

INTERCOOPERATIVE AGREEMENT

For

PUBLIC FACILITIES IMPROVEMENT FUND

AMERICAN LEGION POST 150 VETERAN HOUSING AND RESOURCE CENTER

THIS AGREEMENT is made between the Board of Pacific County Commissioners (BOARD) on behalf of Pacific County Washington, a political subdivision and municipal corporation hereinafter referred to as the "COUNTY" and the Department of General Administration, a recognized COUNTY department, hereinafter referred to as "RECIPIENT".

RECITALS

WHEREAS, RCW 82.14.370 provides statutory authority for rural (distressed) counties to impose sales and use taxes to finance public facilities in rural counties as deductions from the tax otherwise required to be collected or paid over to the state department of revenue under chapters 82.08 or 82.12 RCW; and

WHEREAS, finding Pacific County to be a rural "distressed county" in need of public facilities, the Board of Pacific County Commissioners enacted Ordinance No. 148 which imposed a sales and use tax under RCW 82.14.370(1) for twenty-five (25) years at the rate of four one-hundredths percent (0.04%) effective July 1, 1998, and established the Public Facilities Improvements Fund No. 126 within the COUNTY treasury to finance public facilities within Pacific County; and

WHEREAS, finding Pacific County a "rural county" in need of additional "public facilities" financing, the Board of County Commissioners enacted Ordinance No. 148-A increasing the locally retained sales and use tax rate under Ordinance No. 148 to eight one-hundredths percent (0.08%) effective August 1, 1999, and subsequently the Board of County Commissioners enacted Ordinance No. 148-B further increasing the locally retained sales and use tax rate under Ordinance No. 148A to nine one-hundredths percent (0.09%) effective August 1, 2007; and

WHEREAS, the COUNTY has the statutory authority under RCW 82.14.370 to assist with financing public facilities throughout Pacific County; and

WHEREAS, the RECIPIENT'S American Legion Post 150 Veteran Housing and Resource Center meets the definition of a project eligible for public facility funding as defined by Chapter 82.14.370 RCW; and

WHEREAS, the COUNTY desires to financially assist the RECIPIENT with the American Legion Post 150 Veteran Housing and Resource Center Project; and

WHEREAS, the Pacific County Council of Governments has reviewed applications for public facility funding, and has recommended that this project be provided with public facility financial assistance from the County; and

WHEREAS, said Project was included in the Overall Economic Development Plan for Pacific County (the "OEDP") as adopted via Resolution No. 2023-058; and

WHEREAS, the COUNTY and RECIPIENT wish to enter into this AGREEMENT under chapter 39.34 RCW - the Interlocal Cooperation Act.

NOW, THEREFORE, in consideration of covenants, conditions, performances and promises hereinafter contained, the parties hereto agree as follows:

1. **FUNDING**

A total of One Hundred Fifty Thousand Dollars (\$150,000) has been pledged within Pacific County Capital Projects Fund No. 302-Public Facilities Improvements to assist RECIPIENT with eligible activities related to the American Legion Post 150 Veteran Housing and Resource Center. Said amount shall constitute the maximum reimbursement RECIPIENT is eligible to receive from COUNTY under this AGREEMENT.

Funding will be provided as follows:

- Fiscal Year 2023 – Seventy-Five Thousand Dollars (\$75,000)
- Fiscal Year 2024 – Seventy-Five Thousand Dollars (\$75,000)

2. **USE OF FUNDS and SCOPE OF WORK**

RECIPIENT shall use these COUNTY funds solely for reimbursement of expenses to the Willapa Community Development Association (WCDA) specifically for the American Legion Post 150 Veteran Housing and Resource Center Project.

3. **AGREEMENT PERIOD**

The terms of this AGREEMENT and the performance of the parties hereto shall be deemed to have commenced on January 1, 2023. It will continue in effect through December 15, 2024, unless sooner terminated or extended as provided herein.

4. **PAYMENT PROVISIONS**

Funds shall be disbursed to RECIPIENT as per the terms listed within Section 1. Funding.

5. **EVALUATION AND MONITORING**

- A. RECIPIENT shall maintain books, records, documents, and other evidence and accounting procedures and practices that sufficiently and properly reflect the performance of this AGREEMENT. RECIPIENT will retain all books, records, documents, and other material relevant to this AGREEMENT for six (6) years after expiration of the AGREEMENT, or from the date final payment hereunder is made, whichever is later.
- B. COUNTY or the State Auditor and any of their representatives shall have full access to, and the right to examine during normal business hours and as often as COUNTY or the State Auditor may deem necessary, those books, records, documents, and other evidence retained by RECIPIENT with respect to all matters covered in this AGREEMENT. Such representatives shall be permitted to audit, examine, and make excerpts or transcripts from such records, and to make audits of all Agreements, invoices, materials, payroll, and records of matters covered by this AGREEMENT. These rights shall last for six (6) years after expiration of this AGREEMENT, or from the date final payment hereunder is made, whichever is later.
- C. COUNTY will use reasonable security procedures and protections to assure that related records and documents provided by RECIPIENT are not erroneously disclosed to third parties. To the extent Chapter 42.56 RCW permits, pertinent records and other documents in any medium furnished by RECIPIENT will remain its property unless otherwise agreed.
- D. RECIPIENT shall cooperate with and freely participate in any other monitoring or evaluation activities pertinent to this AGREEMENT that COUNTY needs to have conducted.

6. **RECAPTURE PROVISION**

- A. In the event RECIPIENT fails to expend these funds in accordance with state law and/or the provisions of this AGREEMENT, COUNTY reserves the right to recapture funds in an amount equivalent to the extent of noncompliance.
- B. Such right of recapture shall exist for six (6) years after expiration of this AGREEMENT or final payment hereunder, whichever occurs later. Repayment by RECIPIENT of funds under this recapture provision shall occur within twenty (20) days of demand. In the event COUNTY is required to institute legal proceedings to enforce this recapture provision, COUNTY shall be entitled to its costs thereof, including reasonable attorney's fees.

7. **NONDISCRIMINATION**

RECIPIENT shall comply with all federal and state nondiscrimination laws, including, but not limited to Chapter 49.60 RCW – Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq. – the Americans with Disabilities Act (ADA).

8. **NONCOMPLIANCE WITH NONDISCRIMINATION LAWS**

The RECIPIENT shall comply with all federal and state nondiscrimination laws, including, but not limited to chapter 49.60 RCW – Washington's Law Against Discrimination, and 42 U.S.C. 12101 et seq. – the Americans with Disabilities Act (ADA) as amended.

9. **PUBLIC RECORDS ACT**

This Agreement and all public records associated with this Agreement shall be available from COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of RECIPIENT are needed for COUNTY to respond to a request under the Act, as determined by COUNTY, RECIPIENT agrees to make them promptly available to COUNTY. If RECIPIENT considers any portion of any record provided to COUNTY under this Agreement, whether in electronic or hard copy form, to be protected from disclosure under law, RECIPIENT shall clearly identify any specific information that it claims to be confidential or proprietary. If COUNTY receives a request under the Act to inspect or copy the information so identified by RECIPIENT and COUNTY determines that release of the information is required by the Act or otherwise appropriate, COUNTY's sole obligation shall be to notify RECIPIENT (a) of the request and (b) of the date that such information will be released to the requester unless RECIPIENT obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If RECIPIENT fails to timely obtain a court order enjoining disclosure, COUNTY will release the requested information on the date specified.

COUNTY has, and by this section assumes, no obligation on behalf of RECIPIENT to claim any exemption from disclosure under the Act. COUNTY shall not be liable to RECIPIENT for releasing records not clearly identified by RECIPIENT as confidential or proprietary. COUNTY shall not be liable to RECIPIENT for any records that COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

RECIPIENT agrees to indemnify and, to the greatest extent legally possible, to hold harmless COUNTY in any action by a third party due to the negligence, recklessness, or intentional actions by RECIPIENT relating to its performance of this Agreement. This includes any lawsuit filed by a third party for COUNTY's allegedly improper release of confidential or proprietary information pursuant to a public records request.

10. **AGREEMENT MODIFICATIONS**

COUNTY and RECIPIENT may, from time to time, request changes in services being performed with these funds. Any such changes that are mutually agreed upon shall be incorporated herein by written amendment to this AGREEMENT. It is mutually agreed and understood that no alteration or variation of the terms of this AGREEMENT shall be valid unless made in writing and signed by the parties hereto, and that any oral understanding or agreements not incorporated herein shall not be binding. For example, and without limitation, an amendment to this AGREEMENT must be approved in writing by COUNTY prior to RECIPIENT expending funds for the items covered within that amendment. Costs incurred by RECIPIENT in contravention of this Paragraph are the sole responsibility of RECIPIENT.

11. **TERMINATION OF AGREEMENT**

- A. If, through any cause, RECIPIENT shall fail to fulfill in a timely and proper manner its obligations under this AGREEMENT, or if RECIPIENT shall violate any of its covenants, agreements, or stipulations, COUNTY shall thereupon have the right to terminate this AGREEMENT and withhold the remaining allocation if such default or violation is not corrected within twenty (20) days after submitting written notice to RECIPIENT describing such default or violation.
- B. Notwithstanding any provisions of this AGREEMENT, either party may terminate this AGREEMENT by providing written notice of such termination, specifying the effective date thereof, at least twenty (20) days prior to such date. Payment for project-related expenses incurred by RECIPIENT and not otherwise paid for by COUNTY prior to the effective date of such termination shall be as COUNTY reasonably determines.
- C. COUNTY may unilaterally terminate all or part of this AGREEMENT, or reduce the Scope of Work, if COUNTY loses the authority to collect recording fees for Affordable Housing for All and Homeless Housing and Assistance, or if the amount of recording fees collected is reduced below the level necessary to provide the amount identified in Section 1 of this AGREEMENT.

12. **SUBCONTRACTORS**

RECIPIENT may subcontract any part of the work to be performed under this AGREEMENT.

13. **SEVERABILITY**

In the event any provision, or any portion thereof, contained in this AGREEMENT is held to be unconstitutional, invalid, or unenforceable, said provision(s) or portion(s) thereof shall be deemed severed and the remainder of this AGREEMENT shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

14. **GOVERNING LAW AND VENUE**

This AGREEMENT shall be construed and enforced in accordance with, and its validity and performance governed by, the laws of the State of Washington. The Superior Court of Pacific County, Washington shall be the venue for any suit between the parties arising out of this AGREEMENT.

15. **ENTIRE AGREEMENT**

This AGREEMENT represents all the terms and conditions agreed to by the parties. No other understandings, oral or otherwise, regarding the subject matter of this AGREEMENT shall be deemed to exist or to bind any parties hereto.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed this 10th day of October, 2023.

RECIPIENT
Department of General Administration

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON

Paul Plakinger Date
County Administrative Officer

Lisa Olsen, Chair

Jerry Doyle, Commissioner

APPROVED AS TO FORM

Prosecutor's Office WSBA#

David Tobin, Commissioner

ATTEST:

Amanda Bennett Date
Clerk of the Board