

## **AGREEMENT FOR THE DISTRIBUTION OF CARES ACT FUNDING TO OGDEN SCHOOL DISTRICT**

This agreement is made by and between Weber County ("County") and Ogden School District ("District"), both bodies politic and political subdivisions of the State of Utah, individually referred to as "Party" and jointly referred to as "Parties."

### **RECITALS**

**WHEREAS**, the State of Utah is distributing a portion of its Coronavirus Relief Fund ("CR Funds") provided by the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") to Utah's counties and municipalities through a population-based formula; and

**WHEREAS**, CR Funds can only be used to cover necessary expenditures and losses incurred due to the COVID-19 public health emergency; and

**WHEREAS**, necessary expenditures include direct emergency response activities, such as addressing public health needs, but also includes expenses required to respond to second-order effects of COVID-19, such as costs associated with the safe reopening of schools; and

**WHEREAS**, County and District recognize an immediate need to distribute CR Funds so the District may continue providing safe in-person learning environments and distance learning options to enable students to continue receiving a high quality education during this challenging time;

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained hereafter, the Parties hereto agree as follows:

### **SECTION ONE DISTRIBUTION AND USE OF CR FUNDS**

1. County will grant an initial \$850,000 to District in CR Funds upon execution of this agreement. Subject to receiving additional CR Funds from the State of Utah, County may grant up to approximately \$1,000,000 in additional CR Funds to the District upon request. The disbursement of CR Funds shall be made under the direction of the Weber County Treasurer.
2. District agrees to use funds in accordance with the requirements of the CARES Act and that payments will only be made to cover costs that are: 1) necessary expenditures due to the public health emergency with respect to COVID-19; 2) were not accounted for in the budget most recently approved as of March 27, 2020; and 3) were incurred between March 1, 2020, and December 30, 2020. District also agrees to abide by any additional federal and state requirements regarding the distribution of CR Funds.

### **SECTION TWO TERM OF AGREEMENT**

3. This agreement shall commence on the date it is signed by both Parties and shall terminate December 30, 2020. Provisions of this agreement that are expressly declared to survive termination, as well as provisions that by their nature are clearly intended to survive

termination, shall continue in effect until the need for those provisions has clearly expired. District shall immediately return any remaining CR Funds and provide an accounting of all funds upon agreement termination.

### **SECTION THREE INDEMNIFICATION**

4. District agrees to indemnify and hold County, its agents, officials, and employees harmless from and against any and all suits, claims, and proceedings for any and all loss, damages, injury, or liability arising out of the actions, omissions, or other alleged wrongdoing of District in its use of CR Funds pursuant to the terms of this agreement, including any recovery effort from federal and state authorities for use of CR Funds not permitted under the CARES Act. This provision shall survive termination of this agreement.

5. Notwithstanding the foregoing, County and District are governmental entities under the Governmental Immunity Act of Utah (Utah Code § 63G-7-101, *et seq.*) (“Governmental Immunity Act”). Neither County nor District waives any defenses or limitations of liability otherwise available under the Governmental Immunity Act, and they all maintain all privileges, immunities, and other rights granted by the Governmental Immunity Act.

### **SECTION FOUR RECORDS/AUDIT**

6. All records created or received by District in accordance with use of CR Funds shall be kept in accordance with Utah’s Government Records Access Management Act and any other applicable state and/or federal law. District agrees to retain all necessary documentation required by federal and state authorities in order to demonstrate compliance with the CARES Act and any other applicable law related to the use of CR Funds. District also agrees to fully cooperate with and assist in complying with any federal or state auditing requirements related its use of CR Funds. Upon request, records shall be made available for examination by the County to verify compliance with this agreement. This provision shall survive the termination of this agreement.

7. District acknowledges it is a sub-recipient of federal CARES act funds, CFDA 21.019, passed through from Weber County. District asserts that it has not been suspended or debarred from doing business with the federal government. District agrees to have an annual audit conducted in accordance with the requirements of Title 2 U.S. Code of Federal Regulations Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and to forward a copy of that audit to the County within 30 days of its completion.

### **SECTION FIVE MISCELLANEOUS**

8. **Amendment.** This agreement shall not be modified or amended except in writing, which

shall be signed by duly authorized representatives of the County and District.

9. **No Third Party Beneficiary.** Nothing in this agreement shall create or be interpreted to create any rights in or obligations in favor of any person or entity not a party to this agreement. Except for the Parties to this agreement, no person or entity is an intended third party beneficiary under this agreement.

10. **Further Assurance.** Each of the Parties agrees to cooperate in good faith with the other to execute and deliver such further documents, to adopt any resolutions, to take any other official action and to perform such other acts as may be reasonably necessary or appropriate to consummate and carry into effect the transactions contemplated under this agreement.

11. **Severability.** If any provision of this agreement shall be held invalid or unenforceable by any court or as a result of future legislative action, the remaining provisions of this agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision or by its severance from this agreement. In lieu of such illegal, invalid or unenforceable provision, the Parties shall use commercially reasonable efforts to negotiate in good faith to insert a substitute, legal, valid, and enforceable provision that most nearly reflects the Parties' intent in entering into this agreement.

12. **Governing Law.** This agreement is made and entered into subject to the provisions of the laws of the State of Utah, which laws shall control the enforcement of this agreement. The Parties also recognize that certain federal laws may be applicable. In the event of any conflict between the terms of this agreement and any applicable state or federal law, the state or federal law shall control.

13. **Headings.** The section headings of this agreement are for the purposes of reference only and shall not limit or define the meaning thereof.

14. **Counterparts.** This agreement may be executed in any number of counterparts, all of which together shall serve as one agreement.

15. **Entire Agreement.** This document contains the entire agreement and understanding between the Parties and constitutes the entire agreement with respect to the specific issues contained herein and supersedes any and all prior written or oral representations and agreements.

*[signatures on the following pages]*

**BOARD OF COUNTY COMMISSIONERS  
OF WEBER COUNTY**

By \_\_\_\_\_  
Gage Froerer, Chair

Date \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Weber County Clerk/Auditor

**OGDEN SCHOOL DISTRICT**

By 

Date 10/28/2020

ATTEST:

