; and, if the breach is not remedied within ten (10) days, or other greater period of time as specified within the notice, either party may terminate the relationship.
- If the breach is not remedied within ten (10) days either party may withdraw from this Agreement for cause upon the giving of not less than thirty (30) days written notice of the date selected for withdrawal.
- 35.2 Suspension or termination may also occur in the event of default, inability, or failure to perform on the part of Recipient.
- 35.3 Funding for the Program is contingent upon City Council approval. City shall inform Willamette Workforce Partnership following the Council meeting if funding for the Program has not been approved in the amount identified herein and/or changes have been made to the Program Guidelines.
- 35.4 Unless sooner terminated under this Article or by mutual agreement of the Parties, this agreement will terminate August 30, 2020.

IN WITNESS WHEREOF, the parties hereto duly execute this agreement, and it becomes effective, as of the day and year last signed below.

Recipient:

WILLAMETTE WORKFORCE PARTNERSHIP
an Oregon Non-Profit corporation

Kim Parker - Llerenas, Executive Director

Date

Grantor:

City Of Salem, Oregon
an Oregon municipal corporation

Steven D. Powers, City Manager
City of Salem

Date

Exhibit A Grant Program Guidelines