

**INTERGOVERNMENTAL GRANT AGREEMENT  
BETWEEN  
THE STATE OF WASHINGTON,  
OFFICE OF THE SECRETARY OF STATE,  
AND  
PACIFIC COUNTY**

**RECEIVED**  
MAY 11 2020  
BY: .....

THIS INTERGOVERNMENTAL GRANT AGREEMENT is made and entered into between the Office of the Secretary of State, hereinafter referred to as "OSOS," and Pacific County, hereinafter referred to as "County."

**I. AWARD IDENTIFICATION**

County's name	Pacific 2501
County's unique identifier	TID 91-6001356 UBI 254 000 662
Federal Award Identification number (FAIN)	EAC1651DB2020DR-2020-61000001-410001-EAC1908000000
Federal Award Date	April 6, 2020
Period of Performance	3/28/2020 – 12/31/2020
Amount of Federal Funds Obligated	<b>\$118,360.70</b>
Total Amount of Federal Funds Obligated	<b>\$118,360.70</b>
Total Amount of Award to County (Federal and State Funds)	<b>\$142,032.84</b>
Federal Award Project Description	As authorized under Section 101 of the Help America Vote Act of 2002 (P.L. 107-252) (HAVA) and provided for in the CARES Act, 2020 (Public Law 116-136), the purpose of this award is to "prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle."
Federal Awarding Agency	U.S. Elections Assistance Commission
CFDA Number and Name	90.404 HAVA Election Security Grants
Total award amount	\$8,308,437 (Federal) \$1,661,687 (State)
Is the Award Research and Development?	No

## II. DEFINITIONS & INTERPRETATION

Except as otherwise provided herein, as used in this Agreement capitalized terms shall have the following meanings:

“Award” means federal funds and matching state funds provided to the County under this Agreement, pursuant to the 2020 HAVA Cares Act Grant, for the purpose of preventing, preparing for, and responding to coronavirus, domestically or internationally, for the 2020 Federal election cycle.

“Business Day” shall mean a day that is not either Saturday or Sunday and is not a holiday observed by the State of Washington or a Federal holiday listed in 5 USC § 6103.

“CARES Act” means Public Law 116-136, the purpose of which is to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”

“EAC” means the Election Assistance Commission.

“HAVA” means the Help America Vote Act of 2002.

“2020 HAVA CARES Act” means Public Law 116-136, the purpose of which is to “prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”

“OSOS” means the State of Washington Office of the Secretary of State.

## III. PURPOSE

It is the purpose of this Agreement to provide the County with federal funds and a state matching share of funds as authorized under Section 101 of the Help America Vote Act of 2002 (P.L. 107-252) (HAVA) and provided for in the CARES Act, 2020 (Public Law 116-136), for the purpose of preventing, preparing for, and responding to coronavirus, domestically or internationally, for the 2020 Federal elections cycle.

## IV. AWARD

County is hereby awarded the amount of funds stated in section I of this Agreement – Total Amount of Award to County (Federal and State Funds).

**V. STATEMENT OF WORK**

The County shall furnish the necessary personnel, equipment, material and/or service(s) and otherwise do all things necessary for or incidental to the performance of work set forth in **Exhibit "A"** attached hereto and incorporated herein.

**VI. PERIOD OF PERFORMANCE**

The period of performance of this Agreement shall commence on the date of execution, and proceed until December 31, 2020, unless terminated sooner as provided in this Agreement.

**VII. ADMINISTRATIVE OBLIGATIONS OF COUNTY****Accounting Standards**

The County agrees to comply with 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements. The County agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred under this program.

**Cost Principles**

The County shall administer its program in conformance with 2 CFR 200 Subpart E (200.400-475). These principles shall be applied for all costs incurred whether charged on a direct or indirect basis. The County agrees to adhere to the accounting principles and procedures required therein.

**County Monitoring and Management**

County agrees to abide by, and cooperate with OSOS, in meeting the applicable federal requirements for sub-recipient monitoring and management found in 2 CFR 200.331.

**Interest**

The County shall place funds received under this Agreement in an interest bearing account. All funds received under this Agreement will remain in that account until spent by the County on allowable activities. Interest earned on deposited funds will be spent on allowable activities under this Agreement. In the event of termination of this Agreement in accordance with its terms, interest earned on deposited funds shall be remitted to OSOS together with all unspent federal and state match grant funds.

**VIII. GENERAL OBLIGATIONS OF THE COUNTY**

**General Standards**

The County shall procure materials in accordance with the requirements of 2 CFR 200, Subpart D regarding Procurement Standards, and shall subsequently follow, 2 CFR 200, Subpart D Property Standards, covering utilization and disposal of property.

**Equipment**

The purchase of equipment is an unallowable activity except when it is an integral part (such as part of a structure or built into a structure) of an eligible project or service. Equipment, with a unit cost of \$5,000 or more, must have prior approval by the Office of the Secretary of State before any expense is incurred. The County shall comply with its own current policies concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy, and as may be procured with funds provided herein. All other program assets (property, equipment, accounts receivable, etc.), other than unused grant funds and interest, shall revert to the County upon expiration of this Agreement, unless this Agreement is terminated under its own terms, or a different disposition of program assets is specified separately in writing by the Parties.

**Unused Funds**

Unused grant funds, including interest earned on grant funds, shall be returned to OSOS on December 31, 2020, unless this Agreement is terminated sooner.

**IX. DOCUMENTATION AND RECORDKEEPING****Records to be maintained**

The County shall maintain all records required by the Federal regulations that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

- a) Records providing a full description of each activity undertaken by County hereunder;
- b) Records demonstrating that each individual activity undertaken by County meets one of the provisions in Section 101 of HAVA and the Congressional Joint Explanatory Statement for the Consolidated Appropriations Act of 2020;
- c) Records required for determining the eligibility of activities;
- d) Records documenting compliance with Davis Bacon and Related Acts;
- e) Financial records as required by 2 CFR 200 Subpart D; and

- f) Other records necessary to document compliance with applicable laws, rules, and regulations.

### **Public Records Act**

The County shall comply with the provisions of the Public Records Act, Chapter 42.56 RCW, and all other applicable records laws. When a public records request related to this Agreement is received by the County, it shall provide notice to the OSOS Project Manager identified in Section XVII of this Agreement.

### **Format of records**

Wherever practicable, the County shall collect, transmit, and store records related to this Award in an electronic, machine readable format.

### **Retention Period**

The County shall retain all records according to applicable federal and state laws.

### **Protections for Data**

The County shall comply with all federal and state regulations to ensure proper disposal of data.

## **X. REPORTING REQUIREMENTS**

Pursuant to the CARES Act, within 20 days of each election in the 2020 Federal election cycle, the State will send a report accounting for the State's use of the funds. To allow for the time needed for the State to compile the data and write the report, the County must submit a report containing a list of expenditures for each election within 14 calendar days of the election date. The format of this list of expenditures and the required categories will be the same as those provided by the EAC for the 2020 election cycle. When the OSOS receives this information from the EAC, it will provide that format and the categories to the County via email.

A Federal Financial Report and progress report for the period ending December 31, 2020 will be due from the State on February 28, 2021. To allow for the time needed to compile the data and write the report, the County must submit a final list of expenditures, in the format specified by EAC and provided to the counties via OSOS, at least 15 business days in advance of that date.

## **XI. AUDITS AND INSPECTIONS**

### **Audits**

If the County expends \$750,000 or more in federal awards during its fiscal year, the County is required to provide the appropriate single or program-specific audit in accordance with the provisions outlined in 2 CFR Part 200.501.

### **Inspections and Interviews**

County shall provide OSOS and its representatives, as well as authorized representatives of the Federal awarding agency, Inspectors General, and the Comptroller General of the United States, pursuant to 2 CFR 200.336, access to the premises of the County at any time and from time to time during normal business hours and upon reasonable notice under the circumstances for the purposes of:

- a) Inspecting and copying (at County's expense) any and all program documents maintained by the County; and
- b) Discussing the affairs, finances and business of the County with any representative of County who is present at such premises or with the County Auditors to disclose to OSOS and its representatives and/or any authorized representatives of the Federal awarding agency, Inspectors General, and the Comptroller General of the United States, any and all financial and other information regarding the County that is reasonably related to the program.

## **XII. AWARD CONTINGENCIES**

The County shall implement or have implemented the Drug-Free Workplace Requirements of 2 C.F.R. § 182.200 and comply with subpart C of 2 C.F.R. Part 180- Debarment & Suspension & include in lower-tier covered transactions.

## **XIII. SUBCONTRACTS**

The County shall abide by the following requirements and include all applicable provisions in any subcontracts paid for with federal funds:

### **Equal Employment Opportunity**

All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."

### **Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)**

All contracts and subgrants in excess of \$2,000 for construction or repair awarded by County shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or

County shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

**Contract Work Hours and Safety Standards Act (40 U.S.C 327-333)**

Where applicable, all contracts awarded by County in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**Rights to Inventions Made Under a Contract or Agreement**

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

**Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended**

Contractors and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the them to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.) Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee

of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying in non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**Davis Bacon Act of 1931 (Public -- No. 403-74th Congress [S.3303])**

That the advertised specifications for every contract in excess of \$2,000, to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there; and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, and that the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work; and the further stipulation that there may be withheld from the contractor so much of accrued payments as may be considered necessary by the contracting officer to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by such laborers and mechanics and not refunded to the contractor, subcontractors, or their agents.

**Debarment and Suspension (E.O.s 12549 and 12689)**

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.



**Public Law 88-352, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (24 CFR Part 1)**

The County must comply with the provisions of "Public Law 88-352," which refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). The law provides that no person in the United States shall, on the grounds of race, color or national origin, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving federal financial assistance.

**Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794)**

The County must comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits or be subjected to discrimination under any program or activity receiving federal assistance funds.

**Americans with Disabilities Act (42 U.S.C. 12101, et seq.)**

The County shall comply with the provisions of the Americans with Disabilities Act, 42 U.S.C. 12101, et. seq. That Act provides a comprehensive national mandate to eliminate discrimination against individuals with disabilities. The Act may impose requirements on the County in four principle ways: 1) with respect to employment; 2) with respect to the provision of public services; 3) with respect to transportation; 4) with respect to existing facilities and new construction.

**The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C Section 4321 et seq., and 24 CFR Part 58)**

The County shall comply with the provisions of the National Environmental Policy Act of 1969. The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences. Environmental review procedures, including determining and publishing a Finding of Significance or of No Significance for a proposal, are a necessary part of this process. Pursuant to these provisions, the County must also submit environmental certifications to the Department when requesting that funds be released for the project. The County must certify that the proposed project will not significantly impact the environment and that the County has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

**Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961 et seq.)**

The County shall comply with Executive Order 11990. The intent of this Executive Order is (1) to avoid, to the extent possible, adverse impacts associated with the destruction or modification of wetland, and (2) to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

The County, to the extent permitted by law, must avoid undertaking or providing assistance for new construction located in wetlands unless (1) there is no practical alternative to such construction, and (2) the proposed action includes all practical measures to minimize harm

to wetlands which may result from such use. In making this determination, the County may take into account economic, environmental and other pertinent factors.

**Executive Order 11988, May 24, 1977: Floodplain Management (42 F.R. 26951 et seq)**

The County shall comply with the provisions of Executive Order 11988. The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains, and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If the County proposes to conduct, support or allow an action to be located in a floodplain, the County must consider alternatives to avoid adverse effects and incompatible involvement in the floodplain. If siting in a floodplain is the only practical alternative, the County must, prior to taking any action: (1) design or modify its actions in order to minimize any potential harm to the floodplain, and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain.

**The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 et seq.)**

The County shall comply with the Wild and Scenic Rivers Act. The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license, or other mechanism cannot be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

**Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.)**

The County shall comply with the Coastal Zone Management Act of 1972, as amended. The intent of this Act is to preserve, protect, develop, and where possible, restore or enhance the resources of the nation's coastal zone. Federal agencies cannot approve assistance for proposed projects that are inconsistent with the state's Coastal Zone Management program except upon a finding by the U.S. Secretary of Commerce that such a project is consistent with the purpose of this chapter or necessary in the interests of national security.

**The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.)**

The County shall comply with the Endangered Species Act of 1973, as amended. The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical.

**The Reservoir Salvage Act of 1960, as amended by the Archaeological and Historical Preservation Act of 1974 (16 U.S.C. 469 et seq.)**

Under the Reservoir Salvage Act, the County must comply with provisions for the preservation of historical and archaeological data (including relics and specimens) that might otherwise be irreparably lost or destroyed as a result of any alteration of the terrain caused as a result of any federal construction project or federally licensed activity or program. Whenever the County finds, or is notified in writing by an appropriate historical or archaeological authority, that its activities in connection with any federal funded construction project or federally licensed project, activity or program may cause irreparable loss or destruction of significant scientific, prehistoric, historical or archaeological data, the County must stop work immediately and must notify the U.S. Secretary of Interior and the Department in writing and provide appropriate information concerning the project or program activity.

**The Archaeological and Historical Data Preservation Act of 1974 (16 U.S.C. 469 a-1 et seq.)**

The County shall comply with the Archaeological and Historical Data Preservation Act, which provides for the preservation of historic and archaeological information that would be lost due to development and construction activities as a result of federally funded activities.

**The Safe Drinking Water Act of 1974, as amended (42 U.S.C. Section 201, 300(f) et seq., and U.S.C. Section 349)**

The County must comply with the Safe Drinking Water Act, as amended, which is intended to protect underground sources of water. No commitment for federal financial assistance, according to this Act, shall be entered into for any project, which the U.S. Environmental Protection Agency determines, may contaminate an aquifer that is the sole or principal drinking water source for an area.

**The Federal Water Pollution Control Act of 1972, as amended, including the Clean Water Act of 1977, PUBLIC LAW 92-212 (33 U.S.C. Section 1251 et seq.)**

The County must assure compliance with the Water Pollution Control Act, as amended, which provides for the restoration of chemical, physical and biological integrity of the nation's water.

**The Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.)**

The County must assure compliance with the Solid Waste Disposal Act, as amended. The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

**The Fish and Wildlife Coordination Act of 1958, as amended (16 U.S.C. Section 661 et seq.)**

The County must assure compliance with the Fish and Wildlife Coordination Act, as amended. The Act assures that wildlife conservation receives equal consideration and is coordinated with other features of water resources development programs.

**Relocation Assistance & Real Property Acquisition Policy, Chapter 8.26 RCW**

The County shall comply with the provisions of Chapter 8.26 RCW and Chapter 365-24 WAC when its activities involve any acquisition of real property assisted under this Agreement or the displacement of any family, individual, business, nonprofit organization or farm that results from such acquisition.

**State Environmental Policy Act (SEPA), Chapter 43.21 (C) RCW**

The County shall comply with the provisions of Chapter 43.21(C) RCW and Chapter 197-11 WAC, the guidelines by which local agencies will (1) require environmental checklists from private and public entities considering an action potentially subject to the Environmental Impact Statement (EIS) requirement of SEPA, (2) make "threshold determinations" that such an action will not have a significant environmental impact, (3) provide for the preparation of a draft and final EIS if the action has significant impact, and (4) circulate the EIS to other agencies and interested parties.

**Noise Control, Chapter 70.107 RCW**

The County shall assure compliance with the state Noise Control Act. Objectives of the Act are to assist local governments in implementing local noise ordinances and to control and reduce excessive noise in Washington.

**Shoreline Management Act of 1971, Chapter 90.58 RCW**

The County shall comply with the provisions of Chapter 90.58 RCW. This Act defines a planning program and a permit system, which are initiated at the local government level under state guidance. Its purpose is to protect and enhance the state's shoreline and it includes a comprehensive shoreline inventory process and a master program for regulation of shoreline uses. A permit application at the local level must be in compliance with those plans and consistent with the state Coastal Zone Management program if substantial developments and shoreline modifications occur, and a record of the application and decision must be submitted to the state.

**State Building Code, Chapter 19.27 RCW; Energy Related Building Standards, Chapter 19.27A RCW; and Provisions in Buildings for Aged and Handicapped Persons, Chapter 70.92 RCW**

The County shall comply with the provisions of Chapter 19.27 RCW, Chapter 19.27A RCW, Chapter 70.92 RCW and the regulations for building construction and for barrier free facilities adopted by the Washington State Building Code Council pursuant to these statutes.

The State Building Code Act provides for a uniform state building code and mandates counties, cities and towns to administer and enforce its provisions. Local governments are authorized to modify the state building code to fit local conditions as long as such modifications do not result in a code that is less than the minimum performance standards and objectives contained in the state code.

**Open Public Meetings Act, Chapter 42.30 RCW**

The County shall comply with provisions of Chapter 42.30 RCW which require that all meetings of the governing body which pertain to this Agreement shall be open to the public except those where specific provision is made for executive sessions pursuant to RCW 42.30.110.

**Law Against Discrimination, Chapter 49.60 RCW**

The County shall comply with the provisions of Chapter 49.60 RCW in all activities relating to this Agreement.

**Governor's Executive Order 89-10, December 11, 1989: Protection of Wetlands, and Governor's Executive Order 90-04, April 21, 1990: Protection of Wetlands**

The County shall ensure that it avoids any activities that would adversely affect wetlands and adequately mitigates unavoidable impacts. For the purposes of this requirement, except where a contrary definition is provided by statute, mitigation means: (1) avoiding the impact altogether by not taking certain action or part of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology, or by taking affirmative steps to avoid or reduce impacts; (3) rectifying the impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; (5) compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and (6) monitoring the impact and taking appropriate corrective measures.

Mitigation for individual actions may include a combination of the above measures. Mitigation may not include any of the above measures to the extent that they may be contrary to statute as applied under the particular circumstances. Emergency work that is essential to save lives and protect property and public health is exempt from these provisions.

**XIV. EVENT OF DEFAULT OR TERMINATION**

**Termination for Convenience**

Either party may terminate this Agreement upon 30 days prior written notification to the other party. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement

prior to the effective date of termination. All unspent federal and state match grant funds, as well as grant funds determined by OSOS to be for unallowable expenditures must be returned to the OSOS grant program within 30 days of termination.

#### **Termination for Cause**

If for any cause, either party does not fulfill in a timely and proper manner its obligations under this Agreement, or if either party violates any of these terms and conditions, the aggrieved party will give the other party written notice of such failure or violation. The responsible party will be given the opportunity to correct the violation or failure within 15 working days. If failure or violation is not corrected, this Agreement may be terminated immediately by written notice of the aggrieved party to the other. In the event of a termination for cause, all unused grant funds, as well as grant funds determined by OSOS to be for unallowable expenditures, must be returned to the OSOS grant program.

In the event that the termination for cause occurs due to any violation of this Agreement by the County, the County may be required to reimburse the OSOS grant program for the expended portions of the grant funds.

The rights and remedies of OSOS provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

#### **Termination Procedure**

Upon termination of this Agreement, OSOS, in addition to any other rights provided in this Agreement, may require the County to deliver to OSOS any property specifically produced, furnished, or acquired with grant funds provided under the Agreement.

OSOS shall pay to the County the agreed upon price, if separately stated, for completed work and service(s) accepted by OSOS and the amount agreed upon by the County and OSOS for (i) completed work and service(s) for which no separate price is stated, (ii) partially completed work and service(s), (iii) other property or services which are accepted by OSOS, and (iv) the protection and preservation of property, unless the termination is for default, in which case OSOS shall determine the extent of the liability of OSOS. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. OSOS may withhold from any amounts due the County such sum as OSOS determines to be necessary to protect OSOS against potential loss or liability.

The rights and remedies of OSOS provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

After receipt of a notice of termination, and except as otherwise directed by OSOS, the County shall:

- Stop work under the Agreement on the date, and to the extent specified, in the notice;

- Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- Assign to OSOS in the manner, at the times, and to the extent directed by OSOS, all of the rights, title, and interest of the County under the orders and subcontracts so terminated, in which case OSOS has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
- Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of OSOS to the extent OSOS may require, which approval or ratification shall be final for all the purposes of this clause;
- Transfer title to OSOS and deliver in the manner, at the times, and to the extent directed by OSOS any property which, if the contract had been completed, would have been required to be furnished to OSOS;
- Complete performance of such part of the work as shall not have been terminated by OSOS; and
- Take such action as may be necessary, or as OSOS may direct, for the protection and preservation of the property related to this contract which is in the possession of the County and in which OSOS has or may acquire an interest.

#### **XV. SAVINGS**

In the event funding from federal, state or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion, OSOS may terminate the contract under the "Termination for Convenience" clause, without the 30-day notice requirement, subject to renegotiation under those new funding limitations and conditions.

#### **XVI. DISPUTES**

Each party shall make a good faith effort to negotiate a resolution of any disputes between the parties related to this Agreement. In the event of litigation or other action brought to enforce Agreement terms, each party shall bear its own attorneys' fees and costs. Nothing in the Agreement shall be construed to limit the parties' choice of a mutually acceptable Alternate Dispute Resolution method in addition to the dispute resolution procedure outlined above.

#### **XVII. AGREEMENT MANAGEMENT**

The Project Manager for each of the parties shall be the contact person for communications regarding the performance of this Agreement.

<u>Project Manager for County is:</u>	<u>Project Manager for the OSOS is:</u>
<u>Pacific County Auditor</u> Joyce Kidd  PO Box 97 South Bend, WA 98586-0097  Phone: 360-875-9317 E-mail: <a href="mailto:jkidd@co.pacific.wa.us">jkidd@co.pacific.wa.us</a>	<u>Shannon Cortez</u> Deputy Director Elections Division P.O. Box 40220 Olympia, WA 98504-0220  Phone: 360-902-4169 E-mail: <a href="mailto:shannon.cortez@sos.wa.gov">shannon.cortez@sos.wa.gov</a>

### **XVIII. GOVERNANCE**

This Agreement is entered into pursuant to and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed and interpreted in accordance with those laws, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable Federal and state of Washington statutes and regulations
- The terms and conditions of this Agreement
- The attachments to this Agreement

### **XIX. ALL WRITINGS CONTAINED HEREIN**

This Agreement contains the entire understanding between the parties, and there are no other agreements, understandings, or representations set forth or incorporated by reference herein.

No subsequent modifications or amendments of this Agreement shall be of any force or effect unless in writing, signed by authorized representatives of the OSOS and County and made part of this original Agreement.

### **XX. HOLD HARMLESS**

Each party to this Agreement shall be responsible for its own acts and omissions and those of its officers, employees and agents. No party to this Agreement shall be responsible for the acts or omissions of entities or individuals not a party to this Agreement.



**XXI. FORCE MAJEURE**

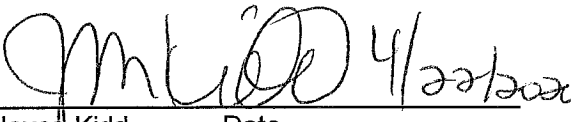
Neither party will incur any liability to the other if its performance of any obligation under this Agreement is prevented or delayed by causes beyond its control and without the fault or negligence of either party. Causes beyond a party's control may include, but are not limited to, acts of God or war, changes in controlling law, regulations, orders or the requirements of any governmental entity, natural disasters, fire, epidemics and quarantines.

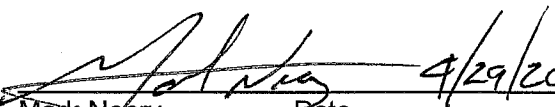
Both parties shall notify each other orally within five (5) days and in writing within ten (10) days of the date on which the party becomes aware, or should have reasonably become aware, that such cause would prevent or delay its performance. Such notification shall (i) describe fully such cause(s) and its effect on performance, (ii) state whether performance under the Agreement is prevented or delayed and (iii) if performance is delayed, state a reasonable estimate of the duration of the delay. The party claiming force majeure shall have the burden of proving that such cause(s) delayed or prevented its performance despite its diligent efforts to perform and shall produce such supporting documentation as the other party may reasonably request. After receipt of such notification, the party not claiming force majeure may elect either to terminate the agreement or to extend the time for performance as reasonably necessary to compensate for the delay.

**XXII. SEVERABILITY**

The provisions of this Agreement are intended to be severable. If any term or provision is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

**PACIFIC COUNTY****OFFICE OF THE SECRETARY OF STATE**

  
 Joyce Kidd Date  
 County Auditor

  
 Mark Neary Date  
 Assistant Secretary of State

APPROVED AS TO FORM:  
 Attorney General's Office

**EXHIBIT A****STATEMENT OF WORK**

The CARES Act makes clear that grant funds are for costs associated with the national emergency related to coronavirus and are to be spent *“to prevent, prepare for, and respond to coronavirus, domestically or internationally, for the 2020 Federal election cycle.”* The following is a list of activities eligible for Local Government Grant Funding, for which grant funds may be used during the upcoming 2020 Federal Election cycle. This list is not comprehensive and the County may spend funds for activities not listed as long as the activities are associated with compliance with the Title III requirements of HAVA and the CARES Act:

- Acquisition of additional voting equipment, including high speed or central count tabulators and hardware and software to allow for social distancing or to reduce or eliminate election staff handling potentially contaminated mail-in ballots
- Installation and security for additional mail drop-boxes, for example at popular drop boxes to maintain social distancing
- Temporary elections office staffing, beyond normal levels, due to the coronavirus
- Cleaning supplies and protective masks and equipment for elections staff in voting centers, in ballot processing areas, or anywhere where election staff need cleaning supplies or protective equipment due to coronavirus
- Overtime salary and benefit costs, associated with the impacts of coronavirus, for elections staff
- Training of elections employees on sanitization procedures
- Public communication of changes in registration, ballot request options, or voting procedures, including information on coronavirus precautions being implemented during the voting process.
- Mailings to inform the public on changes or determination of procedures of coronavirus precautions, options in voting, and other voting information.
- Pre- and post-election deep cleaning of election offices, voting centers, ballot processing areas, or any other space where elections staff have worked or processed ballots
- Additional laptops and mobile IT equipment
- Additional automated letter opening equipment