

**REQUEST FOR LEGAL SERVICES**

This form is used to provide legal opinions and contract approval by the District Attorney's Office. Only that advice that is related to a pending or potential claim against the County or its officers and employees is protected by the attorney-client privilege. Opinions that are privileged should not be disclosed to anyone or the privilege may be waived.

All legal opinions and approvals rendered are based only on the documentation and information stated below or attached to this form and, thus, it is important that all relevant facts and information be provided at the time of review. Please advise the District Attorney's Office of new or additional information, as it may cause the opinion to change. In all cases, the opinions of the District Attorney's Office are not binding on the County, its officers or employees and may be followed or disregarded in the discretion of the elected official.

Date of Request: 11/01/2024 Department: District 2

State the nature of the legal request: \_\_\_\_\_

Review as to legality and form - ARPA Subrecipient Agreement Make a Wish Foundation

RECEIVED

NOV 01 2024

CIVIL DIVISION  
DISTRICT ATTORNEY

Jessica Clayton, Chief Deputy D2

County Officer or Department Director

Reply of District Attorney's Office: \_\_\_\_\_

*approved as to form only -  
not legality*

Date of Reply: 11/1/24

*[Signature]*  
Assistant District Attorney

## ARPA SUBRECIPIENT AGREEMENT

### BOARD OF OKLAHOMA COUNTY COMMISSIONERS

And

### Make-A-Wish Foundation of Oklahoma, Inc.

**THIS AGREEMENT** is made and entered into by and between the Board of Oklahoma County Commissioners, herein referred to as COUNTY, and MAKE-A-WISH FOUNDATION OF OKLAHOMA, INC, herein referred to as SUBRECIPIENT, for the provision of ARPA funding for facilities managed by the SUBRECIPIENT.

**WHEREAS**, the American Rescue Plan Act (ARPA) was signed into law on March 11, 2021; and

**WHEREAS**, the American Rescue Plan Act establishes a Coronavirus State and Local Fiscal Recovery Fund (SLFRF) which allocates \$350 billion for state, local, and Tribal governments; and

**WHEREAS**, Oklahoma County accepted \$154 million American Rescue Plan Act funding from the United States Department of the Treasury; and

**WHEREAS**, this agreement is consistent with American Rescue Plan Act guidelines as laid out in the Final Rule which took effect on April 1, 2022; and

**WHEREAS**, the SUBRECIPIENT requests and the COUNTY agrees to provide funding to the SUBRECIPIENT for eligible expenditures under the American Rescue Plan Act; and

**NOW, THEREFORE**, in consideration of the mutual covenants, promises, and representations contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Term:** The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2026.
2. **Sub-awarding:** For the purposes of this Agreement, the COUNTY serves as the pass-through entity for a Federal award and the SUBRECIPIENT serves as the recipient of a sub-award. This agreement is entered into based on the following representations:
  - a. The SUBRECIPIENT represents that it is fully qualified and eligible to receive these funds per the funding requirements;

- b. The COUNTY received these funds from the federal government, and the COUNTY has the authority to sub-grant these funds to the SUBRECIPIENT upon the terms and conditions outlined below; and
- c. The COUNTY has authority to disburse the funds under this agreement.

The COUNTY agrees to provide financial assistance to the SUBRECIPIENT in an amount not to exceed \$300,000.00.

The SUBRECIPIENT must use this financial assistance for expenses eligible under 603(c)(1) of the Social Security Act, specifically the Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) to mitigate financial hardships incurred because of COVID-19 during the Term.

These funds must be spent in accordance with the guidance on the United States Treasury's website <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>.

SUBRECIPIENTS are responsible for ensuring that any procurement using CSLFRF funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, and Appendix II to Part 200, as applicable.

SUBRECIPIENT is required to review the United States Treasury's website for updates to ensure compliance with the most updated CSLFRF guidance.

3. **COUNTY Responsibilities:** The COUNTY will assume the following duties and responsibilities:
  - a. Follow established processes for reviewing eligibility of all projects receiving American Rescue Plan Act State and Local Fiscal Recovery Funds
  - b. Transfer funding to SUBRECIPIENT upon approval by COUNTY Board of County Commissioners and Budget Board
  - c. Submit reporting on SUBRECIPIENT projects to US Treasury, pending receipt of reporting information from SUBRECIPIENT
4. **SUBRECIPIENT Representatives:** Deborah McAuliffe Senner
5. **SUBRECIPIENT Responsibilities:** The SUBRECIPIENT will assume the following duties and responsibilities:
  - a. Submit desired projects for consideration per process established by the County Policy and Governance Committee; However, the COUNTY'S provisional determination that an expenditure is eligible does not relieve the SUBRECIPIENT of its duty to repay the COUNTY for any expenditures that are later determined by the COUNTY or the Federal government to be ineligible. further acknowledges that the CSLFRF funding may be utilized only for the uses authorized by American Rescue Plan Act. Accordingly, SUBRECIPIENT covenants that the use of the CSLFRF funding by SUBRECIPIENT pursuant to this Agreement is limited to only those uses for which the CSLFRF funding may be utilized under American Rescue Plan Act.
  - b. Comply with 2 CFR 200 (Uniform Guidance) for accounting standards and cost principles

- c. Comply with all STATE, COUNTY and 2 CFR 200 laws/rules related to procurement, including COUNTY and 2 CFR 200 standards relating to conflict of interest
  - d. Provide COUNTY with reporting information on ARPA-related projects as detailed in Reporting section below.
  - e. For capital expenditures, provide written justification as required by the U.S. Treasury's Final Rule.
  - f. For any vendors or subcontractors used by the SUBRECIPIENT, the SUBRECIPIENT must ensure that the vendor or subcontractor adhere to State, County and 2 CFR 200 procurement laws and include any contract language designated by the County.
  - g. COUNTY shall not be liable to any vendor, supplier or subcontractor for any expenses or liabilities incurred in connection with any Project and SUBRECIPIENT shall be solely liable for such expenses and liabilities.
6. **Enforcement:** SUBRECIPIENT certifies that the information provided is complete, accurate, and current demonstrating SUBRECIPIENT'S eligibility to receive the Funds. SUBRECIPIENT is liable for recapture of Funds if any representation made in the reimbursement requests, reporting or supporting documentation is at any time false or misleading in any respect, or if SUBRECIPIENT is found in non-compliance with laws, rules or regulations governing the use of the Funds provided pursuant to this Agreement. This Section shall survive the termination of this Agreement.
7. **Recapture of Expenses:** Funds provided by the COUNTY to the SUBRECIPIENT under this agreement are subject to recapture by the COUNTY under the following conditions:
- a. Any funds that are not expended as authorized under this agreement must be refunded to the COUNTY prior to December 31, 2026.
  - b. Any funds that are not expended by December 31, 2026 are subject to recapture by the COUNTY for return to the United States Department of the Treasury
  - c. The COUNTY'S determination that an expenditure is eligible does not relieve the SUBRECIPIENT of its duty to repay the COUNTY in full for any expenditures that are later determined by the COUNTY or the Federal Government, in each of its sole discretion, to be ineligible expenditures or the discovery of a duplication of benefits.
  - d. The SUBRECIPIENT has responsibility for identifying and recovering grant funds that were expended in error, disallowed, or unused. The SUBRECIPIENT will also report all suspected fraud to the county.
8. **Subrecipient Monitoring:** The SUBRECIPIENT agrees to permit representatives of the COUNTY, the Federal or State government to inspect all records, papers, documents, facilities' goods and services of the SUBRECIPIENT and/or interview any clients, employees, and contractors of the SUBRECIPIENT to be assured of satisfactory performance of the terms and conditions of this contract to the extent permitted by the

law after giving the SUBRECIPIENT reasonable notice. SUBRECIPIENT will rectify noted deficiencies and provide COUNTY with a reasonable and acceptable justification for not correcting noted shortcomings. SUBRECIPIENT'S failure to correct or justify the deficiencies within the time specified by the COUNTY may result in termination of this agreement.

9. **Audit and Record Retention:** The SUBRECIPIENT shall maintain records, books, documents, and other materials relevant to its performance under this Agreement. These records shall be subject to inspection, review, and audit by the COUNTY or its designees, the State Auditor, and the US Treasury as outlined in 2 CFR 200. If it is determined during the course of the audit that the RECIPIENT was provided funds for unallowable costs under this Agreement or any, the RECIPIENT agrees to promptly reimburse the COUNTY for such payments upon request. The SUBRECIPIENT must maintain records and financial documents in compliance with all standards in the ARPA CSLFRF guidance and 2 CFR 200.

Generally, records and financial documents must be maintained for five years after all funds have been expended or returned. The COUNTY or Treasury may request transfer of records of long-term value at the end of such period. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats. SUBRECIPIENT must agree to provide or make available such records to the COUNTY upon request, to Treasury upon request, and to the Government Accountability Office ("GAO"), Treasury's Office of Inspector General ("OIG"), and their authorized representative in order to conduct audits or other investigations. The COUNTY may access the SUBRECIPIENT records and financial statements as necessary to conduct monitoring activities.

10. **Reporting:** In order to ensure compliance with the existing ARPA guidelines set forth by the US Treasury, the SUBRECIPIENT shall provide on a quarterly basis to the COUNTY a comprehensive and detailed list of all ARPA-related expenditures on an itemized invoice, and shall also provide any backup documentation to support such expenditures. The SUBRECIPIENT will additionally provide performance updates for all programs to demonstrate that the programs are meeting key performance indicators.

Specifically, the SUBRECIPIENT will provide documentation to the County by January 1, April 1, July 1, and October 1 of each year of the award.

This includes collection of all statistical information as required by the federal government which among other items, may include the following:

- Brief description of structure and objectives of assistance program(s), including public health or negative economic impact experienced
- Brief description of how a recipient's response is related and reasonably proportional to a public health or negative economic impact of COVID-19
- Does this project include a capital expenditure?
- Total expected capital expenditure, including pre-development costs, if applicable
- Type of capital expenditure, based on the following enumerated uses (Collection began in July 2022):
  - COVID-19 testing sites and laboratories, and acquisition of related equipment
  - COVID-19 vaccination sites
  - Medical facilities generally dedicated to COVID-19 treatment and mitigation (e.g., emergency rooms, intensive care units, telemedicine capabilities for

COVID-19 related treatment)

- Temporary medical facilities and other measures to increase COVID-19 treatment capacity, including related construction costs
- Acquisition of equipment for COVID-19 prevention and treatment, including ventilators, ambulances, and other medical or emergency services equipment
- Emergency operations centers and acquisition of emergency response equipment
- Installation and improvement of ventilation systems in congregate settings, health facilities, or other public facilities
- Public health data systems, including technology infrastructure
- Adaptations to congregate living facilities, including skilled nursing facilities, other long-term care facilities, incarceration settings, homeless shelters, residential foster care facilities, residential behavioral health treatment, and other group living facilities, as well as public facilities and schools (excluding construction of new facilities for the purpose of mitigating spread of COVID-19 in the facility)
- Mitigation measures in small businesses, nonprofits, and impacted industries
- Behavioral health facilities and equipment (e.g., inpatient or outpatient mental health or substance use treatment facilities, crisis centers, diversion centers)
- Technology and equipment to allow law enforcement to efficiently and effectively respond to the rise in gun violence resulting from the pandemic
- Affordable housing, supportive housing, or recovery housing development
- Food banks and other facilities primarily dedicated to addressing food insecurity
- Transitional shelters (e.g., temporary residences for people experiencing homelessness)
- Devices and equipment that assist households in accessing the internet (e.g., tablets, computers, or routers)
- Childcare, daycare, and early learning facilities
- Job and workforce training centers
- Improvements to existing facilities to remediate lead contaminants (e.g., removal of lead paint)
- Medical equipment and facilities designed to address disparities in public health outcomes (includes primary care clinics, hospitals, or integrations of health services into other settings)
- Parks, green spaces, recreational facilities, sidewalks, pedestrian safety features like crosswalks, streetlights, neighborhood cleanup, and other projects to revitalize public spaces
- Rehabilitations, renovation, remediation, cleanup, or conversions of vacant or abandoned properties
- Schools and other educational facilities or equipment to address educational disparities
- Technology and tools to effectively develop, execute, and evaluate government programs
- Technology infrastructure to adapt government operations to the pandemic (e.g., video-conferencing software, improvements to case management systems or data sharing resources), reduce government backlogs, or meet increased maintenance needs
- Number of households receiving eviction prevention services (including legal representation)
- Number of affordable housing units preserved or developed

Make-A-Wish Foundation of Oklahoma, Inc. has also elected to track the following KPIs to measure the outcomes and outputs of the project:

- To track the progress of the program is to reduce operational expenses by the end of Fiscal Year 2025 so that more dollars are mission focused.

11. **Single Audit Requirements.** SUBRECIPIENT agrees to comply with Single Audit Requirements. This includes ensuring expenses paid for with ERA2 monies met the requirements of Section 501 of Title V of Division N of the Consolidated Appropriations Act, 2021, supporting documentation is appropriate, proper approvals are present, and reimbursements of expenditures are not duplicated across other competing grants.
12. **Closeout:** SUBRECIPIENT will comply will all closeout procedures of the awards, to include full compliance with the agreement terms and conditions, ARPA, SLFRF rule and guidance, and 2 CFR 200. Key tasks will be closeout communications, confirmation for maintenance of records and financial documents, receipt of all final reimbursement requests or payment requests, receipt of all financial reports and performance reports, fulfillment of any requests to reconcile reports and payment requests. The retention period per SLFRF compliance and reporting is 5 years.
13. **Termination:** The COUNTY may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the SUBRECIPIENT.
14. **Denial of Disbarment.** SUBRECIPIENT agrees and herein attests to the fact that neither it nor any of its agents or agencies are currently or have previously been subject to a federal disbarment, suspension or exclusion from federal contracts.
15. **Anti-Lobbying.** SUBRECIPIENT agrees that it or any agent or agency thereof, 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.
16. **Indemnification:** The SUBRECIPIENT agrees to defend, indemnify, and hold the COUNTY, its officers, officials, employees, agents, and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses, including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of the SUBRECIPIENT, its officers, directors, employees, and/or agents relating to the SUBRECIPIENT's performance or failure to perform under this Agreement. This section shall survive the expiration or termination of this Agreement.
17. **Remedies:** The COUNTY may exercise any other rights or remedies, which may be available under law. If the COUNTY waives any right or remedy in this Agreement or fails to insist on strict performance by the SUBRECIPIENT, it will not affect, extend or waive any other right or remedy of the COUNTY, or affect the later exercise of the same right or remedy by the COUNTY for any other default by the SUBRECIPIENT.
18. **Equal Opportunity:** SUBRECIPIENT shall comply with the requirements of all applicable federal, state and local laws, rules, regulations, ordinances and executive orders prohibiting and/or relating to discrimination, as amended and supplemented. All of the aforementioned laws,

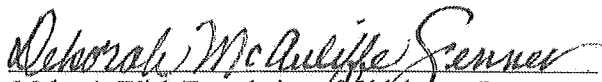
rules, regulations, and executive orders are incorporated herein by reference.

19. **Survivability:** Any term, condition, covenant or obligation which requires performance by either party subsequent to termination of this Agreement shall remain enforceable against such party subsequent to such termination.
  
20. **Modifications:** This writing embodies the entire agreement and understanding between the parties hereto and there are no other agreements and/or understandings, oral or written, with respect to the subject matter hereof, that are not merged herein and superseded hereby. This Agreement may only be amended or extended by a written instrument executed by the COUNTY.
  
21. **Entire Agreement:** It is understood and agreed that the entire agreement of the Parties is contained in this Agreement, which supersedes all oral agreements, negotiations, and previous agreements between the Parties relating to the subject matter of this Agreement. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement will be valid only when expressed in writing and duly signed by the Parties, except as otherwise specifically provided in this Agreement.



IN WITNESS WHEREOF, the SUBRECIPIENT and the COUNTY respectively, have caused this Agreement to be executed by their duly authorized representatives.

SUBRECIPIENT

  
Make-A-Wish Foundation of Oklahoma, Inc.

Date: 10/31/2024

BOARD OF COUNTY COMMISSIONERS OF OKLAHOMA COUNTY

\_\_\_\_\_  
CHAIRMAN

ATTESTED BY: COUNTY CLERK

\_\_\_\_\_  
[COUNTY CLERK]

ATTACHMENT A: RISK-BASED SUBRECIPIENT MONITORING  
This recipient is **Low RISK**

- i. All standard processes, as outlined in the Final Rule, are permitted.
- ii. **Random sampling of expenditures** for supporting documentation/detail should be conducted at least once per year.
- iii. Agency must send reminders to the entity of federal single audit requirements.
  - i. **If the Agency subaward to the entity is \$750,000 or more, subrecipient must complete a federal single audit** and Agency is responsible for confirming the entity completes a federal single audit. If the entity does not complete the federal single audit, they are in violation of federal compliance requirements and corrective action must be taken.
  - ii. **If Agency subaward to the entity is less than \$750,000**, Agency should still notify the entity of the requirement as the \$750,000 threshold is a cumulative of all federal funds an entity receives during the entity's fiscal year. Agency must verify if an entity is required to perform a federal single audit by checking the total of federal awards made to an entity through [www.usaspending.gov](http://www.usaspending.gov). Corrective action is needed if the federal single audit threshold is met but the entity has not completed a federal single audit.

ATTACHMENT B1: 30154 PROJECT DETAILS

Project: Make-A-Wish Oklahoma Post Pandemic Wish Pipeline Reduction Project

Description: As the only wish-granting organization in Oklahoma, MAWOK works tirelessly to ensure critically ill children in our community have something beyond scary surgeries and difficult treatments on which to focus. The pandemic has significantly impacted our ability to fulfill wishes, with 256 Oklahoma County residents currently waiting for their life-changing wish. We anticipate hundreds more referrals. We urgently need funding for operational costs to recover from the pandemic and continue providing this vital support. Your contribution will enable us to bring joy and hope to these brave children and their families during such challenging times. By offering a wish experience-doctors, families, and wish kids report that distraction from the illness produces positive emotions and the will to continue fighting for their mental and physical health. Wishes are a unique and powerful relief during the middle of so much medical uncertainty. Our wishes are uplifting, morale boosting, and life-changing.

Expense Type: Ongoing Operational Expense

Amount: \$ 300,000.00

ATTACHMENT B2: PROJECT MILESTONES

<b>Expenditure Timeline</b>			
		Expected Progress	Spending (\$ Amount)
<b>2024</b>	Q1		
	Q2		
	Q3		
	Q4	We anticipate spending the full \$300,000 in Q4 of 2024 (extensive timeline details in separate excel)	\$300,000.00
<b>2025</b>	Q1		
	Q2		
	Q3		
	Q4		
<b>2026</b>	Q1		
	Q2		
	Q3		
	Q4		

ATTACHMENT B3: BUDGET

High Level Budget				
	Category	Description	Dollar Amount (\$)	Notes
	<b>Project Name</b>	<i>Name of the project which has received funding</i>	<i>Make-A-Wish Oklahoma Post Pandemic Wish Pipeline Reduction project</i>	
Operational Expenses	<b>Personnel Salaries and Wages</b>	<i>Program directors and assistant directors, teachers, support staff, career or success coaches, translators, workforce development specialists, accessibility specialists, tutors, etc.</i>	\$233,111.00	
	<b>Personnel Fringe Benefits</b>	<i>Employer-paid portions of FICA; Employee Insurance and retirement plans; Unemployment and workers' compensation insurance; professional development</i>	\$40,978.00	
	<b>Supplies</b>	<i>Curriculum materials / kits; program supplies</i>		
	<b>Advertising and Outreach</b>	<i>Print and digital advertising (e.g. fliers, yard signs, billboards, websites, radio ads, etc.)</i>	\$15,000.00	
	<b>Rent</b>	<i>Cost of rent</i>	\$10,158.00	
	<b>Maintenance and Repair</b>	<i>Cost of maintenance and repairs of equipment</i>		
	<b>Services for removing barriers to participation</b>	<i>-Transportation assistance for students (e.g. vouchers for public transportation fares) -Childcare assistance for students -Translation services</i>		
	<b>Administrative Cost</b>	<i>Cost of administrative expenses limited to 10% unless Negotiated Indirect Costs Rate Agreement ("NICRA") established.</i>	\$735.00	
	Capital Expenses	<b>Equipment (Over \$10,000)</b>	<i>General purpose equipment (e.g. motor vehicles enabling transportation assistance for program participants, printing or reproduction technology); Special purpose equipment; Equipment for hands-on learning activities (e.g. ladders, power tools, wiring lab, simulating lab, etc.)</i>	
<b>Capital Purchases</b>		<i>Facilities or Land acquisition</i>		

Bill To Requisition 12503321-00 FY 2025

Acct No:  
14150000-54363  
Review:  
Buyer: 6065bbmirfry  
Status: Allocated

Page 1

Vendor MAKE-A-WISH FOUNDATION OF OKLAHOMA INC  
1900 NW EXPRESSWAY, SUITE 700  
OKLAHOMA CITY, OK 73118

Ship To OKLAHOMA COUNTY COMMISSIONERS  
320 ROBERT S KERR  
ROOM 101  
OKLAHOMA CITY, OK 73102

Deliver To OKLAHOMA COUNTY COMMISSIONERS  
320 ROBERT S KERR  
ROOM 101  
OKLAHOMA CITY, OK 73102

Date Ordered	Vendor Number	Date Required	Ship Via	Terms	Department
11/05/24	005035				Coronavirus Recovery Funds

LN	Description / Account	Qty	Unit Price	Net Price
001	Sub Recipient Agreement for ARPA 30154 Make-A-wish Oklahoma Post Pandemic Wish Pipeline Reduction Project	1.00 EACH	300000.00000	300000.00
1	14150000-54363		300000.00	

Ship To  
OKLAHOMA COUNTY COMMISSIONERS  
320 ROBERT S KERR  
ROOM 101  
OKLAHOMA CITY, OK 73102

Deliver To  
OKLAHOMA COUNTY COMMISSIONERS  
320 ROBERT S KERR  
ROOM 101  
OKLAHOMA CITY, OK 73102

[Requisition Link](#)

Requisition Total 300000.00

\*\*\*\*\* General Ledger Summary Section \*\*\*\*\*

Account	Amount	Remaining Budget
14150000-54363 American Rescue Plan 2021	300000.00	2492941.68
	ARPA-Subrecipient Agreement	