JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

CONSENT AGENDA REQUEST

TO: **Board of County Commissioners**

FROM: **Mark McCauley, County Administrator**

DATE: **December 12, 2022**

SUBJECT: **Amendment to an ARPA grant agreement with EDC Team Jefferson (EDC)**

STATEMENT OF ISSUE:

The County and EDC entered into an ARPA grant agreement in January 2022. Under the grant agreement EDC was to administer a grant program for local businesses to mitigate the adverse economic impacts caused by the Covid-19 pandemic.

The grant agreement imposed quarterly reporting requirements on EDC, the last of which is due on January 31, 2023. EDC has asked for a time extension to allow them to complete their last quarterly report. EDC believes an extension to March 31, 2023 will allow them to complete and submit that report.

ANALYSIS:

The attached grant agreement amendment will extend the final report due date to March 31, 2023.

FISCAL IMPACT:

None.

RECOMMENDATION:

That the Board approve the attached grant agreement amendment.

REVIEWED BY:

Mark McCauley, County Administrator 12/8/22
Date

Amendment No. 1 to the Jefferson County Grant Agreement to Provide Economic Assistance to Local Businesses to Mitigate the Negative Impact of the Covid-19 Pandemic

This Amendment No. 1 to the Economic Assistance to Local Businesses Grant Agreement is made and entered into by and between the EDC Team Jefferson ("Grantee") and Jefferson County, a political subdivision under the laws of the State of Washington ("County"), (collectively "Parties").

WHEREAS, the Parties want to amend the Grant Agreement entered into between them;

NOW, THEREFORE, the Parties agree as, follows:

1. **Purpose.** The purpose of this Amendment is to extend the reporting deadline for the final quarterly report due January 31, 2023 until March 31, 2023.

2. **Amendment.**

Section 8., which currently reads: "Reports shall be due to the County on April 30, July 31, November 30, 2022 and January 31, 2023." Is amended to read: "Reports shall be due to the County on April 30, July 31, November 30, 2022 and March 31, 2023."

(SIGNATURES FOLLOW ON NEXT PAGE)

EDC Team Jefferson:

____
Cindy Brooks, Executive Director

____
Date

FOR JEFFERSON COUNTY:

____
Heidi Eisenhour, Chair, Board of County Commissioners

____
Date

ATTEST:

______________________________ ____________
Carolyn Gallaway, Clerk to the Board Date

APPROVED AS TO FORM ONLY:

P.C. Hunsucker

______________________________ December 8, 2022
Philip C. Hunsucker, Date
Chief Civil Deputy Prosecuting Attorney

lorig: EDC Team Jefferson
CC: Aud. } 1.18.22

Repin: 2028

EDC Team Jefferson

JEFFERSON COUNTY GRANT AGREEMENT TO PROVIDE ECONOMIC ASSISTANCE TO LOCAL BUSINESSES TO MITIGATE THE NEGATIVE IMPACT OF THE COVID-19 PANDEMIC

This Grant Agreement is to Provide Economic Assistance to Local Businesses to Mitigate the Impact of the COVID-19 Pandemic ("Agreement") by and between Jefferson County, a Washington political subdivision (County), and Economic Development Council - Team Jefferson (EDC) (Grantee).

WHEREAS, on March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) into law; and

WHEREAS, the ARPA allows that funds received under the act can be used to address negative economic impacts on small businesses caused by the Covid-19 pandemic; and

WHEREAS, the Covid-19 pandemic has had significant negative impacts on a wide range of small local businesses; and

WHEREAS, the Grantee is a major economic development driver in Jefferson County and is uniquely qualified to develop and implement a local business grant program using ARPA funds given to them for that purpose; and

WHEREAS, the County has a legitimate and significant interest in the survival of small local businesses and wishes for them to thrive:

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. The term of this Agreement shall commence when last executed by the parties and remain in effect until December 31, 2022, except for the report referenced in Section 8, due January 31, 2023. The term may be extended by written amendment pursuant to Section 16 of this Agreement. This Agreement may be terminated by the County before the end of term pursuant to Section 5 of this Agreement. Eligible expenses incurred consistent with this Agreement starting January 1, 2022 or thereafter, but prior to its execution, are hereby ratified.

2. Project Designation. Grantee commits to carry out its project(s):

Economic support to small businesses in Jefferson County that have been negatively impacted by the COVID-19 public health emergency, including impacts due to COVID-related public health closures;

as described in Attachment A - Grantee Scope of Work and Budget to this Agreement, to provide COVID-19 community assistance in addressing the public health emergency or to provide economic assistance related to the pandemic.

a. Grant Payments. The County agrees to provide the Grantee a total sum of $500,000 with all of the funds provided to the Grantee as an advance to provide cash flow for the business assistance grants awarded by EDC. The funds will be made available upon the execution of this agreement and the submission of an invoice to the County by EDC.

b. Administrative Overhead. The Grantee may use up to 10% of the $500,000 to cover costs associated with administering this small business grant program.

3. Grantee's Use of Grant Funds. The Grantee shall distribute the grant funds to eligible small local businesses that apply for economic assistance to mitigate negative financial impacts caused by the COVID-19 pandemic. EDC will develop application scoring criteria jointly with the Board of County Commissioners to help ensure these grant funds are used to good effect.

4. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon 10 days prior written notice to the Grantee.

5. Independent Contractor. Each party under this 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 Grantee 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.

6. Indemnification. Grantee acknowledges that the designated project is the Grantee's own project, and not the County's. The Grantee 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 Grantee, its officers, directors, employees, and/or agents relating to the Grantees' performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.

7. Compliance with Laws. Guidelines. The Grantee shall comply with all applicable federal, state, and local laws and all applicable requirements (including certifications and audits), in carrying out the designated project and in performance of this Agreement.

8. Reports. Grantee shall provide the County quarterly reports showing which businesses received grants, in what amounts and the results achieved using the jointly developed program metrics. Reports will be submitted until all grant funds have been distributed and accounted for. Reports shall be due to the County on April 30, July 31, November 30, 2022 and January 31, 2023. Funds not expended by December 31, 2022 will be remitted to the County.

9. Maintenance and Audit of Records. The Grantee shall maintain records, books, documents, and other materials relevant to its performance under this Agreement for a period of 6 years. These records shall be subject to inspection, review and audit by the County upon reasonable notice. If it is determined during the course of the audit that the Grantee was reimbursed for unallowable costs under this Agreement, the Grantee agrees to promptly reimburse the County for such payments upon request.

Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received five (5) days after deposit with the U.S. 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 other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Grantee

Cindy Brooks, Executive Director

EDC Team Jefferson

385 Benedict Street, Suite 2A

Port Townsend, WA 98368

360-379-4693

director@edcteamjefferson.org

Jefferson County

Mark McCauley, Interim County Administrator

Jefferson County Courthouse
1820 Jefferson Street
Port Townsend, WA 98368
360-385-9100
MMcCauley@co.jefferson.wa.us

10. 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 offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

11. 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.

12. Time. Time is of the essence in this Agreement.

13. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of this Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.

14. Amendment. No amendment or modification to this Agreement will be effective except by written amendment executed by both parties in the same manner as the original Agreement.

15. Governing Law; Venue. This Agreement will be governed in all respects by the laws of Washington state, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with this Agreement may be instituted and maintained only in a court of competent jurisdiction in Jefferson County, Washington or as provided by RCW 36.01.050.

16. Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a wavier 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.

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

18. Assignment. Neither party shall assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the other party.

19. Entire Agreement. This Agreement constitutes the entire agreement between the County and the Grantee 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.

20. 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 Washington State Department of Commerce of these grant funds, including the obligation to provide access to records and cooperate with audits as provided in this Agreement.

21. 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 this Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

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

23. Authorization. Each party warrants to the other party, that the person executing this Agreement on its behalf has the full power and authority to do so.

24. Public Records Act. Notwithstanding any provisions of this Agreement to the contrary, to the extent any record, including any electronic, audio, paper or other media, is required to be kept or indexed as a public record in accordance with the Washington Public Records Act, Chapter 42.56 RCW (as may be amended), the Grantee agrees to maintain all records constituting public records and to produce or assist the County in producing such records, within the time frames and parameters set forth in state law. The Grantee also agrees that upon receipt of any written public record request, Grantee shall, within two business days, notify the County by providing a copy of the request per the notice provisions of this Agreement.

JEFFERSON COUNTY GRANT AGREEMENT TO PROVIDE EMERGENCY ASSISTANCE AS A RESULT OF THE COVID-19 PANDEMIC

(SIGNATURES APPEAR ON THE NEXT PAGE)

JEFFERSON COUNTY GRANT AGREEMENT TO PROVIDE EMERGENCY ASSISTANCE AS A RESULT OF THE COVID-19 PANDEMIC

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

JEFFERSON COUNTY, WASHINGTON

By the authority granted to the undersigned on January 10, 2022 during the Board of County Commissioners in open session:

By: Mark McCauley 1/18/22

Mark McCauley DATE

Interim County Administrator

GRANTEE

By: Cindy Brooks

Name: Cindy Brooks, Executive Director

EDC Team Jefferson

DATE: 1/14/22

Attest:

Carolyn Gallaway 1/18/22

Carolyn Gallaway DATE

Clerk of the Board

Approved as to form only:

By: P.C. Hunsucker January 14, 2022

Philip C. Hunsucker DATE

Chief Civil Deputy Prosecuting Attorney

JEFFERSON COUNTY GRANT AGREEMENT TO PROVIDE EMERGENCY ASSISTANCE AS A RESULT OF THE COVID-19 PANDEMIC

ATTACHMENT A

GRANTEE SCOPE OF WORK AND BUDGET

The Board of Commissioners is directing that $500,000 be paid to EDC Team Jefferson ("Grantee") to provide financial assistance to small local businesses to mitigate the adverse financial impacts of the COVID-19 pandemic ("approved project"). These funds must be fully distributed by January 31, 2022. The Grantee will submit quarterly reports to the County as specified in Paragraph 8 of this Agreement.

EDC will develop grant application evaluation criteria jointly with the Board of County Commissioners to ensure these funds are directed to those businesses with the greatest need or which are disadvantaged. All grant applications and application materials will be kept on hand for audit purposes.

EDC will develop metrics to evaluate the success of the program jointly with the Board of County Commissioners.

EDC will comply with Treasury guidance contained in The Final Rule, as summary of which is provided below:

Assistance to Small Businesses
Small businesses have faced widespread challenges due to the pandemic, including periods of shutdown, declines in revenue, or increased costs. The final rule provides many tools for recipients to respond to the impacts of the pandemic on small businesses, or disproportionate impacts on businesses where pre-existing disparities like lack of access to capital compounded the pandemic's effects.

Small businesses eligible for assistance are those that experienced negative economic impacts or disproportionate impacts of the pandemic and meet the definition of "small business," specifically:

1. Have no more than 500 employees, or if applicable, the size standard in number of employees established by the Administrator of the Small Business Administration for the industry in which the business concern or organization operates, and

2. Are a small business concern as defined in section 3 of the Small Business Act[8] (which includes, among other requirements, that the business is independently owned and operated and is not dominant in its field of operation).

Impacted Small Businesses

Recipients can identify small businesses impacted by the pandemic, and measures to respond, in many ways; for example, recipients could consider:

- ✓ Decreased revenue or gross receipts
- ✓ Financial insecurity
- ✓ Increased costs
- ✓ Capacity to weather financial hardship
- ✓ Challenges covering payroll, rent or mortgage, and other operating costs

Assistance to small businesses that experienced negative economic impacts includes the following enumerated uses:

- ✓ Loans or grants to mitigate financial hardship, such as by supporting payroll and benefits, costs to retain employees, and mortgage, rent, utility, and other operating costs
- ✓ Technical assistance, counseling, or other services to support business planning

Disproportionately Impacted Small Businesses

Treasury presumes that the following small businesses are disproportionately impacted by the pandemic:

[8] 15 U.S.C. 632.

- ✓ Small businesses operating in Qualified Census Tracts
- ✓ Small businesses operating in the U.S. territories
- ✓ Small businesses operated by Tribal governments or on Tribal lands

Assistance to disproportionately impacted small businesses includes the following enumerated uses, which have been expanded under the final rule:

- ✓ Rehabilitation of commercial properties, storefront improvements & façade improvements
- ✓ Support for microbusinesses, including financial, childcare, and transportation costs
- ✓ Technical assistance, business incubators & grants for start-up or expansion costs for small businesses

Clear Form

CONTRACT REVIEW FORM

(INSTRUCTIONS ARE ON THE NEXT PAGE)

CONTRACT WITH: Economic Development Council - Team Jefferson   Contract No: EDC ARPA 2022

Contract For: Small Business Grants Program   Term: Through December 31, 2022

COUNTY DEPARTMENT: County Administrator
Contact Person: Mark McCauley
Contact Phone: 360-385-9130
Contact email: mmccauley@co.jefferson.wa.us

AMOUNT: $500,000

Revenue: N/A
Expenditure: $500,000
Matching Funds Required: N/A
Sources(s) of Matching Funds N/A
Fund # 123
Munis Org/Obj 51863/518063

PROCESS:

- [x] **Exempt from Bid Process**
- [ ] **Cooperative Purchase**
- [ ] **Competitive Sealed Bid**
- [ ] **Small Works Roster**
- [ ] **Vendor List Bid**
- [ ] **RFP or RFQ**
- [ ] **Other:** ______

APPROVAL STEPS:

STEP 1: DEPARTMENT CERTIFIES COMPLIANCE WITH JCC 3.55.080 AND CHAPTER 42.23 RCW.

CERTIFIED: ☐ **N/A:** ■   Mark McCauley 1/12/22
Signature   Date

STEP 2: DEPARTMENT CERTIFIES THE PERSON PROPOSED FOR CONTRACTING WITH THE COUNTY (CONTRACTOR) HAS NOT BEEN DEBARRED BY ANY FEDERAL, STATE, OR LOCAL AGENCY.

CERTIFIED: ☐ **N/A:** ■   Mark McCauley 1/12/22
Signature   Date

STEP 3: RISK MANAGEMENT REVIEW (will be added electronically through Laserfiche):

Electronically approved by Risk Management on 1/13/2022.
County Administrator was delegated approval authority by the BOCC on January 10, 2022.

STEP 4: PROSECUTING ATTORNEY REVIEW (will be added electronically through Laserfiche):

Electronically approved as to form by PAO on 1/14/2022.
Standard County grant language.

STEP 5: DEPARTMENT MAKES REVISIONS & RESUBMITS TO RISK MANAGEMENT AND PROSECUTING ATTORNEY(IF REQUIRED).

STEP 6: CONTRACTOR SIGNS

STEP 7: SUBMIT TO BOCC FOR APPROVAL