

MONMOUTH COUNTY

MUNICIPAL CORONAVIRUS RELIEF FUND PROGRAM

REIMBURSEMENT AGREEMENT

This Municipal Coronavirus Relief Fund Program Reimbursement Agreement (the "Agreement"), dated this ____ day of _____, 2020 between the County of Monmouth ("Monmouth County") located at One East Main Street, Hall of Records, Freehold, New Jersey 07728 and _____ (the "Municipality") located at _____, New Jersey

WHEREAS, the United States of America, the State of New Jersey, Monmouth County and the Municipality have become victims of the COVID-19 Virus and Pandemic (the "Coronavirus"); and

WHEREAS, the Coronavirus has caused economic damage and hardships to states, counties and municipalities throughout the United States of America; and

WHEREAS, on March 27, 2020 the Coronavirus Aid Relief and Economic Security Act (the "CARES Act") was signed by President Donald J. Trump; and

WHEREAS, the CARES Act was enacted, among other purposes, in order to combat the economic damage caused to states, counties and municipalities because of the Coronavirus; and

WHEREAS, Monmouth County has received CARES Act funds from the United States Treasury (the "Stimulus Funds") to be used to reimburse Monmouth County due to economic damage caused to them by the Coronavirus; and

WHEREAS, as the recipient of the "Stimulus Funds" it will be the responsibility of Monmouth County to disburse the Stimulus Funds to eligible recipients in accordance with the terms and provisions of the CARES Act and any guidelines or regulations issued by United States government or any of its agencies and/or departments; and

WHEREAS, the Freeholders have determined that it is in the best interest of the citizens of Monmouth County to dedicate a share of the funding to reimburse municipalities for COVID-19 related costs and expenses under the Municipal Coronavirus Relief Fund Program.

NOW, THEREFORE, it is stipulated and agreed as follows:

1. Purpose of Stimulus Funds. The Municipality understands and agrees that its eligibility for the receipt of any Stimulus Funds shall be determined by the terms of the "Coronavirus Relief Fund - Guidance for State, Territorial, Local and Tribal Governments - April 22, 2020" (the "Guidelines"), attached hereto as Schedule A, and any subsequent amendments and/or changes to the Guidelines. Currently excluded from the "Guidelines" as eligible reimbursements are the categories detailed in Schedule B.

2. Role of County. As the recipient of the Stimulus Funds, it shall be the responsibility of Monmouth County to act as an intermediary and establish a reasonable process for the Municipality to submit an eligible reimbursement from the Stimulus Funds. The Municipality agrees and understands that the decision as to the eligibility for reimbursement sought by the Municipality is within the sole discretion of Monmouth County.

3. Use of Stimulus Funds. The Municipality understands that the Stimulus Funds represent an amount of funds which Monmouth County has received from the Federal Government for COVID-19 related expenses. The Freeholders have determined that it is in the best interest of the citizens of Monmouth County that municipalities be permitted to request reimbursement which meets the eligibility requirements established by the CARES Act and the Federal Guidelines.

4. Processing of Claims. Monmouth County shall process and accept claims for reimbursement and shall pay eligible claims. All requests for expenditure reimbursement must be submitted to Monmouth County (using the forms and process prescribed by Monmouth County) on a cost reimbursement basis.

5. Non-Liability of Monmouth County. The Municipality understands that Monmouth County cannot guaranty that a claim for reimbursement is eligible for payment nor that any claims for reimbursements beyond the amount of the Stimulus Funds can be paid.

6. Indemnification by Municipality. The Municipality acknowledges that the role of Monmouth County as to the distribution of the Stimulus Funds shall be as an intermediary. Consequently, if, as the result of any audit performed by the United States Treasury or any other auditing agency, department or office of the United States Government, State of New Jersey, or County determines that any reimbursement made to the Municipality by Monmouth County from the Stimulus Funds was not eligible for reimbursement, then the Municipality shall

repay any ineligible reimbursement within the time mandated by the United States Treasury or the agency, department or office of the United States Government for the return of any Stimulus Funds. The Municipality shall indemnify and hold harmless Monmouth County from any claim made by the United States Treasury or any agency, department or office of the Government of the United States for the return of any payment received by the Municipality from the Stimulus Funds. Included in the claim for reimbursement shall be any legal fees, court costs or professional fees incurred by Monmouth County in defense of any claim made for return of any Stimulus Funds received by the Municipality.

7. Documents Required and Preservation of Records. Any application for reimbursement must be sufficiently documented so that Monmouth County can determine the eligibility of the claim for reimbursement including a provision whereby the Municipality certifies that it has not applied to the State or Federal governments or any insurer for the reimbursement of the same claim submitted to Monmouth County. The Municipality agrees that it will not destroy or discard any documents or records maintained and/or relied upon by the Municipality until December 31, 2027. Monmouth County shall have the right to make copies of any documents or records pertinent to the claim for Stimulus Funds and the Municipality shall provide Monmouth County with reasonable access to the documents and records.

8. Funding Reimbursement and Schedule. As Monmouth County is obligated to expend funds on or before December 30, 2020, Monmouth County will provide reimbursement for eligible expenditures incurred by participating municipalities for the period that begins March 1, 2020 and ends on November 30, 2020 using the following schedule:

- Participating municipalities shall submit requests for expenditure reimbursement for eligible expenditures to Monmouth County by no later than June 15, 2020 for the period of March 1, 2020 through June 14, 2020.
- Participating municipalities shall forward requests for expenditure reimbursement for eligible expenditures to Monmouth County by no later than September 15, 2020 for the period of March 1, 2020 through August 31, 2020. *Monmouth County will allow Municipality to submit expenses for monies expended during the prior reporting period not previously submitted.*
- Participating municipalities shall forward requests for expenditure

reimbursement for eligible expenditures to Monmouth County by no later than December 15, 2020 for the period of March 1, 2020 through November 30, 2020. *Monmouth County will allow Municipality to submit expenses for monies expended during the two prior reporting periods not previously submitted.*

- Participating municipalities shall ensure that all eligible expenditures are disbursed, in cash, by no later than December 15, 2020.

Monmouth County shall review the claims for reimbursement and may make adjustments to the reimbursement based upon a determination of eligible expenditures.

Municipality understands that availability of funds is contingent on appropriations made by funding sources external to Monmouth County, such as Federal funds, and appropriations by the Monmouth County Board of Chosen Freeholders. If, at any time, Monmouth County determines that federal, state or local funds are insufficient to sustain existing or anticipated spending levels, Monmouth County may reduce, suspend, or terminate any cash, reimbursements, other payments, or allocations of funds provided by Monmouth County to Municipality, or other form of financial assistance as Monmouth County determines appropriate. If funding sources external to Monmouth County, such as Federal funds, or the Monmouth County Board of Chosen Freeholders fails at any time to continue funding Monmouth County for the payments due under this Agreement, this Agreement will be terminated as of the date funding expires without further obligation of Monmouth County.

Because there is only a finite amount of Federal funding, a pro rata allocation may be required. Municipality understands that the availability of funds is based on the total Monmouth County-wide apportionment of funds resulting from cost based reimbursement claims reported by each municipality participating in this program as well as cost based reimbursement claims incurred by Monmouth County. Depending on the total amount of cost based reimbursement claims, Monmouth County may find it necessary to reapportion funds to each participating Municipality to ensure that the total cost based reimbursement does not exceed the total amount of funds available under this program.

9. Subsequent Funds. Should Monmouth County be in receipt of any additional funds provided by the United States Government and/or the State of New Jersey to combat the Coronavirus for which the Municipality may be eligible to receive payment, at the discretion of Monmouth County, the terms and

provisions of this Agreement shall apply to the disposition and processing of those claims.

10. Compliance with Federal Law and New Jersey Law. The Municipality acknowledges that the Stimulus Funds are subject to the oversight of the United States government and its agencies. Consequently, in incurring expenses for which reimbursements will be sought from the Stimulus Funds, the Municipality shall adhere to the procedures established by the Federal government. Additionally, the Municipality shall, when incurring any expenses for which reimbursement is sought, adhere to all New Jersey purchasing and procurement laws and regulations.

As a subrecipient of federal funds, Municipality hereby specifically acknowledges its obligations relative to the expenditure reimbursement provided under this Agreement and pursuant to Federal cost principles, 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards", as applicable under other federal, state and local laws, including, but not limited to:

- a. Fiscal and account procedures;
- b. Accounting records;
- c. Internal control cover cash, real and personal property, and other assets;
- d. Budgetary control to compare actual expenditures or outlays to budgeted amounts;
- e. Source documentation; and
- f. Cash management.

11. Applicable Law and Attorney Fees. Any action for the enforcement of any term or provision of this Agreement shall be governed by the law of the State of New Jersey and shall be filed in the Superior Court of the State of New Jersey, Monmouth County.

12. Duration of Agreement. This Agreement shall begin on the date first written and shall continue until either party terminates it upon thirty (30) days written notice, the depletion of the Stimulus Funds, or the end of the program period, whichever event occurs sooner.

13. Approval. By signing below the individual signing this Agreement represents that this Agreement has been approved and ratified by the governing body of the party signing it.

14. Counterparts. This Agreement may be fully executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one agreement binding upon all parties, notwithstanding that all parties have not signed the same counterpart. Such executions may be transmitted to the parties electronically or by facsimile, and such electronic or facsimile execution shall have the same force and effect as an original signature.

15. Notices. Any notices that are provided pursuant to this Contract shall be in writing (including facsimile and electronic transmissions) and mailed or transmitted or delivered as follows:

To Monmouth County:

County of Monmouth
Hall of Records, Room 236
1 East Main Street
Freehold, NJ 07728
Attn: Michael D. Fitzgerald, County Counsel
Email: michael.fitzgerald@co.monmouth.nj.us
Fax: 732-431-0437

To the Municipality:

Name
Address
Email:
Fax

16. Severability. If any part of this Agreement is declared unenforceable or invalid, the remainder of the Agreement will continue in full force and effect.

17. Force Majeure. No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached the Agreement, for the delay in performance of this Agreement when and to the extent such failure or delay is caused by acts beyond the parties' control.

18. Amendment. This Agreement cannot be modified in any way except in writing signed by the parties to the Agreement.

19. Assignment. This agreement will not be assignable by "Municipality" in whole or in part without the prior written consent of the "County".

IN WITNESS WHEREOF, the parties have signed and sealed this Agreement on the date set forth above.

ATTEST:

COUNTY OF MONMOUTH

ATTEST:

**Coronavirus Relief Fund
Guidance for State, Territorial, Local, and Tribal Governments
April 22, 2020**

The purpose of this document is to provide guidance to recipients of the funding available under section 601(a) of the Social Security Act, as added by section 5001 of the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”). The CARES Act established the Coronavirus Relief Fund (the “Fund”) and appropriated \$150 billion to the Fund. Under the CARES Act, the Fund is to be used to make payments for specified uses to States and certain local governments; the District of Columbia and U.S. Territories (consisting of the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands); and Tribal governments.

The CARES Act provides that payments from the Fund may only be used to cover costs that—

1. are necessary expenditures incurred due to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19);
2. were not accounted for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. were incurred during the period that begins on March 1, 2020, and ends on December 30, 2020.¹

The guidance that follows sets forth the Department of the Treasury’s interpretation of these limitations on the permissible use of Fund payments.

Necessary expenditures incurred due to the public health emergency

The requirement that expenditures be incurred “due to” the public health emergency means that expenditures must be used for actions taken to respond to the public health emergency. These may include expenditures incurred to allow the State, territorial, local, or Tribal government to respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures.

Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, revenue replacement is not a permissible use of Fund payments.

The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.

Costs not accounted for in the budget most recently approved as of March 27, 2020

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020. A cost meets this requirement if either (a) the cost cannot lawfully be funded using a line item, allotment, or allocation within that budget *or* (b) the cost

¹ See Section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act.

is for a substantially different use from any expected use of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.

Costs incurred during the period that begins on March 1, 2020, and ends on December 30, 2020

A cost is “incurred” when the responsible unit of government has expended funds to cover the cost.

Nonexclusive examples of eligible expenditures

Eligible expenditures include, but are not limited to, payment for:

1. Medical expenses such as:
 - COVID-19-related expenses of public hospitals, clinics, and similar facilities.
 - Expenses of establishing temporary public medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs.
 - Costs of providing COVID-19 testing, including serological testing.
 - Emergency medical response expenses, including emergency medical transportation, related to COVID-19.
 - Expenses for establishing and operating public telemedicine capabilities for COVID-19-related treatment.
2. Public health expenses such as:
 - Expenses for communication and enforcement by State, territorial, local, and Tribal governments of public health orders related to COVID-19.
 - Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers, social workers, child protection services, and child welfare officers, direct service providers for older adults and individuals with disabilities in community settings, and other public health or safety workers in connection with the COVID-19 public health emergency.
 - Expenses for disinfection of public areas and other facilities, *e.g.*, nursing homes, in response to the COVID-19 public health emergency.
 - Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
 - Expenses for public safety measures undertaken in response to COVID-19.
 - Expenses for quarantining individuals.
3. Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

4. Expenses of actions to facilitate compliance with COVID-19-related public health measures, such as:
 - Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
 - Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
 - Expenses to improve telework capabilities for public employees to enable compliance with COVID-19 public health precautions.
 - Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.
 - COVID-19-related expenses of maintaining state prisons and county jails, including as relates to sanitation and improvement of social distancing measures, to enable compliance with COVID-19 public health precautions.
 - Expenses for care for homeless populations provided to mitigate COVID-19 effects and enable compliance with COVID-19 public health precautions.
5. Expenses associated with the provision of economic support in connection with the COVID-19 public health emergency, such as:
 - Expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures.
 - Expenditures related to a State, territorial, local, or Tribal government payroll support program.
 - Unemployment insurance costs related to the COVID-19 public health emergency if such costs will not be reimbursed by the federal government pursuant to the CARES Act or otherwise.
6. Any other COVID-19-related expenses reasonably necessary to the function of government that satisfy the Fund's eligibility criteria.

Nonexclusive examples of ineligible expenditures²

The following is a list of examples of costs that would *not* be eligible expenditures of payments from the Fund.

1. Expenses for the State share of Medicaid.³
2. Damages covered by insurance.
3. Payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency.

² In addition, pursuant to section 5001(b) of the CARES Act, payments from the Fund may not be expended for an elective abortion or on research in which a human embryo is destroyed, discarded, or knowingly subjected to risk of injury or death. The prohibition on payment for abortions does not apply to an abortion if the pregnancy is the result of an act of rape or incest; or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed. Furthermore, no government which receives payments from the Fund may discriminate against a health care entity on the basis that the entity does not provide, pay for, provide coverage of, or refer for abortions.

³ See 42 C.F.R. § 433.51 and 45 C.F.R. § 75.306.

4. Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
5. Reimbursement to donors for donated items or services.
6. Workforce bonuses other than hazard pay or overtime.
7. Severance pay.
8. Legal settlements.

SCHEDULE B

Currently excluded from the “Guidelines” as eligible reimbursements are the categories below:

- COVID-19 related expenses of public hospitals, clinics, and similar facilities.
- Expenses for food delivery to residents, including, for example, senior citizens and other vulnerable populations, to enable compliance with COVID-19 public health precautions.
- Expenses to facilitate distance learning, including technological improvements, in connection with school closings to enable compliance with COVID-19 precautions.
- Expenditures related to the provisions of grants to small businesses to reimburse the costs of business interruption caused by required closures.
- Expenditures related to a State, territorial, local, or Tribal government payroll support program.