

RESOLUTION NO. 1086

CITY OF LACEY

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LACEY ESTABLISHING A BUSINESS SUPPORT PROGRAM IN RESPONSE TO THE NOVEL CORONAVIRUS (COVID-19).

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary Alex Azar declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020; and

WHEREAS, on February 29, 2020, Governor Jay Inslee signed a Proclamation declaring a State of Emergency exists in all counties in the State of Washington due to the number of confirmed cases of COVID-19 in the state; and

WHEREAS, the United States Centers for Disease Control and Prevention identifies the potential public health threat posed by COVID-19 as high, and has advised that person-to-person spread of COVID-19 will continue to occur and the best way to prevent a calamitous explosion of cases is to prevent infected people from coming in close contact with healthy ones; and

WHEREAS, on March 16, 2020, Governor Jay Inslee imposed restrictions prohibiting gatherings of fifty (50) people or more and implementing measures to contain the spread of the virus; and

WHEREAS, on March 17, 2020, the Center for Disease Control and Prevention issued recommendations limiting gatherings to ten (10) persons or fewer.

WHEREAS, on March 19, 2020, the Lacey City Council passed Resolution No. 1085 finding the COVID-19 outbreak to constitute an emergency; and

WHEREAS, on March 23, 2020, Governor Jay Inslee imposed a “Stay Home, Stay Healthy” order requiring every Washingtonian to stay home unless they are engaged in an essential activity and banning all gatherings for social, spiritual and recreational purposes and ordering all businesses to close unless they are designated as an essential business; and

WHEREAS, while the practice of social distancing is critical in mitigating the rate of spread of the COVID-19 virus, it is having significant negative economic effects on small businesses and workers; and

WHEREAS, disruptions to workers and small businesses are serious, as small businesses are the backbone of our economy, and provide the foundation of employment, services for the community, and revenue in order for cities and other public agencies to continue to provide essential services for the public welfare and benefit; and

WHEREAS, citizens who have lost their primary source of income may be unable to afford to stay home or practice social distancing which could have a negative impact on the public's health; and

WHEREAS, state agencies and partners are working to swiftly respond to the economic impact that the COVID-19 pandemic is having on Washington State; and

WHEREAS, the Lacey City Council recognizes that one of its essential functions is to secure the health and welfare of Lacey's citizens; and

WHEREAS, small business plays a vital role in the overall health and welfare of Lacey's citizens; and

WHEREAS, resources are necessary to help small businesses survive and certain small businesses reasonably require public aid in order to survive; and

WHEREAS, the Lacey City Council has previously designated funds for investment in economic development that are currently available to address the COVID-19 emergency.

NOW THEREFORE, the Lacey City Council resolves as follows:

Section 1. The City Council hereby adopts the recitals expressed above as Findings of Fact in support of this Resolution.

Section 2. The City Council hereby allocates One Million Dollars (\$1,000,000) from the Strategic Investment fund to be utilized for economic recovery response to the impacts resulting from the COVID-19 pandemic.


Section 3. The City Council directs that Five Hundred Thousand Dollars (\$500,000) of the funds allocated in Section 1 herein be used to establish the COVID-19 Small Business Stabilization Fund and directs the City Manager to enter into an agreement with the Thurston Economic Development Council Center for Business & Innovation to administer a grant program consistent with the criteria described in Exhibit A, attached hereto.

Section 4. The City Council directs that the remaining Five Hundred Thousand Dollars (\$500,000) of the funds allocated in Section 1 herein be utilized to supplement the COVID-19 Small Business Stabilization Fund or other economic recovery measures as may be deemed appropriate by the City Council.

Section 5. The provisions of this Resolution shall become effective upon adoption and shall continue until further formal action of the City Council.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 21st day of March, 2020.

LACEY CITY COUNCIL

By 
Mayor

Attest:


City Clerk

Approved as to form:

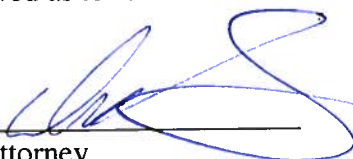

City Attorney

EXHIBIT A
COVID-19 SMALL BUSINESS STABILIZATION FUND
GRANT CRITERIA & PROCEDURES

Purpose

To assist small, locally owned Lacey-based for-profit businesses, the City of Lacey is committing up to \$500,000 to the COVID-19 Lacey Small Business Stabilization Grant Fund, an emergency fund that provides working capital grants in amounts up to \$10,000 to qualifying small businesses. The following are the criteria for financial support:

Criteria

1. The business must be a current Lacey business and have had a Lacey business license and a physical location in the City of Lacey on or before March 1, 2020. The business must also have been in business for at least one year from the date of application.
2. The business has twenty-five (25) full time equivalent employees or fewer. However, priority will be given to businesses with ten (10) full time equivalent employees or fewer.
3. The business is engaged in a type of business eligible to receive funding by the US Small Business Administration.
4. Grants cannot be made to businesses owned, or partially owned, by managers, officers, directors or public officials associated with the Thurston Economic Development Council (EDC) or the City of Lacey.
5. The business must have experienced a loss of income due to COVID-19.
6. The business must be able to demonstrate with financial statements or tax returns that they were profitable prior to the disruption caused by the COVID-19 virus.
7. Based on the information submitted on the Economic Injury Worksheet, grants may not exceed \$10,000.
8. Grant may be used to leverage funding from a public or private financing program, so long as the total of the funding does not exceed the amount on the Economic Injury Worksheet
9. Priority will be given to businesses not eligible for federal or state programs providing equal or greater economic relief under the Lacey Small Business Stabilization Grant.

Grant funds eligible for:

1. Payment of rent or required monthly loan payments
2. Payments of essential wages, taxes, and normal benefits to employees essential to maintain business.

3. Normal operating costs that are included in “cost of goods sold” on businesses’ income statement (raw materials for manufacturers, component pieces for assemblers, items for resale for retailers, food for restaurants. etc.)
4. Normal operating expenses that are included in “operating expenses” on businesses’ income statement (utilities, insurance, professional services, etc.)
5. Normal draw or wages on a weekly or monthly basis to owner

Grant funds ineligible for:

1. Any expense that would not be considered an eligible business expense by IRS rules
2. Political contributions
3. Bonuses to owners or employees
4. Wages to any member of owner’s family who is not a bona fide employee
5. Charitable contributions
6. Gifts or parties
7. Draw or salary to owner that exceeded the amount that they were paid on a weekly or monthly basis for the same period last year
8. Pay down or pay off debt by more than required in underlying debt instrument.

Process

1. Business owner contacts the EDC to obtain application and confirm whether:
 - a. Funds are still available, and
 - b. The business has met the business license requirement, and
 - c. The business is a for-profit business, and in a type of business that is eligible for SBA financing.
2. Complete the Economic Injury Worksheet and submit it electronically to the EDC.
3. After reviewing the Worksheet for completeness, The EDC will determine whether the business qualifies for the amount sought, verify additional data as necessary, and communicate the amount of the grant to be funded, if any.
4. If awarded, EDC will prepare a check, contact the applicant, execute any necessary documents, and provide check to applicant.

Reconsideration Process

1. Grant Reconsideration process will be handled as follows:
 - a. Declined due to not meeting business license requirements—Applicant can seek reconsideration by providing proof of both current business license, and business license for same business operating on or before one year before date of application, even if operating in a different name, or form of business (sole proprietorship, LLC, etc.) Reconsideration to be made by EDC.
 - b. Declined due to business being of an ineligible type for SBA funding—Applicant can seek reconsideration by providing proof that business is

- engaged in an eligible type of business. Reconsideration to be made by EDC.
- c. Declined due to incomplete submission of necessary documents, incomplete Economic Injury Worksheet, or other required information or documentation-- Applicant can seek reconsideration by providing required complete documents. If documents are not available, applicant can work with EDC to determine if alternative documents are available. Reconsideration to be made by EDC.
 - d. Declined due to EDC's evaluation of amount of economic injury or determination that financial information for period prior to economic injury does not support amount of grant requested or any grant—EDC may develop a reconsideration process.

Reporting

The EDC will provide a weekly report to the Lacey Director of Community and Economic Development documenting the businesses grant funding, the amount of the funding, the business need and remaining grant fund balance.

Administration of program

1. Upon the Lacey City Council adoption of the Resolution establishing the COVID-19 Lacey Small Business Stabilization Grant Fund, the City will transfer funds to the EDC. The EDC will hold funds in a separate account specifically set up for the business stabilization grant fund.
2. The EDC will not provide, and the City will not seek, confidential business information such as financial statements, tax returns, or proprietary information. This applies to the financial information of the owner(s) of the businesses.
3. Minor technical changes regarding the administration of the grant program be permitted with written approval of the City Manager or Community & Economic Development Director.
4. Adjustments beyond those that are considered minor and technical, such as grant criteria or change to maximum funding amount shall be approved by the Lacey City Council.
5. City and EDC will jointly develop any application document needed beyond the Economic Injury Worksheet to ensure that the process is as simple, streamlined, and easy for the applicant as possible. City and EDC will also develop an acknowledgement form to meet audit requirements. Application may be approved on behalf of City by Community & Economic Development Director, and Acknowledgement document may be approved on behalf of City by Finance Director.

DOES YOUR SMALL BUSINESS NEED MONEY DURING THE COVID-19 CRISIS?



The City of Lacey and the Thurston EDC's Center for Business & Innovation are here to help! We will provide grants for up to \$10,000 to qualifying small businesses that have been impacted by the COVID-19 public health emergency and need cash to continue to operate or to re-open when the crisis passes.



HOW DO I KNOW IF MY SMALL BUSINESS QUALIFIES?

To apply, businesses must meet the following criteria:

- Have a City of Lacey business license.
- Been in business for at least one year from the date of application.
- Have a physical location in Lacey on or before March 1, 2020.
- Have no more than 25 full-time-equivalent employees (priority given to businesses with 10 or fewer full-time-equivalent employees).
- Engage in a type of business eligible to receive funding by the US Small Business Administration.
- Ability to demonstrate loss of income due to COVID-19.
- Ability to prove they have been previously profitable with financial statements or tax returns.

If you answered YES to all of the above, your business may qualify.

WHAT CAN I USE THE GRANT FOR?

You can use the grant funds for:

- Payment of your business rent or required monthly business loan payments.
- Payments of essential wages, taxes, and normal benefits to your employees essential to maintain your business.
- Normal operating costs that are included in "cost of goods sold" on your business income statement (raw materials for manufacturers, component pieces for assemblers, items for resale for retailers, food for restaurants, etc.)
- Normal operating expenses that are included in "operating expenses" your business income statement (utilities, insurance, professional services, etc.).
- Normal draw or wages on a weekly or monthly basis to you as owner.

WHAT THINGS ARE NOT ALLOWED WITH THE GRANT MONEY?

The grant funds cannot be used for:

- Any expense not be considered an eligible business expense by IRS rules.
- Bonuses to owners or employees.
- Wages to any member of owner's family who is not a bona fide employee.
- Charitable contributions.
- Political contributions.
- Gifts or parties.
- Draw or salary to owner that exceeded the amount that they were paid on a weekly or monthly basis for the same period last year.
- Pay down or pay off debt by more than required in underlying debt instrument.

HOW DO I APPLY FOR THE GRANT?

For more information or to apply for grant funds, contact the Thurston EDC's Center for Business & Innovation by visiting bit.ly/EDCCOVID19 or emailing grants@thurstonedc.com.

MORE INFORMATION ON THE GRANT PROGRAM

- Based on the information you submit on the Economic Injury Worksheet, grants may be available for up to but not exceeding \$10,000.
- The grant to your business may be used to leverage funding from a public or private financing program, so long as the total of the funding does not exceed the amount on the Economic Injury Worksheet
- Priority will be given to businesses not eligible for federal or state programs providing equal or greater economic relief under this program.
- Grants cannot be made to businesses owned, or partially owned, by managers, officers, directors or public officials associated with the Thurston Economic Development Council (EDC) or the City of Lacey.

To provide the public benefit of stabilizing the Lacey economy, preserving jobs, and supporting the survival of the City's economic backbone, the City of Lacey is committing up to \$500,000 to the COVID-19 Lacey Small Business Stabilization Grant Fund, an emergency fund that provides working capital grants in amounts up to \$10,000 to qualifying for-profit small businesses.

For more information or to apply for grant funds, contact **Thurston EDC's Center for Business & Innovation:**
Visit: bit.ly/EDCCOVID19
Email: grants@thurstonedc.com.



**Agreement between the
City of Lacey and Thurston Economic Development Council
Regarding the
Business Support Program**

This Agreement is made and entered into as of the date of the last signature hereon by and between the City of Lacey, a municipal corporation (hereinafter referred to as “CITY”), and Thurston Economic Development Council’s Center for Business & innovation, (hereinafter referred to as “EDC”), together referred to as the “Parties,” for the purpose of providing emergency assistance to small, locally owned Lacey-based for-profit businesses that are experiencing economic injury due to the COVID-19 pandemic,

WITNESSETH:

WHEREAS, on January 31, 2020, the United States Department of Public Health and Human Services Secretary Alex Azar declared a public emergency for the novel coronavirus (COVID-19) beginning on January 27, 2020; and

WHEREAS, on February 29, 2020, Governor Jay Inslee signed a Proclamation declaring a State of Emergency exists in all counties in the State of Washington due to the number of confirmed cases of COVID-19 in the state; and

WHEREAS, on March 19, 2020 the Lacey City Council passed Resolution No. 1085 finding the COVID-19 outbreak to constitute an emergency; and

WHEREAS, on March 23, 2020, Governor Jay Inslee imposed a “Stay Home, Stay Healthy” order requiring every Washingtonian to stay home unless they are engaged in an essential activity and banning all gatherings for social, spiritual and recreational purposes and ordering all businesses to close unless they are designated as an essential business; and

WHEREAS, while the practice of social distancing is critical in mitigating the rate of spread of the COVID-19 virus, it is having significant negative economic effects on small businesses and workers; and

WHEREAS, disruptions to workers and small businesses are serious, as small businesses are the backbone of our economy, and provide the foundation of employment, services for the community, and revenue in order for cities and other public agencies to continue to provide essential services for the public welfare and benefit; and

WHEREAS, citizens who have lost their primary source of income may be unable to afford to stay home or practice social distancing which could have a negative impact on the

public's health; and

WHEREAS, state agencies and partners are working to swiftly respond to the economic impact that the COVID-19 pandemic is having on Washington state; and

WHEREAS, the Lacey City Council recognizes that one of its essential functions is to secure the health and welfare of Lacey's citizens; and

WHEREAS, small business plays a vital role in the overall health and welfare of Lacey's citizens and resources are necessary to help small businesses survive and certain small businesses reasonably require public aid in order to survive; and

WHEREAS, the Lacey City Council has previously designated funds for investment in economic development that are currently available to address the COVID-19 emergency; and

WHEREAS, the EDC has established and operates the Center For Business & Innovation that functions to support and grow and retain employers and entrepreneurs in the City of Lacey and Thurston County region; and is well governed and managed to support the business community of Lacey with technical assistance, assessment of business needs, intake of clients, and the application of resources to support those businesses assuring the community of a well-balanced economic environment; and

WHEREAS, on March 26, 2020, the Lacey City Council passed Resolution No. 1086 which established a Business Support Program in response to COVID-19; and

WHEREAS, the Parties desire to enter an agreement to provide emergency assistance to small, locally owned Lacey-based for-profit businesses that are experiencing economic injury due to the COVID-19 pandemic.

NOW, THEREFORE, the CITY and the EDC, in consideration of the mutual terms, conditions, covenants, and provisions contained herein, and the mutual benefits received hereunder, agree as follows:

1. **Work to Be Performed**. Service Provider shall provide all labor, services, and material to satisfactorily complete the Scope of Services, attached as Exhibit A.

A. **Administration**. The City Manager or designee shall administer and be the primary contact for Service Provider. Prior to commencement of work, Service Provider shall contact the City Manager or designee to review the Scope of Services, schedule, and date of completion. Upon notice from the City Manager or designee, Service Provider shall commence work, perform the requested tasks in the Scope of Services, stop work, and promptly cure any failure in performance under this Agreement.

B. Representations. City has relied upon the qualifications of Service Provider in entering into this Agreement. By execution of this Agreement, Service Provider represents it possesses the ability, skill, and resources necessary to perform the work and is familiar with all current laws, rules, and regulations which reasonably relate to the Scope of Services. No substitutions of agreed-upon personnel shall be made without the prior written consent of City.

Service Provider represents that the compensation as stated in paragraph 3 is adequate and sufficient for the timely provision of all professional services required to complete the Scope of Services under this Agreement.

Service Provider shall be responsible for the technical accuracy of its services and documents resulting therefrom, and City shall not be responsible for discovering deficiencies therein. Service Provider shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in City-furnished information.

C. Standard of Care. Service Provider shall exercise the degree of skill and diligence normally employed by professional Service Providers engaged in the same profession, and performing the same or similar services at the time such services are performed.

Modifications. City may modify this Agreement and order changes in the work whenever necessary or advisable. Service Provider shall accept modifications when ordered in writing by the City Manager or designee, so long as the additional work is within the scope of Service Provider's area of practice. Compensation for such modifications or changes shall be as mutually agreed between the Parties. Service Provider shall make such revisions in the work as are necessary to correct errors or omissions appearing therein when required to do so by City without additional compensation.

2. **Term of Contract**. This Agreement shall be in full force and effect upon execution and shall remain in effect until completion of all contractual requirements have been met as determined by City. Service Provider shall complete its work by December 31, 2020, unless the time for performance is extended in writing by the Parties.

Either Party may terminate this Agreement for material breach after providing the other Party with at least 10 days' prior notice and an opportunity to cure the breach. City may, in addition, terminate this Agreement for any reason by 10 days' written notice to Service Provider. In the event of termination without breach, City shall pay Service Provider for all work previously authorized and satisfactorily performed prior to the termination date.

3. **Compensation and Method of Payment**.

A. The City shall pay Service Provider for the performance of those services designated in Exhibit "A," an amount not to exceed \$0. If the description of services on Exhibit "A" designates additional services which may be requested by the City, said additional

services will be paid for by the City at the rate set forth on Exhibit "A," which sum may exceed the "not to exceed" amount set forth above; however, said services will only be performed and compensated by the City after the City has directed such performance in writing.

B. Payment by the City for services will only be made after the services have been performed, a voucher or invoice is submitted in the form specified by the City, and the same is approved by the appropriate City representative. Payment may be made on a monthly or other periodic basis and may be made on the basis of an estimate of the percentage of contract completion accomplished if said procedure is approved by the City.

1. Event/Festival Funding. Payments will be made only after SERVICE PROVIDER submits a completed Request for Event/Festival Funding Reimbursement form (Exhibit C), along with copies of invoices and proof of payment for each invoice. Proof of payment will be in the form of a copy of the SERVICE PROVIDER's cleared or cancelled check. The SERVICE PROVIDER shall complete the Lodging Tax Report (Exhibit B), immediately following the event/festival.

2. Tourism-Related Facility and Tourism Promotion Agency. Payments will be made to SERVICE PROVIDER after submission of an appropriate invoice or voucher. Unless the CITY specifically approves a different manner of payment, payments shall be made quarterly after the receipt of the invoice and quarterly report. The SERVICE PROVIDER shall complete the Lodging Tax Report (Exhibit B), and submit no later than December 31, 2018.

C. If an hourly rate of compensation or other means of measurement is set forth on Exhibit "A," the parties intend that said measurement shall be used up to the "not to exceed" figure set forth above.

D. The City reserves the right to withhold payment under this Agreement for that portion of the work (if any) which is determined in the reasonable judgment of the City Manager or designee to be noncompliant with the Scope of Services, City standards, City Code, and federal or state standards.

4. **Notice.** Notices other than applications for payment shall be given in writing as follows:

TO THE CITY:

Name: Rick Walk
Phone: 360-438-2638
Address: 420 College St.
Lacey, WA 98503

TO THE SERVICE PROVIDER:

Name: Michael Cade, Executive Director
Phone 360-464-6085
Address 4220 6th Avenue SE
Lacey, WA 98503

5. **Applicable Laws and Standards.** The Parties, in the performance of this Agreement, agree to comply with all applicable federal, state, and local laws and regulations. Service Provider warrants that its designs, construction documents, and services shall conform to all federal, state, and local statutes and regulations.

6. **Relationship of the Parties.** It is understood and agreed that Service Provider shall be an independent contractor and not the agent or employee of City, that City is interested in only the results to be achieved, and that the right to control the particular manner, method, and means in which the services are performed is solely within the discretion of Service Provider. Any and all employees who provide services to City under this Agreement shall be deemed employees solely of Service Provider. The Service Provider shall be solely responsible for the conduct and actions of all its employees under this Agreement and any liability that may attach thereto.

7. **Records.** The City or State Auditor or any of their representatives shall have full access to and the right to examine during normal business hours all of Service Provider's records with respect to all matters covered in this Agreement. Such representatives shall be permitted to audit, examine, make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, and record of matters covered by this Agreement for a period of three years from the date final payment is made hereunder.

8. **Insurance.** Service Provider shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Service Provider, its agents, representatives, employees, or subcontractors.

A. **Minimum Scope of Insurance.** Service Provider shall obtain insurance of the types described below:

1. Automobile liability insurance covering all owned, non-owned, hired, and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If use of vehicles pursuant to the Agreement is only incidental, and Service Provider will not transport any persons not directly related or affiliated with Service Provider, then Service Provider is only required to have automobile liability insurance to meet at least minimum Washington state requirements.

2. Commercial general liability insurance shall be at least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, stop-gap independent contractors and personal injury, and advertising injury. City shall be named as an additional insured under Service Provider's commercial general liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26.

3. Workers' compensation coverage as required by the industrial insurance laws of the State of Washington.

B. **Minimum Amounts of Insurance.** Service Provider shall maintain the following insurance limits:

1. Automobile liability insurance with a minimum combined single limit for bodily injury and property damage of no less than \$1,000,000 per accident. If Service Provider will not use its vehicles in the performance of this Agreement, automobile liability insurance is only required to meet minimum Washington state requirements.

2. Commercial general liability insurance shall be written with limits no less than \$1,000,000 for each occurrence, and \$2,000,000 for general aggregate.

C. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions for automobile liability, professional liability, and commercial general liability insurance:

1. Service Provider's insurance coverage shall be primary insurance with respect to the City. Any insurance, self-insurance, or insurance pool coverage maintained by City shall be in excess of Service Provider's insurance and shall not contribute with it.

2. Service Provider shall fax or send electronically in .pdf format a copy of insurer's cancellation notice within two business days of receipt by Service Provider.

3. If Service Provider maintains higher insurance limits than the minimums shown above, City shall be insured for the full available limits of commercial general and excess or umbrella liability maintained by Service Provider, irrespective of whether such limits maintained by Service Provider are greater than those required by this Agreement or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by Service Provider.

4. Failure on the part of Service Provider to maintain the insurance as required shall constitute a material breach of the Agreement, upon which the City may, after giving at least five business days' notice to Service Provider to correct the breach, immediately terminate the Agreement, or at its sole discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to City on demand, or at the sole discretion of the City, offset against funds due Service Provider from the City.

D. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

E. Evidence of Coverage. As evidence of the insurance coverages required by this Agreement, Service Provider shall furnish acceptable insurance certificates to the City Clerk at the time Service Provider returns the signed Agreement, which shall be Exhibit C. The certificate shall specify all of the parties who are additional insureds, and shall include applicable policy endorsements, and the deduction or retention level. Insuring

companies or entities are subject to City acceptance. If requested, complete copies of insurance policies shall be provided to City. Service Provider shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

9. **Indemnification and Hold Harmless.** Service Provider shall, at its sole expense, defend, indemnify, and hold harmless City and its officers, agents, and employees, from any and all claims, actions, suits, liability, loss, costs, attorney's fees, costs of litigation, expenses, injuries, and damages of any nature whatsoever relating to or arising out of the wrongful or negligent acts, errors, or omissions in the services provided by Service Provider, Service Provider's agents, subcontractors, subService Providers, and employees to the fullest extent permitted by law, subject only to the limitations provided below.

Service Provider's duty to defend, indemnify, and hold City harmless shall not apply to liability for damages arising out of such services caused by or resulting from the sole negligence of City or City's agents or employees pursuant to RCW 4.24.115.

Service Provider's duty to defend, indemnify, and hold City harmless against liability for damages arising out of such services caused by the concurrent negligence of (a) City or City's agents or employees, and (b) Service Provider, Service Provider's agents, subcontractors, subService Providers, and employees shall apply only to the extent of the negligence of Service Provider, Service Provider's agents, subcontractors, subService Providers, and employees.

Service Provider's duty to defend, indemnify, and hold City harmless shall include, as to all claims, demands, losses, and liability to which it applies, City's personnel-related costs, reasonable attorneys' fees, the reasonable value of any services rendered by the office of the City Attorney, outside Service Provider costs, court costs, fees for collection, and all other claim-related expenses.

Service Provider specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. These indemnification obligations shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefits acts. Provided, that Service Provider's waiver of immunity under this provision extends only to claims against Service Provider by City, and does not include, or extend to, any claims by Service Provider's employees directly against Service Provider.

Service Provider hereby certifies that this indemnification provision was mutually negotiated.

10. **Waiver.** No officer, employee, agent, or other individual acting on behalf of either Party has the power, right, or authority to waive any of the conditions or provisions of this Agreement. A waiver in one instance shall not be held to be a waiver of any other subsequent breach or nonperformance. All remedies afforded in this Agreement or by law shall be taken and construed as cumulative and in addition to every other remedy provided herein or by law. Failure of either Party to enforce at any time any of the provisions of this Agreement or to require at any time performance by the other Party of any provision hereof shall in no way be construed to be a waiver of such provisions nor shall it affect the validity of this Agreement or any part thereof.

11. **Assignment and Delegation.** Neither Party shall assign, transfer, or delegate any or all of the responsibilities of this Agreement or the benefits received hereunder without prior written consent of the other Party.

12. **Subcontracts.** Except as otherwise provided herein, Service Provider shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of City.

13. **Confidentiality.** Service Provider may, from time-to-time, receive information which is deemed by City to be confidential. Service Provider shall not disclose such information without the prior express written consent of City or upon order of a court of competent jurisdiction.

14. **Jurisdiction and Venue.** This Agreement is entered into in Thurston County, Washington. Disputes between City and Service Provider shall be resolved in the Superior Court of the State of Washington in Thurston County. Notwithstanding the foregoing, Service Provider agrees that it may, at City's request, be joined as a party in any arbitration proceeding between City and any third party that includes a claim or claims that arise out of, or that are related to Service Provider's services under this Agreement. Service Provider further agrees that the Arbitrator(s)' decision therein shall be final and binding on Service Provider and that judgment may be entered upon it in any court having jurisdiction thereof.

15. **Cost and Attorney's Fees.** The prevailing party in any litigation or arbitration arising out of this Agreement shall be entitled to its attorney's fees and costs of such litigation (including expert witness fees).

16. **Entire Agreement.** This written Agreement constitutes the entire and complete agreement between the Parties and supersedes any prior oral or written agreements. This Agreement may not be changed, modified, or altered except in writing signed by the Parties hereto.


17. **Anti-kickback.** No officer or employee of City, having the power or duty to perform an official act or action related to this Agreement shall have or acquire any interest in this Agreement, or have solicited, accepted, or granted a present or future gift, favor, service, or other thing of value from any person with an interest in this Agreement.

18. **Severability.** If any section, sentence, clause, or phrase of this Agreement should be held to be invalid for any reason by a court of competent jurisdiction, such invalidity shall not affect the validity of any other section, sentence, clause, or phrase of this Agreement.

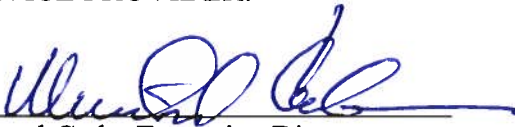
The Parties have executed this Agreement this 31 day of March, 2020.

CITY OF LACEY

SERVICE PROVIDER:

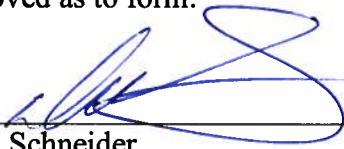
By: 

Scott Spence
City Manager

By: 

Michael Cade, Executive Director

Approved as to form:



David Schneider
City Attorney

EXHIBIT A
Scope of Services

1. The CITY will transfer \$500,000 to the EDC for the funding of the COVID-19 Small Business Stabilization Fund. Upon direction of the City, which direction may be given at any time and at the city's sole discretion, the EDC shall return any funds held in the COVID-19 Small Business Stabilization Fund to the City.

2. The EDC shall hold the funds in the COVID-19 Small Business Stabilization Fund until either awarded to successful applicants pursuant to the criteria and procedures set forth below or returned to the city.

3. The EDC shall administer the COVID-19 Small Business Stabilization Fund and award grants therefrom based on the following criteria and procedures:

**COVID-19 SMALL BUSINESS STABILIZATION FUND
GRANT CRITERIA & PROCEDURES**

Purpose

To assist small, locally owned Lacey-based for-profit businesses, the City of Lacey is committing up to \$500,000 to the COVID-19 Lacey Small Business Stabilization Grant Fund, an emergency fund that provides working capital grants in amounts up to \$10,000 to qualifying small businesses. The following are the criteria for financial support:

Criteria

1. The business must be a current Lacey business and have had a Lacey business license and a physical location in the City of Lacey on or before March 1, 2020. The business must also have been in business for at least one year from the date of application.
2. The business has twenty-five (25) full time equivalent employees or fewer. However, priority will be given to businesses with ten (10) full time equivalent employees or fewer.
3. The business is engaged in a type of business eligible to receive funding by the US Small Business Administration.
4. Grants cannot be made to businesses owned, or partially owned, by managers, officers, directors or public officials associated with the Thurston Economic Development Council (EDC) or the City of Lacey.
5. The business must have experienced a loss of income due to COVID-19.
6. The business must be able to demonstrate with financial statements or tax returns that they were profitable prior to the disruption caused by the COVID-19 virus.
7. Based on the information submitted on the Economic Injury Worksheet, grants may not exceed \$10,000.
8. Grant may be used to leverage funding from a public or private financing program, so long as the total of the funding does not exceed the amount on the Economic Injury Worksheet

Grant funds eligible for:

1. Payment of rent or required monthly loan payments
2. Payments of essential wages, taxes, and normal benefits to employees essential to maintain business.
3. Normal operating costs that are included in “cost of goods sold” on businesses’ income statement (raw materials for manufacturers, component pieces for assemblers, items for resale for retailers, food for restaurants. etc.)
4. Normal operating expenses that are included in “operating expenses” on businesses’ income statement (utilities, insurance, professional services, etc.)
5. Normal draw or wages on a weekly or monthly basis to owner

Grant funds ineligible for:

1. Any expense that would not be considered an eligible business expense by IRS rules
2. Political contributions
3. Bonuses to owners or employees
4. Wages to any member of owner’s family who is not a bona fide employee
5. Charitable contributions
6. Gifts or parties
7. Draw or salary to owner that exceeded the amount that they were paid on a weekly or monthly basis for the same period last year
8. Pay down or pay off debt by more than required in underlying debt instrument.

Process

1. Business owner contacts the EDC to obtain application and confirm whether:
 - a. Funds are still available, and
 - b. The business has met the business license requirement, and
 - c. The business is a for-profit business, and in a type of business that is eligible for SBA financing.
2. Complete the Economic Injury Worksheet and submit it electronically to the EDC.
3. After reviewing the Worksheet for completeness, The EDC will determine whether the business qualifies for the amount sought, verify additional data as necessary, and communicate the amount of the grant to be funded, if any.
4. If awarded, EDC will prepare a check, contact the applicant, execute any necessary documents, and provide check to applicant.

Reconsideration Process

1. Grant Reconsideration process will be handled as follows:
 - a. Declined due to not meeting business license requirements—Applicant can seek reconsideration by providing proof of both current business license, and business license for same business operating on or before one year before date of application, even if operating in a different name, or form of business (sole proprietorship, LLC, etc.) Reconsideration to be made by EDC.

- b. Declined due to business being of an ineligible type for SBA funding—Applicant can seek reconsideration by providing proof that business is engaged in an eligible type of business. Reconsideration to be made by EDC.
- c. Declined due to incomplete submission of necessary documents, incomplete Economic Injury Worksheet, or other required information or documentation-- Applicant can seek reconsideration by providing required complete documents. If documents are not available, applicant can work with EDC to determine if alternative documents are available. Reconsideration to be made by EDC.
- d. Declined due to EDC’s evaluation of amount of economic injury or determination that financial information for period prior to economic injury does not support amount of grant requested or any grant—EDC may develop a reconsideration process.

Reporting

The EDC will provide a weekly report to the Lacey Director of Community and Economic Development documenting the businesses grant funding, the amount of the funding, the business need and remaining grant fund balance.

Administration of program

- 1 Upon the Lacey City Council adoption of the Resolution establishing the COVID-19 Lacey Small Business Stabilization Grant Fund, the City will transfer funds to the EDC. The EDC will hold funds in a separate account specifically set up for the business stabilization grant fund.
2. The EDC will not provide, and the City will not seek, confidential business information such as financial statements, tax returns, or proprietary information. This applies to the financial information of the owner(s) of the businesses.
3. Minor technical changes regarding the administration of the grant program be permitted with written approval of the City Manager or Community & Economic Development Director.
4. Adjustments beyond those that are considered minor and technical, such as grant criteria or change to maximum funding amount shall be approved by the Lacey City Council.
5. City and EDC will jointly develop any application document needed beyond the Economic Injury Worksheet to ensure that the process is as simple, streamlined, and easy for the applicant as possible. City and EDC will also develop an acknowledgement form to meet audit requirements. Application may be approved on behalf of City by Community & Economic Development Director, and Acknowledgement document may be approved on behalf of City by Finance Director.