

**RESOLUTION NO. 1534
CITY OF PRINEVILLE, OREGON**

**A RESOLUTION APPROVING SUBGRANT AGREEMENT WITH CROOK COUNTY
FOR CORONAVIRUS STATE FISCAL RECOVERY FUND GRANT AGREEMENT
NO. 8227**

Whereas, on or about June 7, 2022, Crook County (“Crook”) executed Grant Agreement No. 8227 with the Oregon Department of Administrative Services for Coronavirus State Fiscal Recovery Fund monies; and

Whereas, one of the expected uses of those funds is to develop the intersection of Peters Road and Main St (“Intersection”) in Prineville, Oregon; and

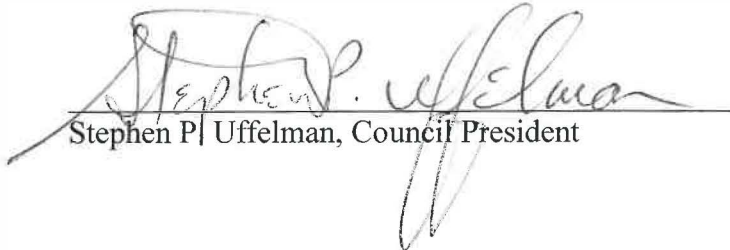
Whereas, the City of Prineville (“City”) is willing and prepared to undertake the work necessary to complete the portion of the Grant Agreement in connection with the Intersection;

Whereas, Crook has prepared a Sub-Grant Agreement, attached hereto and incorporated herein, which provides the City a grant of \$500,000 for the Main Street and Peters Road Project; and

Whereas, City staff believes it is in the best interest of the City to approve and execute the Sub-Grant Agreement.

NOW, THEREFORE, the City of Prineville resolves that the Grant Agreement is hereby approved and that the City Manager is authorized to sign such Sub-Agreement on behalf of the City.

Approved by the City Council this 26th day of July, 2022.



Stephen P. Uffelman, Council President

ATTEST:



Lisa Morgan, City Recorder

SUB-GRANT AGREEMENT
for
Coronavirus State Fiscal Recovery Fund
Grant Agreement No. 8227

This Sub-Grant Agreement (hereinafter “Sub-Grant”) is made by and between Crook County, a political subdivision of the State of Oregon (hereinafter “the County,”) and the City of Prineville, an Oregon municipal corporation (hereinafter “the City.”) County and City may be collectively referred to as the Parties, or individually as a Party.

RECITALS

- A. WHEREAS, on or about June 7, 2022, Crook County executed Grant Agreement No. 8227 with the Oregon Department of Administrative Services for Coronavirus State Fiscal Recovery Fund monies; and
- B. WHEREAS, one of the expected use of those funds is to “develop the intersection of Peters Road and Main St” in Prineville, Oregon; and
- C. WHEREAS, the City is interested, willing, and prepared to undertake the work necessary to complete this portion of Grant Agreement No. 8227, in accordance with the terms and requirements thereof.

AGREEMENT

Now, therefore, in consideration of the mutual covenants contained herein, the sufficiency of which is acknowledged, the Parties agree as follows:

- 1. Incorporation of Recitals: The above Recitals are incorporated into and made a part hereof, as terms of contract and not mere recitals.
- 2. Effective Date: This Sub-Grant becomes effective upon the occurrence of all of the following:
 - a. The execution of Grant Agreement No. 8227 between the County and the Oregon Department of Administrative Services;
 - b. The execution of this Grant Award by the Parties; and
 - c. The payment by the Oregon Department of Administrative Services to the County, in accordance with Section 3(A) of Grant Agreement No. 8227.
- 3. Duration: Unless terminated sooner according to its terms, this Sub-Grant will continue in full force and effect until JULY 15, 2024.
- 4. Incorporation of Required Terms: The City agrees to adhere to the requirements of Grant Agreement No. 8227 as if an original party thereof, and to conform to its restrictions and obligations; provided that the City is only required to undertake those

activities connected with the “Use of Funds,” Section 6 below. Without limiting the foregoing, the City agrees to the following:

- a. The City will provide such financial records as the County or the Oregon Department of Administrative Services, or their agents and representatives, may request, including reasonable opportunities to inspect and made copies of such.
- b. The City will return to the Oregon Department of Administrative Services any grant funds not disbursed by the Completion Deadline.
- c. The City will notify the County and Oregon Department of Administrative Services any adverse change in the activities, prospects or condition (financial or otherwise) of the City related to the ability of the City to perform all obligations required by this Sub-Grant.

5. Distribution of Funds: Within ten (10) business days of the County’s receipt of funds from the Oregon Department of Administrative Services, the County will remit to the City up to Five Hundred Thousand and 00/100 Dollars (\$500,000.00) for the services to be performed under this Sub-Grant; provided, however, that if the Oregon Department of Administrative Services does not remit the entire amount due under Grant Agreement No. 8227 in one lump sum, then, within ten (10) business days, the County will instead remit one-third (1/3) of such payment(s) as it may receive to the City of Prineville.

6. Use of Funds:

- a. The City will use such funds as may be provided under this Sub-Grant only in accordance with applicable law, including but not limited to Oregon prevailing wage laws, the American Rescue Plan Act (42 USC § 802 et seq.), the state and federal administrative rules adopted thereunder, and the employee whistleblower protection statute (41 USC § 4712).
- b. The City will use the funds as may be provided under this Sub-Grant for the following activities: “to develop the intersection of Peters Road and Main St” in Prineville, Oregon.
- c. The City will track its administrative costs incurred pursuant to this Sub-Grant and the work thereunder, and will cooperate with the County in compiling such information for transmission to the Oregon Department of Administrative Services not later than July 1, 2024.

7. Cooperation in Reporting Requirements: The Parties will cooperate with each other in the drafting and transmission of a Project Performance Plan, Quarterly Reports, and Annual Reports, in accordance with the requirements of Grant Agreement No. 8227.

8. Required Insurance and Indemnity: The City will require all first-tier subcontractors as it may engage to obtain the insurance described in Exhibit B of Grant Agreement No. 8227 and maintain such insurance in full force and effect for the duration of this Sub-Grant. This includes but is not limited to the requirements regarding naming the State of Oregon an additional insured, and waiver of subrogation, as described therein.

9. Termination: This Sub-Grant may be terminated by any of the following:

- a. If Grant Agreement No. 8227 is terminated by any party thereto, this Sub-Grant may be immediately terminated upon receipt of a written termination notice to the City. Such notice will specify the reason for the immediate termination. Upon receipt of the written notice, the City will cease all activities to be paid for through use of the funds provided by this Sub-Grant.
- b. For Cause: With reasonable cause, either Party may terminate this Sub-Grant after giving the other Party ten (10) days' prior written notice of termination for cause. Reasonable cause shall include material violation of this Sub-Grant or any act exposing the other Party to liability to others.
- c. Change in Operative Law: In the event that any applicable law should be changed, whether through legislation, adoption of administrative rules, or judgment of a court of competent jurisdiction, the effect of which change is that the provisions of this Sub-Grant can no longer be applied as the Parties have agreed, then the Parties will meet to discuss, in good faith, whether and how this Sub-Grant may be amended to conform to such changes in the law. If, after reasonable efforts under the circumstances, the Parties are unable to come to terms, either Party may terminate this Sub-Grant after giving the other Party ten (10) days' prior written notice of termination; provided, however, that if applicable law requires it, a shorter period of written notice may be provided instead.
- d. No termination or expiration of this Sub-Grant will prejudice any right which accrued prior to such termination or expiration.

10. Submittal of W-9 Before Payment: The City must provide County with a fully completed W-9 form upon execution of the Sub-Grant and prior to beginning services. The City will not be paid until a fully completed W-9 form is submitted.

11. Entire Agreement: This Sub-Grant signed by both parties is the final and entire agreement and supersedes all prior and contemporaneous oral or written communications between the parties, their agents, and representatives.

12. Amendments: The terms of this Sub-Grant shall not be waived, altered, modified, supplemented or amended in any manner whatsoever, without prior written approval of County. No modification of this Sub-Grant shall bind either party unless

reduced to writing and subscribed by both parties, or ordered by a court of competent jurisdiction.

13. Successors in Interest: The provisions of this Sub-Grant shall be binding upon and shall inure to the benefit of the Parties to this Sub-Grant and their respective successors and assigns.

14. No Authority to Bind the Other Party: Neither Party has authority to enter into contracts on behalf of the other Party. This Sub-Grant does not create a partnership between the Parties.

15. Notices: Any notice given in connection with this Agreement must be in writing and be delivered either by hand to the party or by certified mail, return receipt requested, to the party at the party's address as stated below:

For the County:

Crook County
Attn: County Counsel's Office
300 NE 3rd Street
Prineville, OR 97754

For the City:

City of Prineville
Attn: City Manager
387 NE 3rd Street
Prineville, OR 97754

16. Governing Law and Venue: Any dispute under this Sub-Grant will be governed by Oregon law with venue being located in Crook County, Oregon; provided, however, that if the State of Oregon is or becomes a party to such dispute(s), the venue will be as described in Section 10(b) of Grant Agreement No. 8227.

17. Severability: If any provision of this Sub-Grant is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the Parties shall be construed and enforced as if the Sub-Grant did not contain the particular provision held to be invalid.

18. Attorney Fees: In the event an action, lawsuit, or proceeding, including appeal therefrom, is brought for failure to observe any of the terms of this Sub-Grant, each Party shall bear its own attorney fees, expenses, costs, and disbursements for said action, lawsuit, proceeding, or appeal.

19. Waiver: The failure of either party at any time or from time to time to enforce any of the terms of this Sub-Grant shall not be construed to be a waiver of such term or of such party's right to thereafter enforce each and every provision of the Sub-Grant.

20. Indemnification and Hold-Harmless:

- a. To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the City shall defend, save, hold harmless, and indemnify the County and its officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or

arising out of, or relating to the activities of the City or its officers, employees, contractors, or agents under this Sub-Grant.

- b. To the extent permitted by Article XI, Section 10, of the Oregon Constitution and the Oregon Tort Claims Act, ORS 30.260 through 30.300, the County shall defend, save, hold harmless, and indemnify the City and its officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or arising out of, or relating to the activities of the County or its officers, employees, contractors, or agents under this Sub-Grant.
- c. Neither party shall be liable to the other for any incidental or consequential damages arising out of or related to this Sub-Grant. Neither Party shall be liable for any damages of any sort arising solely from the termination of this Sub-Grant or any part hereof in accordance with its terms.

21. Counterparts: This Sub-Grant may be executed in one or more counterparts, including electronically transmitted counterparts, which when taken together shall constitute one in the same instrument. Facsimiles and electronic transmittals of the signed document shall be binding as though they were an original of such signed document.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective the date first set forth above.

For City of Prineville

For Crook County

By: 
Signature

CROOK COUNTY COURT

Seth Crawford, County Judge
Date: _____

Steve Forrester, City Manager
Date: July 26, 2022

Jerry Brummer, County Commissioner
Date: _____

Brian Barney, County Commissioner
Date: _____

**CORONAVIRUS STATE FISCAL RECOVERY FUND
GRANT AGREEMENT**

Contract Number: 8227

This grant agreement (“Contract”), dated as of the date the Contract is fully executed, is between the State of Oregon, acting through its Oregon Department of Administrative Services (“DAS”), and Crook County (“Recipient”). This Contract becomes effective only when fully signed and approved as required by applicable law (“Effective Date”). Unless extended or terminated earlier in accordance with its terms, this Contract shall expire **October 1, 2024**.

This Contract includes Exhibit A - Contact Information, Use of Funds/Project Description and Reporting Requirements, Exhibit B – Subcontract Insurance Requirements and Exhibit C - Federal Award Identification.

Pursuant to Oregon Laws 2021, chapter 669, section 74, DAS is authorized to distribute grant funds from funds received by the State of Oregon under the federal American Rescue Plan Act Coronavirus State Fiscal Recovery Fund (codified as 42 U.S.C. 802) for the purpose of Crook County Infrastructure and Economic Development as more particularly described in Exhibit A.

SECTION 1 - KEY GRANT TERMS

The following capitalized terms have the meanings assigned below.

Grant Amount: \$1,500,000.00

Completion Deadline: June 30, 2024.

SECTION 2 - FINANCIAL ASSISTANCE

DAS shall provide Recipient, and Recipient shall accept from DAS, a grant (the “Grant”) in an aggregate amount not to exceed the Grant Amount.

DAS’s obligations are subject to the receipt of the following items, in form and substance satisfactory to DAS and its Counsel:

- (1) This Contract duly signed by an authorized officer of Recipient; and
- (2) Such other certificates, documents, opinions and information as DAS may reasonably require.

SECTION 3 - DISBURSEMENT

- A. Full Disbursement. Upon execution of this Contract and satisfaction of all conditions precedent, DAS shall disburse the full Grant to Recipient.
- B. Financing Availability. DAS’s obligation to make, and Recipient’s right to request disbursement under this Contract terminate on the Completion Deadline.
- C. Conditions to Disbursements. DAS has no obligation to disburse Grant funds unless:
 - (1) DAS has sufficient funds currently available for this Contract; and

(2) DAS has received appropriations, limitations, allotments or other expenditure authority sufficient to allow DAS, in the exercise of its reasonable administrative discretion, to make payment, and notwithstanding anything in the Contract, occurrence of such contingency does not constitute a default.

SECTION 4 - USE OF GRANT

As more particularly described in Exhibit A, Recipient will use the Grant for Crook County infrastructure and economic development (the "Project"). Recipient may only use Grant funds to cover Project costs incurred during the period beginning March 3, 2021, and ending on the Completion Deadline ("Eligible Costs"). Recipient must disburse the entire Grant Amount on Eligible Costs no later than the Completion Deadline.

SECTION 5 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

Recipient represents and warrants to DAS as follows:

A. Organization and Authority.

- (1) Recipient is a public body validly organized and existing under the laws of the State of Oregon.
- (2) Recipient has all necessary right, power and authority under its organizational documents and applicable Oregon law to execute and deliver this Contract and incur and perform its obligations under this Contract.
- (3) This Contract has been authorized by an ordinance, order or resolution of Recipient's governing body if required by its organizational documents or applicable law.
- (4) This Contract has been duly executed by Recipient, and when executed by DAS, is legal, valid and binding, and enforceable in accordance with their terms.

B. Compliance with Coronavirus State Fiscal Recovery Fund. Recipient will comply with the terms, conditions and requirements of the federal Coronavirus State Fiscal Recovery Fund (codified at 42 U.S.C. 802) from which the Grant is funded, including all implementing regulations (31 CFR 35.1 *et seq.*) and other guidance promulgated by the U.S. Department of the Treasury (collectively, the "CSFRF").

C. Full Disclosure. Recipient has disclosed in writing to DAS all facts that materially adversely affect the Grant, or the ability of Recipient to perform all obligations required by this Contract. Recipient has made no false statements of fact, nor omitted information necessary to prevent any statements from being misleading. The information contained in this Contract, including Exhibit A, is true and accurate in all respects.

D. Pending Litigation. Recipient has disclosed in writing to DAS all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Grant or the ability of Recipient to perform all obligations required by this Contract.

SECTION 6 - COVENANTS OF RECIPIENT

Recipient covenants as follows:

- A. Notice of Adverse Change. Recipient shall promptly notify DAS of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient related to the ability of Recipient to perform all obligations required by this Contract.
- B. Compliance with Laws.
- (1) Recipient will comply with the requirements of all applicable federal, state and local laws, rules, regulations, and orders of any governmental authority, except to the extent an order of a governmental authority is contested in good faith and by proper proceedings.
 - (2) Recipient is responsible for all federal or state tax laws applicable to its implementation of the Project and its use of the Grant or compensation or payments paid with the Grant.
- C. Federal Audit Requirements. The Grant is federal financial assistance, and the associated Assistance Listings number is 21.027. Recipient is a subrecipient.
- (1) If Recipient receives federal funds in excess of \$750,000 in Recipient's fiscal year, it is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Recipient, if subject to this requirement, shall at its own expense submit to DAS a copy of, or electronic link to, its annual audit subject to this requirement covering the funds expended under this Contract and shall submit or cause to be submitted to DAS the annual audit of any subrecipient(s), contractor(s), or subcontractor(s) of Recipient responsible for the financial management of funds received under this Contract.
 - (2) Audit costs for audits not required in accordance with 2 CFR part 200, subpart F are unallowable. If Recipient did not expend \$750,000 or more in Federal funds in its fiscal year, but contracted with a certified public accountant to perform an audit, costs for performance of that audit shall not be charged to the funds received under this Contract.
 - (3) Recipient shall save, protect and hold harmless DAS from the cost of any audits or special investigations performed by the Federal awarding agency or any federal agency with respect to the funds expended under this Contract. Recipient acknowledges and agrees that any audit costs incurred by Recipient as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Recipient and the State of Oregon.
 - (4) Recipient is authorized to use the Grant to pay itself for those administrative costs that are eligible costs under the CSFRF to implement the Project. DAS's approval of Recipient's administrative costs does not preclude the State of Oregon from later recovering costs from Recipient if the U.S. Department of the Treasury disallows certain costs after an audit.
- D. System for Award Management. Recipient must comply with applicable requirements regarding the federal System for Award Management (SAM), currently accessible at <https://www.sam.gov>. This includes applicable requirements regarding registration with SAM, as well as maintaining current information in SAM.
- E. Employee Whistleblower Protection. Recipient must comply, and ensure the compliance by subcontractors or subrecipients, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Recipient must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.

- F. Compliance with 2 CFR Part 200. Recipient must comply with all applicable provision of 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, including the Cost Principles and Single Audit Act requirements.
- G. Federal Funds. DAS's payments to Recipient under this Grant will be paid by funds received by DAS from the United States Federal Government. Recipient, by signing this Grant certifies neither it nor its employees, contractors, subcontractors or subrecipients who will administer this Contract are currently employed by an agency or department of the federal government.
- H. Alternative Dispute Resolution. The parties should attempt in good faith to resolve any dispute arising out of this Contract. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Contract. In addition, the parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- I. Return of Undisbursed Grant Funds. Recipient must return to DAS any Grant funds not disbursed by the Completion Deadline.
- J. Financial Records. Recipient will cooperate with DAS to provide all necessary financial information and records to comply with CSFRF reporting requirements, as well as provide DAS the reporting required in Exhibit A. Recipient will keep proper books of account and records on all activities associated with the Grant, including, but not limited to, invoices, cancelled checks, payroll records, instruments, agreements and other supporting financial records documenting the use of the Grant. Recipient will maintain these books of account and records in accordance with generally accepted accounting principles and will retain these books of account and records until five years after the Completion Deadline or the date that all disputes, if any, arising under this Contract have been resolved, whichever is later.
- K. Inspection. Recipient shall permit DAS, and any party designated by DAS, the Oregon Secretary of State's Office, the federal government and their duly authorized representatives, at any reasonable time, to inspect and make copies of any accounts, books and records related to the administration of this Contract. Recipient shall supply any Contract-related information as DAS may reasonably require.
- L. Notice of Event of Default. Recipient shall give DAS prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- M. Contribution and Recipient Subcontracts.
- (1) Contribution.
- (i) If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third-Party Claim") against a party (the "Notified Party") with respect to which the other party ("Other Party") may have liability, the Notified Party must promptly notify the Other Party in writing of the Third-Party Claim and deliver to the Other Party a copy of the claim, process, and all legal pleadings with respect to the Third-Party Claim. Either party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this paragraph and meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of

its own choosing are conditions precedent to the Other Party's liability with respect to the Third-Party Claim.

(ii) With respect to a Third-Party Claim for which DAS is jointly liable with Recipient (or would be if joined in the Third-Party Claim), DAS shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of DAS on the one hand and of Recipient on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of DAS on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. DAS's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if DAS had sole liability in the proceeding.

(iii) With respect to a Third-Party Claim for which Recipient is jointly liable with DAS (or would be if joined in the Third-Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by DAS in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of DAS on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of DAS on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

(2) Recipient Subcontracts. Recipient may enter into agreements with contractors or subcontractors (collectively, "Subcontracts") for performance of the Project.

(i) Recipient shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnitee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the contractor from and against any and all Claims.

(ii) Recipient shall require its first-tier contractor(s) that are not units of local government as defined in ORS 190.003, if any, to: i) obtain insurance of the types and in the amounts specified in Exhibit B and meeting the requirements under ADDITIONAL INSURED, NOTICE OF CANCELLATION OR CHANGE, and CERTIFICATES OF INSURANCE before the contractors perform under its Subcontracts, and ii) maintain the insurance in full force throughout the duration of the Subcontracts. The insurance must be provided by insurance companies or entities that are authorized to transact the business of insurance and issue coverage

in the State of Oregon and that are acceptable to DAS. Recipient shall not authorize contractors to begin work under the Subcontracts until the insurance is in full force. Thereafter, Recipient shall monitor continued compliance with the insurance requirements on an annual or more frequent basis. Recipient shall incorporate appropriate provisions in the Subcontracts permitting it to enforce contractor compliance with the insurance requirements and shall take all reasonable steps to enforce such compliance. Examples of “reasonable steps” include issuing stop work orders (or the equivalent) until the insurance is in full force or terminating the Subcontracts as permitted by the Subcontracts, or pursuing legal action to enforce the insurance requirements. In no event shall Recipient permit a contractor to work under a Subcontract when Recipient is aware that the contractor is not in compliance with the insurance requirements. As used in this section, a “first tier” contractor is a contractor with which Recipient directly enters into a contract. It does not include a subcontractor with which the contractor enters into a contract.

N. Representations and Covenants Regarding Prevailing Wage.

- (1) The prevailing wage rate requirements that may apply to the Project are set forth in ORS 279C.800 through 279C.870, the administrative rules promulgated thereunder (OAR Chapter 839, Division 25) and Oregon Laws 2021, chapter 678, section 17 (collectively, state “PWR”), or, if applicable, 40 U.S.C. 3141 et seq. (federal “Davis-Bacon Act”). If applicable, Recipient shall:
 - a) comply with PWR, require its contractors and subcontractors to pay the applicable PWR or Davis-Bacon Act rates, as applicable, and to comply with all other Oregon Bureau of Labor and Industries (“BOLI”) requirements pursuant to the PWR, including on all contracts and subcontracts and in filing separate public works bonds with the Construction Contractors Board;
 - b) pay to BOLI, within the required timeframe and in the appropriate amount, the project fee required by OAR 839-025-0200 to 839-025-0230, including any additional fee that may be owed upon completion of the Project; and
 - c) unless exempt under Section 17(2) of Oregon Laws 2021, chapter 678, if Recipient is a “public body” and the Project is a “qualified project,” as those terms are defined in Section 17(3) of Oregon Laws 2021, chapter 678, Recipient shall require each contractor in a contract with an estimated cost of \$200,000 or greater to:
 - i. Enter into a project labor agreement that, at a minimum, provides for payment of wages at or above the prevailing rate of wage;
 - ii. Employ apprentices to perform 15 percent of the work hours that workers in apprenticeable occupations perform under the contract, in a manner consistent with the apprentices’ respective apprenticeship training programs;
 - iii. Establish and execute a plan for outreach, recruitment and retention of women, minority individuals and veterans to perform work under the contract, with the aspirational target of having at least 15 percent of total work hours performed by individuals in one or more of those groups; and
 - iv. Require any subcontractor engaged by the contractor to abide by the requirements set forth in subparagraphs (i), (ii) and (iii) above, if the work to

be performed under the subcontract has an estimated cost of \$200,000 or greater.

- (2) Recipient represents and warrants that it is not on the BOLI current List of Contractors Ineligible to Receive Public Works Contracts and that it will not contract with any contractor on this list.
- (3) Pursuant to ORS 279C.817, Recipient may request that the Commissioner of BOLI make a determination about whether the Project is a public works on which payment of the prevailing rate of wage is required under ORS 279C.840.

SECTION 7 - DEFAULT

- A. Recipient Default. Any of the following constitutes an “Event of Default” of Recipient:
- (1) Misleading Statement. Any materially false or misleading representation is made by or on behalf of Recipient, in this Contract or in any document provided by Recipient related to this Grant.
 - (2) Failure to Perform. Recipient fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Contract, other than those referred to in subsection A of this section, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by DAS. DAS may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.
- B. DAS Default. DAS will be in default under this Contract if it fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Contract.

SECTION 8 - REMEDIES

- A. DAS Remedies. Upon the occurrence of an Event of Default, DAS may pursue any remedies available under this Contract, at law or in equity. Such remedies include, but are not limited to, termination of DAS’s obligations to make the Grant or further disbursements, return of all or a portion of the Grant Amount, payment of interest earned on the Grant Amount, and declaration of ineligibility for the receipt of future awards from DAS. If, as a result of an Event of Default, DAS demands return of all or a portion of the Grant Amount or payment of interest earned on the Grant Amount, Recipient shall pay the amount upon DAS’s demand. DAS may also recover all or a portion of any amount due from Recipient by deducting that amount from any payment due to Recipient from the State of Oregon under any other contract or agreement, present or future, unless prohibited by state or federal law. DAS reserves the right to turn over any unpaid debt under this Section 8 to the Oregon Department of Revenue or a collection agency and may publicly report any delinquency or default. These remedies are cumulative and not exclusive of any other remedies provided by law.
- B. Recipient Remedies. In the event of default by DAS, Recipient’s sole remedy will be for disbursement of Grant funds for Eligible Costs of the Project, not to exceed the total Grant Amount, less any claims DAS has against Recipient.

SECTION 9 - TERMINATION

In addition to terminating this Contract upon an Event of Default as provided in Section 8, DAS may terminate this Contract with notice to Recipient under any of the following circumstances:

- A. If DAS anticipates a shortfall in applicable revenues or DAS fails to receive sufficient funding, appropriations or other expenditure authorizations to allow DAS, in its reasonable discretion, to continue making payments under this Contract.
- B. There is a change in federal or state laws, rules, regulations or guidelines so that the uses of the Grant are no longer eligible for funding.

This Contract may be terminated at any time by mutual written consent of the parties.

SECTION 10 - MISCELLANEOUS

- A. No Implied Waiver. No failure or delay on the part of DAS to exercise any right, power, or privilege under this Contract will operate as a waiver thereof, nor will any single or partial exercise of any right, power, or privilege under this Contract preclude any other or further exercise thereof or the exercise of any other such right, power, or privilege.
- B. Choice of Law; Designation of Forum: Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- C. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or DAS at the addresses listed in Exhibit A, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's

confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

- D. Amendments. This Contract may not be altered, modified, supplemented, or amended in any manner except by written instrument signed by both parties.
- E. Severability. If any provision of this Contract will be held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision.
- F. Successors and Assigns. This Contract will be binding upon and inure to the benefit of DAS, Recipient, and their respective successors and assigns, except that Recipient may not assign or transfer its rights, obligations or any interest without the prior written consent of DAS.
- G. Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.
- H. Integration. This Contract (including all exhibits, schedules or attachments) constitutes the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- I. No Third-Party Beneficiaries. DAS and Recipient are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives or provides, or is intended to give or provide, to third persons any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.
- J. Survival. The following provisions, including this one, survive expiration or termination of this Contract: Sections 6, 7, 8, 10.B, 10.C, 10.L and 10.M.
- K. Time is of the Essence. Recipient agrees that time is of the essence under this Contract.
- L. Attorney Fees. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract will be entitled to recover from the other its reasonable attorney fees and costs and expenses at trial, in a bankruptcy, receivership or similar proceeding, and on appeal. Reasonable attorney fees shall not exceed the rate charged to DAS by its attorneys.
- M. Public Records. DAS's obligations under this Contract are subject to the Oregon Public Records Laws.

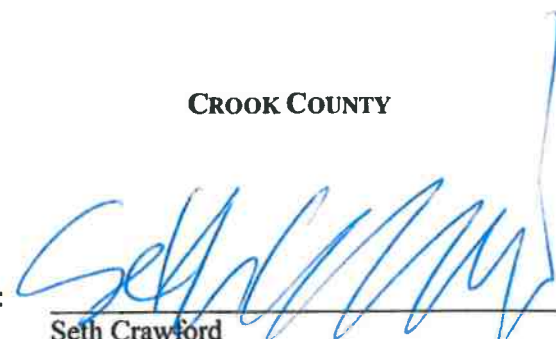
Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Department of Administrative Services

CROOK COUNTY

By: 
George Naughton
DAS Chief Financial Officer

By: 
Seth Crawford
County Judge

Date: 6/7/22

Date: June 1, 2022

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

s/ Samuel B. Zeigler 3/11/2022
Samuel B. Zeigler, Senior Assistant Attorney General

EXHIBIT A
CONTACT INFORMATION, USE OF FUNDS/ PROJECT DESCRIPTION AND REPORTING REQUIREMENTS

Contact Information:

DAS

State of Oregon, acting by and through its
 Department of Administrative Services
 155 Cottage St. NE
 Salem, OR 97301-3966

Recipient

Crook County
 300 NE 3rd St.
 Prineville, OR 97754

Contract Administrator: Cathleen Connolly

Contact: Dodge Kerr

Telephone: 971-374-3309

Telephone: 541-447-6554 ext 396

Email: Cathleen.z.connolly@das.oregon.gov

Email: dodge.kerr@co.crook.or.us

Use of Funds/ Project Description:

Recipient shall use Grant funds to develop the intersection of Peters Road and Main St and purchase public safety vehicles.

Reporting Requirements:

Schedule

Report Name	Frequency	Due Dates
Project Performance Plan	One-Time	45 days after the Effective Date
Quarterly Report	Quarterly	April 15 th , July 15 th , October 15 th , January 15 th
Annual Report	Annually	July 15 th

Project Performance Plan

Recipient shall submit to DAS, using a template and instructions provided by DAS, the following information in the Project Performance Plan:

1. Problem Statement
2. Goal
3. Rationales
4. Assumptions
5. Resources
6. Activities
7. Outputs
8. Short-Term Outcomes

- 9. Intermediate Outcomes
- 10. Long-Term Outcomes

Quarterly Reports

Recipient shall submit Quarterly Reports to DAS which shall include such information as is necessary for DAS to comply with the reporting requirements established by 42 U.S.C. 802, guidance issued by the U.S. Treasury, and 2 CFR Part 200 (known as the “Super Circular”). The reports shall be submitted using a template provided by DAS that includes the following information:

- 1. Expenditure Report
 - a) Quarterly Obligation Amount
 - b) Quarterly Expenditure Amount
 - c) Projects
 - d) Primary Location of Project Performance
 - e) Detailed Expenditures (categories to be provided by DAS)
- 2. Project Status Update
 - a) Status of project: not started, completed less than 50 percent, completed 50 percent or more, completed.
 - b) Progress since last update including project outputs and achieved outcomes.
 - c) Identify barriers/risks to outcomes and describe actions taken to mitigate delays/risks to the overall project goal.
 - d) Optional: Share with DAS community outreach/engagement or other positive local news stories.

Annual Reports

Recipient shall submit to DAS a report annually on the following, as applicable, using a template provided by DAS:

- 1. How the Project is Promoting Equitable Outcomes, if applicable
- 2. How the Project is Engaging with the Community, if applicable

Administrative Costs

Recipient shall also deliver to DAS no later than July 15, 2024, an accounting of all of its direct administrative costs paid by this Grant accompanied by a certification statement that all such costs comply with the CSFRF. Grant funds may not be used to pay for any costs incurred after the Completion Deadline. For any unexpended Grant funds that were allocated for administrative costs as provided in the not-to-exceed amount above, DAS will direct Recipient on how to return or expend any such funds.

EXHIBIT B – SUBCONTRACT INSURANCE REQUIREMENTS

Recipient shall require each of its first-tier contractors that are not units of local government as defined in ORS 190.003 (each a “Contractor”) to obtain, at the Contractor’s expense, the insurance specified in this Exhibit B before performing under this Contract and to maintain it in full force and at the Contractor’s own expense throughout the duration of this Contract, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Contractors shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DAS. Coverage shall be primary and non-contributory with any other insurance and self-insurance, with the exception of Professional Liability and Workers’ Compensation. Contractors shall pay for all deductibles, self-insured retention and self-insurance, if any. Recipient shall require and ensure that each of its Contractors complies with these requirements and maintains insurance policies with responsible insurers, insuring against liability, in the coverages and amounts identified below.

WORKERS’ COMPENSATION & EMPLOYERS’ LIABILITY

All employers, including Contractors, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Recipient shall require and ensure that each of its Contractors complies with these requirements. If a Contractor is a subject employer, as defined in ORS 656.023, the Contractor shall also obtain employers' liability insurance coverage with limits not less than \$500,000 each accident. If the Contractor is an employer subject to any other state’s workers’ compensation law, Contractor shall provide workers’ compensation insurance coverage for its employees as required by applicable workers’ compensation laws including employers’ liability insurance coverage with limits not less than \$500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

As applicable, each Contractor shall obtain coverage to discharge all responsibilities and liabilities that arise out of or relate to the Jones Act with limits of no less than \$5,000,000 and/or the Longshoremen’s and Harbor Workers’ Compensation Act.

COMMERCIAL GENERAL LIABILITY:

Required **Not required**

Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than \$1,000,000 per occurrence. Annual aggregate limit shall not be less than \$2,000,000.

AUTOMOBILE LIABILITY INSURANCE:

Required **Not required**

Automobile Liability Insurance covering each Contractor’s business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not 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). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

A. Automobile Liability Broadened Pollution Liability Coverage Endorsement

If a Contractor is transporting any type of **hazardous materials** to implement the Project, then endorsements CA 99 48 or equivalent and MSC-90 (if the Contractor is a regulated motor carrier) are required on the Automobile Liability insurance coverage.

PROFESSIONAL LIABILITY:

Required **Not required**

Professional Liability covering any damages caused by an error, omission or any negligent acts related to the services to be provided under this Contract by a Contractor and the Contractor's subcontractors, agents, officers or employees in an amount not less than \$1,000,000 per claim. Annual aggregate limit shall not be less than \$2,000,000. If coverage is on a claims-made basis, then either an extended reporting period of not less than 24 months shall be included in the Professional Liability insurance coverage, or the Contractor shall provide continuous claims made coverage as stated below.

EXCESS/UMBRELLA INSURANCE

Umbrella insurance coverage in the sum of \$2,000,000 shall be provided and will apply over all liability policies, without exception, including but not limited to Commercial General Liability, Automobile Liability, and Employers' Liability coverage. The amounts of insurance for the insurance required under this Contract, including this Excess/Umbrella insurance requirement, may be met by the Contractor obtaining coverage for the limits specified under each type of required insurance or by any combination of underlying, excess and umbrella limits so long as the total amount of insurance is not less than the limits specified for each type of required insurance added to the limit for this excess/umbrella insurance requirement.

ADDITIONAL INSURED:

All liability insurance, except for Workers' Compensation, Professional Liability, and Network Security and Privacy Liability (if applicable), required under this Contract must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to a Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

WAIVER OF SUBROGATION:

Each Contractor shall waive rights of subrogation which the Contractor or any insurer of the Contractor may acquire against the DAS or State of Oregon by virtue of the payment of any loss. Each Contractor will obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the DAS has received a waiver of subrogation endorsement from the Contractor or the Contractor's insurer(s).

CONTINUOUS CLAIMS MADE COVERAGE:

If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then the Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of:

- (i) The Contractor's completion and DAS's acceptance of all Services required under the Contract, or
- (ii) DAS or Recipient termination of this Contract, or
- (iii) The expiration of all warranty periods provided under this Contract.

CERTIFICATE(S) AND PROOF OF INSURANCE:

Upon request, each Contractor shall provide to DAS Certificate(s) of Insurance for all required insurance before delivering any Goods and performing any Services required under this Contract. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this Contract. 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. As proof of insurance DAS has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Contract.

NOTICE OF CHANGE OR CANCELLATION:

Each Contractor or its insurer must provide at least 30 days' written notice to DAS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:

Recipient agrees to periodic review of insurance requirements by DAS under this Contract and to provide updated requirements as mutually agreed upon by Recipient and DAS.

STATE ACCEPTANCE:

All insurance providers are subject to DAS acceptance. If requested by DAS, Recipient shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to DAS's representatives responsible for verification of the insurance coverages required under this Exhibit B.

**EXHIBIT C
FEDERAL AWARD IDENTIFICATION
(REQUIRED BY 2 CFR 200.332(A)(1))**

(i) Subrecipient* Name: <i>(must match name associated with UEI)</i>	«Subrecipient» Crook County
(ii) Subrecipient's Unique Entity Identifier (UEI):	055495964 (DUNS)
(iii) Federal Award Identification Number (FAIN):	SLFRP4454
(iv) Federal award date: <i>(date of award to DAS by federal agency)</i>	July 23, 2021
(v) Grant period of performance start and end dates:	Start: March 3, 2021 End: June 30, 2024
(vi) Grant budget period start and end dates:	Start: March 3, 2021 End: June 30, 2024
(vii) Amount of federal funds obligated by this Grant:	\$1,500,000.00
(viii) Total amount of federal funds obligated to Subrecipient by pass-through entity, including this Grant:	\$
(ix) Total amount of the federal award committed to Subrecipient by pass-through entity**: <i>(amount of federal funds from this FAIN committed to Recipient)</i>	\$1,500,000.00
(x) Federal award project description:	Coronavirus State Fiscal Recovery Fund
(xi) a. Federal awarding agency:	U.S. Department of the Treasury
b. Name of pass-through entity:	Oregon Department of Administrative Services
c. Contact information for awarding official of pass-through entity:	Stephanie Tyrer, COVID Fiscal Relief Mgr. statefiscal.recoveryfund@das.oregon.gov
(xii) Assistance listings number, title and amount:	Number: 21.027 Title: Amount:
(xiii) Is award research and development?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(xiv) a. Indirect cost rate for the federal award:	
b. Is the 10% de minimis rate being used per 2 CFR § 200.414?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

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

** 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.