

**SUBRECIPIENT AGREEMENT BETWEEN THE COUNTY OF ORANGE
AND CITY OF ORANGE FOR REVENUE LOSS AMERICAN RESCUE PLAN
ACT FUNDING**

This Subrecipient Agreement (the “Agreement”) is made and entered into by and between the County of Orange, a political subdivision of the State of California, hereinafter referred to as “County,” and City of Orange, a California municipal corporation, hereafter referred to as “Subrecipient,” with the County and Subrecipient referred to as “Party,” or collectively as “Parties.”

WHEREAS, on February 26, 2020, the County Health Officer declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus (named “COVID-19”) in Orange County (the “COVID-19 Emergency”); and

WHEREAS, on March 2, 2020, the Board of Supervisors adopted Resolution No. 2020-11 ratifying the local health emergency declared by the County’s Health Officer; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak; and

WHEREAS, the American Rescue Plan Act (ARPA) was passed by Congress and signed into law by the President of the United States on March 11, 2021; and

WHEREAS, the ARPA distributed more than \$360 billion in emergency funding for state, local, territorial, and Tribal governments with the County receiving a total of \$616.8 million in two equal allocations of Coronavirus State and Local Fiscal Recovery Funds; and

WHEREAS, the ARPA provides that payments from the Coronavirus State and Local Fiscal Recovery Funds may be used for revenue replacement for the provision of government services, COVID-19 expenditures or negative economic impacts of COVID-19, premium pay for essential workers, and investments in water, sewer, and broadband infrastructure for the State or local government; and were incurred during the period that begins on March 3, 2021, and ends on December 30, 2024; and

WHEREAS, the United States Department of Treasury released its Interim Final Rule to implement the Coronavirus State and Local Fiscal Recovery Fund established under the American Rescue Plan Act, which states that food assistance to households or populations facing negative economic impacts due to COVID-19 is an eligible use of Coronavirus State and Local Fiscal Recovery Funds, and that a recipient may presume a household or population that experienced increased food insecurity or is low- or moderate-income experienced negative economic impacts resulting from the pandemic; and

WHEREAS, on April 27, 2021, the Orange County Board of Supervisors allocated \$10 million in American Rescue Plan Act of 2021 (ARPA), H.R. 1319 dollars equally between the five supervisorial districts for meal gap support initiatives in response to COVID-19; and

WHEREAS, pursuant to the authority delegated by the Orange County Board of Supervisors, a share will be distributed to each city located in District 2 based on overall district population; and

WHEREAS, in order to provide meals to those facing food insecurities in the Second District due to the COVID-19 public health emergency, the Parties have agreed that the County shall transfer the grant amount described herein to Subrecipient.

NOW, THEREFORE, the Parties mutually agree as follows:

1. **TERM OF AGREEMENT.** The term of this Agreement begins on the date when fully executed by the Parties, and terminates on December 31 2022, or when all of the Parties' obligations under this Agreement are fully satisfied, whichever occurs earlier.

2. **USE OF GRANT AMOUNT.**

a. The grant funds provided are federal funds and subject to the Single Audit Act of 1984. The following information is provided in accordance with the Single Audit Act.

Award Amount	Up to \$10,000
Awarding County Agency	OC Community Resources
County Contact Information	Renee Ramirez
CFDA #/Name	21.027 / Coronavirus State and Local Fiscal Recovery Funds
Awarding Federal Agency	US Treasury Department
Indirect Cost Rate	10% MTDC or Federally Approved Rate

- b. Subrecipient shall use the grant amount provided under this Agreement to provide for food insecurities: (1) are necessary expenditures incurred due to the public health emergency with respect to COVID-19; and (2) were incurred during the period that begins on the date the Agreement is fully executed and ends on December 31, 2022.
- b. The term “Eligible Expenses,” as used in this Agreement, shall mean expenses incurred and paid for by Subrecipient for the provision of providing food/meal gap programs to clients with insecurities due to the Covid-19 pandemic located in the Second District in connection with the COVID-19 public health emergency. Eligible expenses may include improvements to or building of community gardens in neighborhoods or schools to cover supplies, plantings of vegetables and fruits, and waivers of community garden plot stipends. Eligible expenses may also include planting of fruit trees like orange, lemon, lime or apples in low income Covid impacted neighborhoods and parks.
- c. The following is a nonexclusive list of expenditures that shall not constitute Eligible Expenses payable from the grant amount:
 - (1) Damages covered by insurance.
 - (2) Expenses that have been or will be reimbursed under any local, state or federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
 - (3) Reimbursement to donors for donated items or services.
 - (4) Workforce bonuses other than hazard pay or overtime.
 - (5) Severance pay.
 - (6) Legal settlements.
- d. Indirect costs may not exceed 10% of the modified total direct costs per 2 CFR section 200.68 or the federally approved indirect cost rate, if applicable.
- e. Subrecipient must utilize the grant amount in accordance with all Federal and State laws, including but not limited to the American Rescue Plan Act of 2021 (ARPA), codified at 42 U.S.C. § 802, et seq., and all applicable regulations and guidelines implementing ARPA, including the regulations

issued by the Department of Treasury at 31 CFR Part 35 regarding costs that are payable from Coronavirus State and Fiscal Recovery Funds.

3. PAYMENT OF GRANT AMOUNT

- a. The County will issue a one-time payment to the Subrecipient in the amount of **\$10,000** within 10 business days of the full execution of this Agreement. All of Subrecipient's expenditures of the grant amount must be for costs as described in Paragraph 2 of this Agreement. The grant amount represents the amount allocated to Subrecipient.
- b. It is understood that the County makes no commitment to fund this Agreement beyond the terms set forth herein.
- c. Subrecipient will provide the County invoices and receipts as proof of eligible expenses within 14 working days of expending the full \$10,000, or the final amount spent.
- d. If Subrecipient has not spent any portion of the grant amount it has received under this Agreement to cover Eligible Expenses by December 31, 2022, Subrecipient shall return to the County by January 15, 2023 the amount remaining unspent as of December 31, 2022.

4. **STATUTES AND REGULATIONS APPLICABLE TO GRANT.** Subrecipient must comply with all applicable requirements of State, Federal, and County of Orange laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this Agreement. Subrecipient must comply with applicable State and Federal laws and regulations pertaining to labor, wages, hours, and other conditions of employment. Subrecipient must comply with new, amended, or revised laws, regulations, and/or procedures that apply to the performance of this Agreement. These requirements include, but are not limited to:

- a. Office of Management and Budget (OMB) Guidance. Subrecipient must comply with the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards per 2 CFR Part 200 (the "Uniform Guidance").
- b. Single Audit Act. Since Federal funds are used in the performance of this Agreement, Subrecipient must, as applicable, adhere to the rules and regulations of the Single Audit Act (31 USC Sec. 7501 et seq.), OMB Circular A-133 and any administrative regulation or field memoranda implementing the Act.

c. Political Activity Prohibited. None of the funds, materials, property or services provided directly or indirectly under this Agreement may be used for any partisan political activity, or to further the election or defeat of any candidate for public office. Funds provided under this Agreement may not be used for any purpose designed to support or defeat any pending legislation or administrative regulation.

5. **COMPLIANCE WITH GRANT REQUIREMENTS.** Grant funds awarded must be used solely for the purposes identified in Paragraph 2 of this Agreement. In accordance with Paragraph 11, Subrecipient agrees to indemnify, defend, and hold harmless the County of Orange for any sums the State or Federal government contends or determines Subrecipient used in violation of this Agreement. Subrecipient shall immediately return to the County any funds the County or any responsible State or Federal agency, including the Department of Treasury, determines the Subrecipient has used in a manner that is inconsistent with Paragraph 2 of this Agreement. The provisions of this paragraph shall survive termination of this Agreement.

6. **REPORTS.**

a. **Progress Report.** On November 30, 2022, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraph 2; and (4) identify the balance of the grant amount that Subrecipient has not spent.

b. **Final Report.** Upon the earlier of Subrecipient's expenditure of the balance of the grant amount or January 15, 2023, Subrecipient shall provide a report to the County that shall: (1) identify the Eligible Expenses paid from the grant amount; (2) demonstrate how Subrecipient used the grant amount consistent with the use requirements of Paragraph 2; and (3) identify the balance of the grant amount that Subrecipient has not spent, if any.

c. The Subrecipient shall provide a certification signed by its City Manager or designee with each report required under this Paragraph 6 that the statements contained in the report are true and that the expenditures described in the report comply with the uses permitted under Paragraph 2.

d. Subrecipient shall maintain supporting documentation for the reports required by this Paragraph 6 consistent with the requirements of Paragraph 7.

7. **RECORDS MAINTENANCE.** Records, in their original form, must be maintained in accordance with requirements prescribed by the County with respect

to all matters specified in this Agreement. Original forms are to be maintained on file for all documents specified in this Agreement. Such records must be retained for a period of four (4) years after termination of this Agreement and after final disposition of all pending matters. "Pending matters" include, but are not limited to, an audit, litigation or other actions involving records. Records, in their original form pertaining to matters covered by this Agreement, must at all times be retained within the County of Orange unless authorization to remove them is granted in writing by the County.

8. **RECORDS INSPECTION.** At any time during normal business hours and as often as either the County, Inspector General acting pursuant to the Inspector General Act of 1978, or the Auditor General of the State of California may deem necessary, Subrecipient must make available for examination all of its records with respect to all matters covered by this Agreement. The County, Inspector General, and the Auditor General of the State of California each have the authority to audit, examine and make excerpts or transcripts from records, including all Subrecipient's invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement. Subrecipient agrees to provide any reports requested by the County regarding performance of this Agreement. With respect to inspection of Subrecipient's records, the County may require that Subrecipient provide supporting documentation to substantiate Subrecipient's expenses with respect to the Subrecipient's use or expenditure of the grant amount.

9. **INDEPENDENT CONTRACTOR.** The Subrecipient shall be considered an independent contractor and neither the Subrecipient, its employees, nor anyone working under the Subrecipient shall be considered an agent or an employee of County. Neither the Subrecipient, its employees nor anyone working under the Subrecipient shall qualify for workers' compensation or other fringe benefits of any kind through County.

10. **PERMITS, LICENSES, APPROVALS, AND LEGAL OBLIGATIONS.** Subrecipient shall be responsible for obtaining any and all permits, licenses, and approvals required for performing any work under this Agreement. Subrecipient shall be responsible for observing and complying with any applicable Federal, State, or local laws, or rules or regulations affecting any such work. Subrecipient shall provide copies of permits and approvals to the County upon request.

11. **INDEMNITY.** The Subrecipient agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees and agents and those special districts and agencies which County's Board of Supervisors acts as the governing Board harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the Subrecipient's receipt of the grant

amount under this Agreement, including any claims that the grant amount paid by the County under this Agreement was not used consistent with the restrictions set forth in Section 2.b above. The provisions of this paragraph shall survive the termination of this Agreement.

12. NOTICES. Any and all notices, requests, demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four (4) calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

Subrecipient:
City Manager
City of Orange
300 E. Chapman Ave.
Orange, CA 92866

County:
Renee Ramirez
County of Orange
OC Community Services
1300 S. Grand, Bldg. B
Santa Ana, CA 92705

13. DEFAULTS. Should either Party fail for any reason to comply with the contractual obligations of this Agreement within the time specified by this Agreement, the non-breaching Party reserves the right to terminate the Agreement, reserving all rights under State and Federal law.

14. ATTORNEY FEES. In any action or proceeding to enforce or interpret any provision of this Agreement, each Party shall bear its own attorney's fees, costs, and expenses.

15. ENTIRE CONTRACT: This Agreement contains the entire contract between the Parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on the parties unless authorized by the Parties in writing.

16. AMENDMENTS. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the Parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.

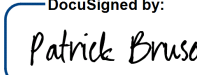
IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year dated below.

BY:  Mary Binning DATED: 7/14/2022
Mary Binning, City Attorney
City of Orange

BY:  Will Kolbow DATED: 7/14/2022
Will Kolbow
Assistant City Manager
City of Orange

BY:  Renee Ramirez DATED: 7/14/2022
Dylan Wright, Director
OC Community Resources

APPROVED AS TO FORM:
Office of the County Counsel
County of Orange, California

BY:  Patrick Brusio
Deputy
DATED: 7/14/2022