

REIMBURSEMENT CONTRACT

NORTH CAROLINA
DARE COUNTY

THIS REIMBURSEMENT CONTRACT, made and entered into this ____ day of _____ 2020, by and between the County of Dare, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as "County") and Nags Head, a North Carolina municipality organized and existing under the laws of the state of North Carolina (hereinafter referred to as "Sub-Grantee");

WITNESSTH

WHEREAS, North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The CRF allocation for Dare County totals \$852,149;

WHEREAS, local municipalities have been critical partners in our emergency response to the COVID-19 pandemic, accordingly, Dare County will distribute funds as sub-grants to these entities; and

WHEREAS, the County and Grantee mutually desire to establish the means and method for the allocation of Grantee's portion of these funds through a reimbursement agreement contract.

NOW THEREFORE, in consideration of the promises and further consideration of the mutual agreements contained herein, as well as the financial consideration, the parties hereto agree as follows:

1. The Recitals set forth above, along with the definitions of certain terms are incorporated herein by reference as if fully restated.
2. Amount of Sub-Grant. The County shall provide Sub-Grantee a sub-grant in the maximum amount of \$31,636 based on the proposed budget submitted by Sub-Grantee as its share of the CRF funding.
3. Certification. Any sub-grant to be disbursed to Sub-Grantee will only be made as a reimbursement. Prior to any such disbursement, the Sub-Grantee shall make a report and certify to the County that the funds being reimbursed:
 - Were necessary expenditures incurred due to the public health emergency with respect to Coronavirus Virus 2019 (COVID-19) and were not accounted for in the budget most recently approved by Sub-Grantee as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government;
 - Were incurred during the period that began on March 1, 2020 and ends on December 30, 2020 in accordance with the budget proposal submitted to County by Sub-Grantee;
 - Were spent in a manner consistent with terms for the CRF set forth by the North Carolina Pandemic Recovery Office and in accordance with all applicable State and federal laws; and;
 - County reserves the right to reasonably request additional documentation to demonstrate compliance with the CARES Act and North Carolina Session Law 2020-4, the "2020 COVID-19 Recovery Act.

4. Reimbursement Process. Following receipt of the report and certification requesting reimbursement of the Sub-Grantee the County shall review for compliance. County will notify Sub-Grantee of its approval or denial within thirty (30) days of receipt of Certification and request for reimbursement. A denial will include a reasonable description of the reason for denial and offer an opportunity to cure any deficiencies.

Approved reimbursements will processed and disbursed by County to Sub-Grantee within thirty (30) days of approval.

5. Repayment of Appropriated Funds. Any funds appropriated by the County and distributed to the Sub-Grantee that are found to have been utilized by Grantee for uses in violation of CRF regulations shall be repaid by Sub-Grantee to the County upon demand and Sub-Grantees shall indemnify and hold harmless County from, any liability, including reasonable attorney's fees, arising from Sub-Agent's violation of CRF requirements.

6. Maintain Records. The Sub-Grantee shall maintain records documenting each expenditure that is subject for reimbursement under CRF and will provide that documentation to the County upon request or make such documentation available should there be an audit of expenditures of these CARES Act sub-grant funds.

7. Failure to make Timely Reimbursement Requests. Funds must be used for eligible expenditures between March 1, 2020 and December 30, 2020 for purposes that were not accounted for in the Grantee's most recently approved budget as of March 27, 2020. Qualifying requests for reimbursements of sub-grant funds must be delivered to Dare County Finance, attention Finance Director, by not later than December 28, 2020. Any portion of the maximum amount of sub-grant funds listed as available for reimbursement uses by Sub-Grantee that are not properly and timely requested for disbursement by Sub-Grantee shall be retained by Dare County and may be expended by Dare County for any CARES Act eligible expenses as determined in its sole discretion.

MISCELLANEOUS

Governing Law. The parties intend that this Agreement shall be governed by the law of the State of North Carolina as follows:

Mediation

- Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Dare County Resident Superior Court Judge shall name a mediator to hear the matter.
- The parties shall equally share the mediator's fee. The mediation shall be held in Dare County at a location designated by the mediator selected to hear the matter.

Legal Proceedings

- Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Manteo, Dare County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Dare County, North Carolina.

Notices. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Sub-Grantee and the County listed below, or those other addresses of which either party gives the other party written notice:

If to Sub-Grantee, to:

Amy Miller, Finance Director
Town of Nags Head
P. O. Box 99
5401 South Croatan Highway
Nags Head, NC 27959

If to the County, to:

David Clawson, Finance Director
Dare County Finance
P.O. Box 1000
Manteo, NC 27954-1000

Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

Severability. Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a court of competent jurisdiction, then: (a) such determination will not invalidate or render unenforceable any other provision of this Agreement; (b) such provision will be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the parties' entire agreement.

Entire Agreement; Amendments. This Agreement constitutes the entire contract between the parties, and this Agreement shall not be changed except in writing signed by both parties.

Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Time. Time is of the essence in this Agreement and each and all of its provisions.

Liability of Directors, Officers and Agents. No director, officer, agent or employee of the County or Sub-Grantee shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance

of any official duty provided by law.

Confidentiality. The County will keep confidential and will not disclose or publish any of Sub-Grantee’s trade secrets as defined in Section 132-1.2(1) of the North Carolina General Statutes, will keep all records evidencing such trade secrets marked as “confidential trade secrets”, and will keep all such records segregated in the County’s files. If the County receives a request, subpoena or court order to disclose any information or records Sub-Grantee or its representatives have provided or provide in the future relating to this Agreement or the project described in this Agreement, the County will give Sub-Grantee prompt written notice of the request, subpoena or court order and will discuss any proposed disclosure of such information or records with Sub-Grantee (and, to the extent possible, give Sub-Grantee the opportunity to contest any disclosure of information or records Sub-Grantee believes should not be disclosed) before making any such disclosure.

E-Verify. Grantee shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Contractor shall also require any and all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Counterparts. The individual signatories below have the expressed and implied authority on behalf of their respective Boards to execute this Agreement. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

IN WITNESS WHEREOF, the parties hereto have caused this Reimbursement Agreement to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective organization.

Town of Nags Head

County of Dare

By _____
(authorized signer)

By _____
County Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

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