RESOLUTION No. 511-20

A RESOLUTION ACCEPTING AWARD OF UNANTICIPATED FUNDS FROM THE CORONAVIRUS RELIEF FUND, MAKE APPROPRIATIONS TO THE FISCAL YEAR 2020-2021 BUDGET, AND AUTHORIZING EXPENDITURE THEREOF FOR THE SPECIFIC PURPOSES ALLOWED IN THE AGREEMENT

WHEREAS, the City Council adopted the fiscal year 2020-2021 budget on June 9, 2020;

WHEREAS, on July 24, 2020 the City was informed that through the CARES Act the State of Oregon had allotted for the City of Donald to receive $50,000 through its Coronavirus Relief Fund to recoup expense related to the COVID-19 Pandemic;

WHEREAS, Oregon Budget Law ORS 294.338(2) allows municipalities to accept and spend unanticipated money when it is for a specific purpose and approved by the local governing body;

WHEREAS, the fiscal year 2020-2021 budget did not anticipate the award or expenditure of $50,000 for the Coronavirus Relief Fund;

WHEREAS, the State of Oregon's Coronavirus Relief Fund Agreement (No 1057) is attached and the City will uphold its responsibilities and make reimbursements as stated;

WHEREAS, the Coronavirus Relief Fund is for reimbursement of the costs of the activities from March 1, 2020 through December 30, 2020;

WHEREAS, the City of Donald did meet the criteria for COVID-19 related expenses during Phase One and received reimbursement funds of $1,903.98; and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. That the following appropriations be made to the 2020-2021 Fiscal Year Budget by the Donald City Council:

GENERAL FUND	**Budgeted**	**Changes +/-**	**New Total**
Resources: Grants: 01-0-514	$103,000	+$50,000	$153,000
Requirements: Material & Supplies: 01-1-705	$3,600	+$50,000	$53,600
Fund Total	$505,431	+$50,000	$555,431

Section 2. That the Donald City Council honorably acknowledges the $50,000 award of the Coronavirus Relief Fund money and the provisions in the State of Oregon's Coronavirus Relief Fund Agreement, (No. 1057), which are detailed in Exhibit A attached hereto and by this reference incorporated herein.

Section 3. That the Donald City Council authorizes the City Manager to oversee the processing of the Coronavirus Relief Fund proceeds, including the expenditures.

PASSED and ADOPTED by the City Council of the City of Donald at their regular meeting on this 11th day of August, 2020 by the vote of 5 ayes and 0 nays.

DATE: August 11, 2020

Brad Oxenford, Mayor

ATTEST by City Manager this 11th day of August, 2020

Heidi Bell, City Manager

STATE OF OREGON
AMENDED AND RESTATED GRANT AGREEMENT

Grant No. 1057

This Amended and Restated Grant Agreement ("Grant") is between the State of Oregon acting by and through its Department of Administrative Services ("Agency") and City of Donald ("Grantee"), each a "Party" and, together, the "Parties".

SECTION 1: AUTHORITY AND BACKGROUND

Pursuant to funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and as allocated to Agency by the Oregon Emergency Board, Agency is authorized to enter into a grant agreement and provide funding for the purposes described in this Grant.

Accordingly, on 7/1/2020, Agency and Grantee entered into a Grant Agreement by which Agency agreed to disburse, and Grantee agreed to accept, certain CARES Act funds as more fully described in that Agreement. The parties now enter into this Amended and Restated Grant Agreement to update the period for which Grantee may seek reimbursement of eligible costs using CARES Act funds, as well as to amend the reimbursement-submission procedure.

SECTION 2: PURPOSE

Section 5001 of the CARES Act provides funds to state, local and tribal governments through the Coronavirus Relief Fund to be used for expenditures incurred due to COVID-19 during the period of March 1, 2020 through December 30, 2020 (the "Performance Period"). This Grant governs the disbursement of funds from the Coronavirus Relief Fund to Grantee for the Performance Period to reimburse the costs of the activities described in Exhibit A.

SECTION 3: EFFECTIVE DATE AND DURATION

When all Parties have executed this Grant, and all necessary approvals have been obtained ("Executed Date"), this Grant is effective and has a Grant funding start date as of March 1, 2020 ("Effective Date"), and, unless extended or terminated earlier in accordance with its terms, will expire on December 30, 2020.

SECTION 4: GRANT MANAGERS

4.1 Agency's Grant Manager is:

Gerold Floyd

Department of Administrative Services
Attention: Coronavirus Relief Fund
155 Cottage Street NE, Salem, OR 97301
Phone: 503-378-2709
Email: CoronavirusReliefFund@Oregon.gov

4.2 Grantee's Grant Manager is:

Name: Heidi Bell

Address: PO Box 388, Donald, OR 97020

Phone: 503-678-5543

Email: manager@donaldoregon.gov

4.3 A Party may designate a new Grant Manager by written notice to the other Party.

SECTION 5: PROJECT ACTIVITIES

To receive funds under this Grant, Grantee must perform the project activities set forth in Exhibit A (the "Project"), attached hereto and incorporated in this Grant by this reference, during the Performance Period.

SECTION 6: GRANT FUNDS

In accordance with the terms and conditions of this Grant, Agency will provide Grantee up to an amount not to exceed $51,903.98 (the "Grant Funds") for eligible Project costs incurred during the Performance Period. Agency will pay the Grant Funds from monies made available through the Coronavirus Relief Fund ("Funding Source").

SECTION 7: DISBURSEMENT GENERALLY

7.1 Disbursement.

7.1.1 Subject to the availability of sufficient moneys in and from the Funding Source based on Agency's reasonable projections of moneys accruing to the Funding Source, Agency will disburse Grant Funds to Grantee for the allowable Project activities described in Exhibit A that

are undertaken during the Performance Period.

7.1.2 Grantee must provide to Agency any information or detail regarding the expenditure of Grant Funds required under Exhibit A prior to disbursement or as Agency may request.

7.2 Conditions Precedent to Disbursement. Agency's obligation to disburse Grant Funds to Grantee under this Grant is subject to satisfaction of each of the following conditions precedent:

7.2.1 Agency has received sufficient funding, appropriations, expenditure limitation, allotments or other necessary expenditure authorizations to allow Agency, in the exercise of its reasonable administrative discretion, to make the disbursement from the Funding Source;

7.2.2 No default as described in Section 15 has occurred; and

7.2.3 Grantee's representations and warranties set forth in Section 8 are true and correct on the date of disbursement(s) with the same effect as though made on the date of disbursement.

7.3 No Duplicate Payment. Grantee may use other funds in addition to the Grant Funds to complete the Project; provided, however, funds received pursuant to this Grant are not used for expenditures for which a local government entity has received any other supplemental funding (whether state, federal or private in nature) for that same expense unless otherwise authorized by Agency in writing.

SECTION 8: REPRESENTATIONS AND WARRANTIES

8.1 Organization/Authority. Grantee represents and warrants to Agency that:

8.1.1 Grantee is a local government or tribal government duly organized and validly existing;

8.1.2 Grantee has all necessary rights, powers and authority under any organizational documents and under Oregon Law to (i) execute this Grant, (ii) incur and perform its obligations under this Grant, and (iii) receive financing, including the Grant Funds, for the Project;

8.1.3 This Grant has been duly executed by Grantee and when executed by Agency, constitutes a legal, valid and binding obligation of Grantee enforceable in accordance with its terms;

8.1.4 If applicable and necessary, the execution and delivery of this Grant by Grantee has been authorized by an ordinance, order or resolution of its governing body, or voter approval, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings; and

8.1.5 There is no proceeding pending or threatened against Grantee before any court or governmental authority that if adversely determined would materially adversely affect the Project or the ability of Grantee to carry out the Project.

8.2 False Claims Act. Grantee acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any "claim" (as defined by ORS 180.750) made by (or caused by) Grantee that pertains

to this Grant or to the Project. Grantee certifies that no claim described in the previous sentence is or will be a "false claim" (as defined by ORS 180.750) or an act prohibited by ORS 180.755. Grantee further acknowledges in addition to the remedies under Section 16, if it makes (or causes to be made) a false claim or performs (or causes to be performed) an act prohibited under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against the Grantee.

8.3 **No limitation.** The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties provided by Grantee.

SECTION 9: OWNERSHIP

9.1 **Intellectual Property Definitions.** As used in this Section and elsewhere in this Grant, the following terms have the meanings set forth below:

"Third Party Intellectual Property" means any intellectual property owned by parties other than Grantee or Agency.

"Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item Grantee is required to create or deliver as part of the Project, and all intellectual property rights therein.

9.2 **Grantee Ownership.** Grantee must deliver copies of all Work Product as directed in Exhibit A. Grantee retains ownership of all Work Product, and grants Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, to reproduce, to prepare derivative works based upon, to distribute, to perform and to display the Work Product, to authorize others to do the same on Agency's behalf, and to sublicense the Work Product to other entities without restriction.

9.3 **Third Party Ownership.** If the Work Product created by Grantee under this Grant is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Grantee must secure an irrevocable, non-exclusive, perpetual, royalty-free license allowing Agency and other entities the same rights listed above for the pre-existing element of the Third party Intellectual Property employed in the Work Product. If state or federal law requires that Agency or Grantee grant to the United States a license to any intellectual property in the Work Product, or if state or federal law requires Agency or the United States to own the intellectual property in the Work Product, then Grantee must execute such further documents and instruments as Agency may reasonably request in order to make any such grant or to assign ownership in such intellectual property to the United States or Agency.

9.4 **Real Property.** If the Project includes the acquisition, construction, remodel or repair of real property or improvements to real property, and if such assets are disposed of prior to December 30, 2020, the proceeds would be subject to the restrictions on the eligible use of payments from the Grant Funds provided by section 601(d) of the Social Security Act.

SECTION 10: CONFIDENTIAL INFORMATION

10.1 Confidential Information Definition. Grantee acknowledges it and its employees or agents may, in the course of performing its responsibilities, be exposed to or acquire information that is: (i) confidential to Agency or Project participants or (ii) the disclosure of which is restricted under federal or state law, including without limitation: (a) personal information, as that term is used in ORS 646A.602(12) and (b) social security numbers (items (i) and (ii) separately and collectively "Confidential Information").

10.2 Nondisclosure. Grantee agrees to hold Confidential Information as required by any applicable law and in all cases in strict confidence, using at least the same degree of care Grantee uses in maintaining the confidentiality of its own confidential information. Grantee may not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties, or use Confidential Information except as is allowed by law and for the Project activities and Grantee must advise each of its employees and agents of these restrictions. Grantee must assist Agency in identifying and preventing any unauthorized use or disclosure of Confidential Information. Grantee must advise Agency immediately if Grantee learns or has reason to believe any Confidential Information has been, or may be, used or disclosed in violation of the restrictions in this Section. Grantee must, at its expense, cooperate with Agency in seeking injunctive or other equitable relief, in the name of Agency or Grantee, to stop or prevent any use or disclosure of Confidential Information. At Agency's request, Grantee must return or destroy any Confidential Information. If Agency requests Grantee to destroy any Confidential Information, Grantee must provide Agency with written assurance indicating how, when and what information was destroyed.

10.3 Identity Protection Law. Grantee must have and maintain a formal written information security program that provides safeguards to protect Confidential Information from loss, theft, and disclosure to unauthorized persons, as required by the Oregon Consumer Information Protection Act, ORS 646A.600-628. If Grantee or its agents discover or are notified of a potential or actual "Breach of Security", as defined by ORS 646A.602(1)(a), or a failure to comply with the requirements of ORS 646A.600-628, (collectively, "Breach") with respect to Confidential Information, Grantee must promptly but in any event within one calendar day (i) notify the Agency Grant Manager of such Breach and (ii) if the applicable Confidential Information was in the possession of Grantee or its agents at the time of such Breach, Grantee must (a) investigate and remedy the technical causes and technical effects of the Breach and (b) provide Agency with a written root cause analysis of the Breach and the specific steps Grantee will take to prevent the recurrence of the Breach or to ensure the potential Breach will not recur. For the avoidance of doubt, if Agency determines notice is required of any such Breach to any individual(s) or entity(ies), Agency will have sole control over the timing, content, and method of such notice, subject to Grantee's obligations under applicable law.

10.4 Subgrants/Contracts. Grantee must require any subgrantees, contractors or subcontractors under this Grant who are exposed to or acquire Confidential Information to treat and maintain such information in the same manner as is required of Grantee under subsections 10.1 and 10.2 of this Section.

10.5 Background Check. If requested by Agency and permitted by law, Grantee's employees, agents, contractors, subcontractors, and volunteers that perform Project activities must agree to submit to

a criminal background check prior to performance of any Project activities or receipt of Confidential Information. Background checks will be performed at Grantee's expense. Based on the results of the background check, Grantee or Agency may refuse or limit (i) the participation of any Grantee employee, agent, contractor, subgrantee, or volunteer, in Project activities or (ii) access to Agency Personal Information or Grantee premises.

SECTION 11: INDEMNITY/LIABILITY

11.1 **Indemnity.** Grantee must defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorneys' fees, resulting from, arising out of, or relating to the activities of Grantee or its officers, employees, subgrantees, contractors, subcontractors, or agents under this Grant (each of the foregoing individually or collectively a "Claim" for purposes of this Section). If legal limitations apply to the indemnification ability of Grantee, this indemnification must be for the maximum amount of funds available for expenditure, including any available contingency funds, insurance, funds available under ORS 30.260 to 30.300 or other available non-appropriated funds.

11.2 **Defense.** Grantee may have control of the defense and settlement of any Claim subject to this Section. But neither Grantee nor any attorney engaged by Grantee may defend the Claim in the name of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon. Nor may Grantee settle any Claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event the State of Oregon determines Grantee is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or an important governmental principle is at issue and the State of Oregon desires to assume its own defense. Grantee may not use any Grant Funds to reimburse itself for the defense of or settlement of any Claim.

11.3 **Limitation.** Except as provided in this Section, neither Party will be liable for incidental, consequential, or other direct damages arising out of or related to this Grant, regardless of whether the damages or other liability is based in contract, tort (including negligence), strict liability, product liability or otherwise. Neither Party will be liable for any damages of any sort arising solely from the termination of this Grant in accordance with its terms.

SECTION 12: INSURANCE

12.1 **Private Insurance.** If Grantee is a private entity, or if any contractors, subcontractors, or subgrantees used to carry out the Project are private entities, Grantee and any private contractors, subcontractors or subgrantees must obtain and maintain insurance covering Agency in the types and amounts indicated in Exhibit B.

12.2 **Public Body Insurance.** If Grantee is a "public body" as defined in ORS 30.260, Grantee agrees to

insure any obligations that may arise for Grantee under this Grant, including any indemnity obligations, through (i) the purchase of insurance as indicated in Exhibit B or (ii) the use of self-insurance or assessments paid under ORS 30.282 that is substantially similar to the types and amounts of insurance coverage indicated on Exhibit B, or (iii) a combination of any or all of the foregoing.

12.3 **Real Property.** If the Project includes the construction, remodel or repair of real property or improvements to real property, Grantee must insure the real property and improvements against liability and risk of direct physical loss, damage or destruction at least to the extent that similar insurance is customarily carried by entities constructing, operating and maintaining similar property or facilities.

SECTION 13: GOVERNING LAW, JURISDICTION

This Grant is governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between Agency or any other agency or department of the State of Oregon, or both, and Grantee that arises from or relates to this Grant must be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event may this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. GRANTEE, BY EXECUTION OF THIS GRANT, HEREBY CONSENTS TO THE PERSONAL JURISDICTION OF SUCH COURTS.

SECTION 14: ALTERNATIVE DISPUTE RESOLUTION

The Parties should attempt in good faith to resolve any dispute arising out of this Grant. This may be done at any management level, including at a level higher than persons directly responsible for administration of the Grant. 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. Each Party will bear its own costs incurred for any mediation or non-binding arbitration.

SECTION 15: DEFAULT

15.1 **Grantee.** Grantee will be in default under this Grant upon the occurrence of any of the following events:

15.1.1 Grantee fails to use the Grant Funds for the intended purpose described in Exhibit A or otherwise fails to perform, observe or discharge any of its covenants, agreements or obligations under this Grant;

15.1.2 Any representation, warranty or statement made by Grantee in this Grant or in any documents

or reports relied upon by Agency to measure the Project, the expenditure of Grant Funds or the performance by Grantee is untrue in any material respect when made; or

15.1.3 A petition, proceeding or case is filed by or against Grantee under any federal or state bankruptcy, insolvency, receivership or other law relating to reorganization, liquidation, dissolution, winding-up or adjustment of debts; in the case of a petition filed against Grantee, Grantee acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal; or Grantee becomes insolvent or admits its inability to pay its debts as they become due, or Grantee makes an assignment for the benefit of its creditors.

15.2 **Agency.** Agency will be in default under this Grant if, after 15 days written notice specifying the nature of the default, Agency fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Grant; provided, however, Agency will not be in default if Agency fails to disburse Grant Funds because there is insufficient expenditure authority for, or moneys available from, the Funding Source.

SECTION 16: REMEDIES

16.1 **Agency Remedies.** In the event Grantee is in default under Section 15.1, Agency may, at its option, pursue any or all of the remedies available to it under this Grant and at law or in equity, including, but not limited to: (i) termination of this Grant under Section 18.2, (ii) reducing or withholding payment for Project activities or materials that are deficient or Grantee has failed to complete by any scheduled deadlines, (iii) requiring Grantee to complete, at Grantee's expense, additional activities necessary to satisfy its obligations or meet performance standards under this Grant, (iv) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, (v) exercise of its right of recovery of overpayments under Section 17 of this Grant or setoff, or both, or (vi) declaring Grantee ineligible for the receipt of future awards from Agency. These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

16.2 **Grantee Remedies.** In the event Agency is in default under Section 15.2 and whether or not Grantee elects to terminate this Grant, Grantee's sole monetary remedy will be, within any limits set forth in this Grant, reimbursement of Project activities completed and accepted by Agency and authorized expenses incurred, less any claims Agency has against Grantee. In no event will Agency be liable to Grantee for any expenses related to termination of this Grant or for anticipated profits.

SECTION 17: WITHHOLDING FUNDS, RECOVERY

Agency may withhold from disbursements of Grant Funds due to Grantee, or Grantee must return to Agency within 30 days of Agency's written demand:

17.1 Any Grant Funds paid to Grantee under this Grant, or payments made under any other agreement between Agency and Grantee, that exceed the amount to which Grantee is entitled;

17.2 Any Grant Funds received by Grantee that remain unexpended or contractually committed for payment of the Project at the end of the Performance Period;

17.3 Any Grant Funds determined by Agency to be spent for purposes other than allowable Project activities; or

17.4 Any Grant Funds requested by Grantee as payment for deficient activities or materials.

SECTION 18: TERMINATION

18.1 **Mutual.** This Grant may be terminated at any time by mutual written consent of the Parties.

18.2 **By Agency.** Agency may terminate this Grant as follows:

18.2.1 At Agency's discretion, upon 30 days advance written notice to Grantee;

18.2.2 Immediately upon written notice to Grantee, if Agency fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in Agency's reasonable administrative discretion, to perform its obligations under this Grant;

18.2.3 Immediately upon written notice to Grantee, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that Agency's performance under this Grant is prohibited or Agency is prohibited from funding the Grant from the Funding Source; or

18.2.4 Immediately upon written notice to Grantee, if Grantee is in default under this Grant and such default remains uncured 15 days after written notice thereof to Grantee.

18.3 **By Grantee.** Grantee may terminate this Grant as follows:

18.3.1 If Grantee is a governmental entity, immediately upon written notice to Agency, if Grantee fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to perform its obligations under this Grant.

18.3.2 If Grantee is a governmental entity, immediately upon written notice to Agency, if applicable laws, rules, regulations or guidelines are modified or interpreted in such a way that the Project activities contemplated under this Grant are prohibited by law or Grantee is prohibited from paying for the Project from the Grant Funds or other planned Project funding; or

18.3.3 Immediately upon written notice to Agency, if Agency is in default under this Grant and such default remains uncured 15 days after written notice thereof to Agency.

18.4 **Cease Activities.** Upon receiving a notice of termination of this Grant, Grantee must immediately cease all activities under this Grant, unless Agency expressly directs otherwise in such notice. Upon termination, Grantee must deliver to Agency all materials or other property that are or would be required to be provided to Agency under this Grant or that are needed to complete the Project activities that would have been performed by Grantee.

SECTION 19: MISCELLANEOUS

19.1 **Conflict of Interest.** Grantee by signature to this Grant declares and certifies the award of this Grant and the Project activities to be funded by this Grant, create no potential or actual conflict of interest, as defined by ORS Chapter 244, for a director, officer or employee of Grantee.

19.2 **Nonappropriation.** Agency's obligation to pay any amounts and otherwise perform its duties under this Grant is conditioned upon Agency receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to meet its obligations under this Grant. Nothing in this Grant may be construed as permitting any violation of Article XI, Section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of Agency.

19.3 **Amendments.** The terms of this Grant may not be altered, modified, supplemented or otherwise amended, except by written agreement of the Parties.

19.4 **Notice.** Except as otherwise expressly provided in this Grant, any notices to be given under this Grant must be given in writing by email, personal delivery, or postage prepaid mail, to a Party's Grant Manager at the physical address or email address set forth in this Grant, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective 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.

19.5 **Survival.** All rights and obligations of the Parties under this Grant will cease upon termination of this Grant, other than the rights and obligations arising under Sections 11, 13, 14, 16, 17 and subsection 19.5 hereof and those rights and obligations that by their express terms survive termination of this Grant; provided, however, termination of this Grant will not prejudice any rights or obligations accrued to the Parties under this Grant prior to termination.

19.6 **Severability.** The Parties agree if any term or provision of this Grant is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Grant did not contain the particular term or provision held to be invalid.

19.7 **Counterparts.** This Grant may be executed in several counterparts, all of which when taken together constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Grant so executed constitutes an original.

19.8 **Compliance with Law.** In connection with their activities under this Grant, the Parties must comply with all applicable federal, state and local laws.

19.9 **Intended Beneficiaries.** Agency and Grantee are the only parties to this Grant and are the only parties entitled to enforce its terms. Nothing in this Grant provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended

beneficiaries of this Grant.

19.10 **Assignment and Successors.** Grantee may not assign or transfer its interest in this Grant without the prior written consent of Agency and any attempt by Grantee to assign or transfer its interest in this Grant without such consent will be void and of no force or effect. Agency's consent to Grantee's assignment or transfer of its interest in this Grant will not relieve Grantee of any of its duties or obligations under this Grant. The provisions of this Grant will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

19.11 **Contracts and Subgrants.** Grantee may enter into contracts or subgrants for any of the Project activities required of Grantee under this Grant, however Grantee is required to communicate subgrantee information to Agency in such a manner and timing as prescribed by Agency that Agency considers necessary to fulfill its federal reporting obligations.

19.12 **Time of the Essence.** Time is of the essence in Grantee's performance of the Project activities under this Grant.

19.13 **Records Maintenance and Access.** Grantee must maintain all financial records relating to this Grant in accordance with generally accepted accounting principles. In addition, Grantee must maintain any other records, whether in paper, electronic or other form, pertinent to this Grant in such a manner as to clearly document Grantee's performance. All financial records and other records, whether in paper, electronic or other form, that are pertinent to this Grant, are collectively referred to as "Records." Grantee acknowledges and agrees Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Grantee must retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Grant, or until the conclusion of any audit, controversy or litigation arising out of or related to this Grant, whichever date is later.

19.14 **Headings.** The headings and captions to sections of this Grant have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Grant.

19.15 **Grant Documents.** This Grant consists of the following documents, which are incorporated by this reference and listed in descending order of precedence:

- This Grant less all exhibits
- Exhibit A (the "Project")
- Exhibit B (Insurance)
- Exhibit C (Federal Terms and Conditions)
- Exhibit D (Federal Award Identification)

19.16 **Merger, Waiver.** This Grant and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Grant. No waiver or consent under this Grant binds either Party unless in writing and signed by both Parties.

Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given.

SECTION 20: SIGNATURES

EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES IT HAS READ THIS GRANT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. The Parties further agree that by the exchange of this Grant electronically, each has agreed to the use of electronic means, if applicable, instead of the exchange of physical documents and manual signatures. By inserting an electronic or manual signature below, each authorized representative acknowledges that it is their signature, that each intends to execute this Grant, and that their electronic or manual signature should be given full force and effect to create a valid and legally binding agreement.

IN WITNESS WHEREOF, the Parties have executed this Grant as of the dates set forth below.

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

By: _____ July 27, 2020

George Naughton, Chief Financial Officer — Date

City of Donald

By: _____ July 24, 2020

Authorized Signature — Date

Heidi Bell — City Manager

Printed Name — Title

93-6009756 — 026464248

Federal Tax ID Number — DUNS Number

Approved for Legal Sufficiency in accordance with ORS 291.047

By: *s/ Sam Zeigler* — by email dated 7/17/20

Senior Assistant Attorney General — Date

Oregon Department of Justice

EXHIBIT A
THE PROJECT

SECTION I. BACKGROUND AND GOALS

To support local government actions in the statewide fight against the Coronavirus by providing reimbursement of federally eligible expenses under the CARES Act. Coronavirus Relief Funds may be used to cover costs that are:

1. *Necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);*
2. *Were not accounted for in the Grantee's budget most recently approved as of March 27, 2020; and*
3. *Were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.*

SECTION II. PROJECT ACTIVITIES, SCHEDULE, AND BUDGET

Agency will disburse Grant Funds only for eligible costs incurred by Grantee for the Performance Period and in accordance with criteria and guidance established by US Treasury:

(https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Guidance-for-State-Territorial-Local-and-Tribal-Governments.pdf)

Additionally, the US Treasury has provided answers to frequently asked questions regarding eligible costs under the Coronavirus Relief Fund:

https://home.treasury.gov/system/files/136/Coronavirus-Relief-Fund-Frequently-Asked-Questions.pdf

Indirect/Administrative Costs. Grantee will not be reimbursed for any indirect costs with Grant Funds in accordance with U.S. Treasury guidance. The information described in this paragraph overrides any other verbal or written rate(s) or information provided by Agency

SECTION III. RESERVED

SECTION IV. REPORTING REQUIREMENTS

In a form provided by Agency, Grantee shall report eligible costs to Agency when seeking reimbursement for costs incurred during the Performance Period. Agency may require additional reporting in form and at such times as Agency specifies by notification to Grantee through its Grant Manager identified in Section 4.2.

If the Performance Period begins prior to the Executed Date, any reports for Project activities shown in this Exhibit A as due prior to the Executed Date must be provided to Agency, if not already provided to Agency despite the lack of an executed Grant. Grantee will not be in default for failure to perform any reporting requirements prior to the Executed Date.

SECTION V. DISBURSEMENT PROVISIONS

Agency will disburse the Grant Funds upon receipt and approval of Grantee's request for disbursement.

To be processed for payment, Grantee's request must include the following information at the minimum:

- Request date;
- Period covered by request;
- Agency's Grant number;
- Amount being requested; and
- Aggregated costs by available cost category.

Agency may request, at its discretion, additional information it considers necessary to determine the eligibility of costs for reimbursement. Reimbursement requests shall be submitted via an Agency-developed grant website portal, if operable and available, otherwise, Grantee must send its requests for disbursement via email to the Agency's Grant Manager identified in Section 4.

EXHIBIT B
INSURANCE

INSURANCE REQUIREMENTS

Grantee must obtain at Grantee's expense, and require its first tier contractors and subgrantees, if any, to obtain the insurance specified in this exhibit prior to performing under this Grant, and must maintain it in full force and at its own expense throughout the duration of this Grant, as required by any extended reporting period or tail coverage requirements, and all warranty periods that apply. Grantee must obtain and require its first tier contractors and subgrantees, if any, to obtain the following insurance from insurance companies or entities acceptable to Agency and authorized to transact the business of insurance and issue coverage in Oregon. Coverage must be primary and non-contributory with any other insurance and self-insurance, with the exception of professional liability and workers' compensation. Grantee must pay and require its first tier contractors and subgrantees to pay, if any, for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION

All employers, including Grantee, 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). Grantee shall require and ensure that each of its subgrantees, contractors, and subcontractors complies with these requirements. If Grantee is a subject employer, as defined in ORS 656.023, Grantee shall also obtain employers' liability insurance coverage with limits not less than $500,000 each accident. If Grantee is an employer subject to any other state's workers' compensation law, Grantee 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 subgrantees, contractors, and subcontractors complies with these requirements.

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 Agency. This insurance must include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this Grant, and have no limitation of coverage to designated premises, project or operation. Coverage must be written on an occurrence basis in an amount of not less than $1,000,000 per occurrence. Annual aggregate limit may not be less than $2,000,000.

AUTOMOBILE LIABILITY INSURANCE

☒ **Required** ☐ **Not required**

Automobile liability insurance covering Grantee'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.

PROFESSIONAL LIABILITY

☐ **Required** ☒ **Not required**

Professional liability insurance covering any damages caused by an error, omission or any negligent acts related to the activities performed under this Grant by the Grantee and Grantee's contractors, subgrantees, agents, officers or employees in an amount not less than $_____ per claim. Annual aggregate limit may not be less than $_____. If coverage is on a claims made basis, then either an extended reporting period of not less than 24 months must be included in the professional liability insurance coverage, or the Grantee must provide tail coverage as stated below.

NETWORK SECURITY AND PRIVACY LIABILITY

☐ **Required** ☒ **Not required**

Grantee must provide network security and privacy liability insurance for the duration of the Grant and for the period of time in which Grantee (or its business associates, contractors, or subgrantees) maintains, possesses, stores or has access to Agency or client data, whichever is longer, with a combined single limit of no less than $_____ per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of Agency or client data (which may include, but is not limited to, Personally Identifiable Information ("PII"), payment card data and Protected Health Information ("PHI")) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of Agency data.

POLLUTION LIABILITY

☐ **Required** ☒ **Not required**

Pollution liability insurance covering Grantee's or appropriate contractor or subgrantee's liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related cleanup costs incurred by Grantee, all arising out of the Project activities (including transportation risk) performed under this Grant is required. Combined single limit per occurrence may not be less than $_____. Annual aggregate limit may not be less than $_____.

An endorsement to the commercial general liability or automobile liability policy, covering Grantee's, contractor, or subgrantee's liability for bodily injury, property damage and environmental damage resulting from sudden, accidental, or gradual pollution and related clean-up costs incurred by Grantee that arise from the Project activities (including transportation risk) performed by Grantee under this Grant is also acceptable.

DIRECTORS, OFFICERS AND ORGANIZATION LIABILITY

☐ **Required** ☒ **Not required**

Directors, officers and organization liability insurance covering the Grantee's organization, directors, officers, and trustees actual or alleged errors, omissions, negligent, or wrongful acts, including improper governance, employment practices and financial oversight - including improper oversight and/or use of Grant Funds and donor contributions - with a combined single limit of no less than $_____ per claim.

CRIME PROTECTION COVERAGE: EMPLOYEE DISHONESTY or FIDELITY BOND

☐ **Required** ☒ **Not required**

Employee dishonesty or fidelity bond covering loss of money, securities and property caused by dishonest acts of Grantee's employees. Coverage limits may not be less than $_____.

PHYSICAL ABUSE AND MOLESTATION INSURANCE COVERAGE

☐ **Required** ☒ **Not required**

Abuse and molestation insurance in a form and with coverage satisfactory to the State covering damages arising out of actual or threatened physical abuse, mental injury, sexual molestation, negligent: hiring, employment, supervision, investigation, reporting to proper authorities, and retention of any person for whom the Grantee, its contractors, subcontractors or subgrantees ("Covered Entity") is responsible including but not limited to any Covered Entity's employees and volunteers. Policy endorsement's definition of an insured must include the Covered Entity and its employees and volunteers. Coverage must be written on an occurrence basis in an amount of not less than $_____ per occurrence. Any annual aggregate limit may not be less than $_____. Coverage can be provided by a separate policy or as an endorsement to the commercial general liability or professional liability policies. The limits must be exclusive to this required coverage. Incidents related to or arising out of physical abuse, mental injury, or sexual molestation, whether committed by one or more individuals, and irrespective of the number of incidents or injuries or the time period or area over which the incidents or injuries occur, must be treated as a separate occurrence for each victim. Coverage must include the cost of defense and the cost of defense must be provided outside the coverage limit.

EXCESS/UMBRELLA INSURANCE

A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED

All liability insurance, except for workers' compensation, professional liability, and network security and privacy liability (if applicable), required under this Grant 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 Grantee's activities to be performed under this Grant. Coverage must be primary and non-contributory with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of Grantee's 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 04 13 or equivalent.

WAIVER OF SUBROGATION

Grantee waives, and must require its first tier contractors and subgrantees waive, rights of subrogation which Grantee, Grantee's first tier contractors and subgrantees, if any, or any insurer of Grantee may acquire against the Agency or State of Oregon by virtue of the payment of any loss. Grantee must obtain, and require its first tier contractors and subgrantees to obtain, any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Agency has received a waiver of subrogation endorsement from the Grantee or the Grantee's insurer(s).

TAIL COVERAGE

If any of the required insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, Grantee must maintain, and require its first tier contractors and subgrantees, if any, maintain, either tail coverage or continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the Effective Date of this Grant, for a minimum of 24 months following the later of (i) Grantee's completion and Agency's acceptance of all Project activities required under this Grant, or, (ii) Agency or Grantee termination of Grant, or, iii) the expiration of all warranty periods provided under this Grant.

CERTIFICATE(S) AND PROOF OF INSURANCE

At Agency's request, Grantee must provide to Agency a Certificate(s) of Insurance for all required insurance. The Certificate(s) must list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) must also include all required endorsements or copies of the applicable policy language effecting coverage required by this Grant. 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, Agency has the right to request copies of insurance policies and endorsements relating to the insurance requirements in this Grant. Grantee must furnish acceptable insurance certificates to: CoronavirusReliefFund@oregon.gov or by mail to: Department of Administrative Services, Attention: Coronavirus Relief Fund, 155 Cottage Street NE, Salem, OR, 97301 prior to commencing the work.

NOTICE OF CHANGE OR CANCELLATION

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

INSURANCE REQUIREMENT REVIEW

Grantee agrees to periodic review of insurance requirements by Agency under this Grant, and to provide updated requirements as mutually agreed upon by Grantee and Agency.

STATE ACCEPTANCE

All insurance providers are subject to Agency acceptance. If requested by Agency, Grantee must provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to Agency's representatives responsible for verification of the insurance coverages required under this exhibit.

EXHIBIT C
FEDERAL TERMS AND CONDITIONS

1. FEDERAL FUNDS

1.1. If specified below, Agency's payments to Grantee under this Grant will be paid in whole or in part by funds received by Agency from the United States Federal Government. If so specified then Grantee, by signing this Grant, certifies neither it nor its employees, contractors, subcontractors or subgrantees who will perform the Project activities are currently employed by an agency or department of the federal government.

Payments ☒ will ☐ will not be made in whole or in part with federal funds.

1.2. In accordance with the Chief Financial Office's Oregon Accounting Manual, policy 30.40.00.104, Agency has determined:

☒ Grantee is a subrecipient ☐ Grantee is a contractor ☐ Not applicable

1.3. Catalog of Federal Domestic Assistance (CFDA) #(s) of federal funds to be paid through this Grant: 21.019

2. FEDERAL PROVISIONS

2.1. The use of all federal funds paid under this Grant are subject to all applicable federal regulations, including the provisions described below.

2.2. Grantee must ensure that any further distribution or payment of the federal funds paid under this Grant by means of any contract, subgrant, or other agreement between Grantee and another party for the performance of any of the activities of this Grant, includes the requirement that such funds may be used solely in a manner that complies with the provisions of this Grant.

2.3. Grantee must include and incorporate the provisions described below in all contracts and subgrants that may use, in whole or in part, the funds provided by this Grant.

2.4. Grantee must comply, and ensure the compliance by subcontractors or subgrantees, with 41 U.S.C. 4712, Program for Enhancement of Employee Whistleblower Protection. Grantee must inform subrecipients, contractors and employees, in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 USC § 4712.

In accordance with U.S. Treasury guidance – Grantee is subject to the following provisions, as applicable.

For purposes of these provisions, the following definitions apply:

"Contract" means this Grant or any contract or subgrant funded by this Grant.

"Contractor" and **"Subrecipient"** and **"Non-Federal entity"** mean Grantee or Grantee's contractors or subgrantees, if any.

(A) 2 CFR §200.303 Internal Controls

(B) 2 CFR §§ 200.330 through 200.332 Subrecipient Monitoring and Management

(C) Subpart F – Audit Requirements of 2 CFR §200.5XX

i. Contractor must comply, and require any subcontractor to comply, with applicable audit requirements and responsibilities set forth in this Contract and applicable state or federal law.

ii. If Contractor receives federal awards in excess of $750,000 in a fiscal year, Contractor is subject to audit conducted in accordance with the provisions of 2 CFR part 200, subpart F. Copies of all audits must be submitted to Agency within 30 days of completion.

iii. Contractor must save, protect and hold harmless Agency from the cost of any audits or special investigations performed by the Secretary of State with respect to the funds expended under this Contract. Contractor acknowledges and agrees that any audit costs incurred by Contractor as a result of allegations of fraud, waste or abuse are ineligible for reimbursement under this or any other agreement between Contractor and State.

(D) System for Award Management. Grantee must comply with applicable requirements regarding the 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. The Grantee also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the Grantee) the unique entity identifier required for SAM registration.

3. ADDITIONAL FEDERAL REQUIREMENTS

None.

EXHIBIT D
FEDERAL AWARD IDENTIFICATION
(Required by 2 CFR 200.331(a))

(i)	Grantee Name: *(must match DUNS registration)*	DONALD, CITY OF
(ii)	Grantee's DUNS number:	026464248
(iii)	Federal Award Identification Number (FAIN):	
(iv)	Federal award date: *(date of award to DAS by federal agency)*	March 27, 2020
(v)	Grant period of performance start and end dates:	Start: March 1, 2020 End: December 30, 2020
(vi)	Total amount of federal funds obligated by this Grant:	
(vii)	Total amount of federal award committed to Grantee by Agency: *(amount of federal funds from this FAIN committed to Grantee)*	$51,903.98
(viii)	Federal award project description:	Coronavirus Relief Fund
(ix)	Federal awarding agency:	U.S. Department of the Treasury
	Name of pass-through entity:	Oregon Department of Administrative Services
	Contact information for awarding official of pass-through entity:	Gerold Floyd, CoronavirusReliefFund@Oregon.gov
(x)	CFDA number, name, and amount:	Number: 21.019 Name: Coronavirus Relief Fund Amount: $1,388,506,837.10
(xi)	Is award research and development?	Yes ☐ No ☒
(xii)	Indirect cost rate:	Not allowed per U.S. Treasury guidance
	Is the 10% de minimis rate being used per §200.414?	Yes ☐ No ☒