

MEMORANDUM OF UNDERSTANDING AND FACILITY USE AGREEMENT

THIS AGREEMENT is hereby made between Missoula County, a local subdivision of the State of Montana and the Missoula County Office of Emergency Management (hereinafter “the County”), and the City of Missoula (hereinafter “the City”). The parties, in consideration of mutual covenants and stipulations described below, agree as follows:

Whereas, the COVID-19 pandemic is present in the City and County with numerous confirmed cases, pending tests and has resulted in death;

Whereas, isolation and quarantine is necessary to reduce the spread of COVID-19 in the City and County and not all City and County residents have a home or other suitable place of isolation and quarantine;

Whereas, the City has purchased a motel at 1427 West Broadway (the “Facility”) that can be temporarily used as a non-congregate sheltering location for City and County residents who are ordered to isolate and/or quarantine by the Missoula City-County Health Officer;

Whereas, the Missoula County Office of Emergency Management is able to operate a non-congregate sheltering location using the Facility to house City and County residents who are ordered to isolate and/or quarantine by the Missoula City-County Health Officer to benefit City and County residents;

The parties hereby agree as follows:

ARTICLE 1 THE AGREEMENT

This Agreement represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral.

ARTICLE 2 RELATIONSHIP OF PARTIES

2.1 This Agreement does not make any of the parties' employees an employee of the other for any purpose whatsoever. Each party shall hire, compensate, supervise, discipline and discharge its own employees, who shall be under the sole control and ultimate supervision of their own employer. The City shall appoint a City employee to serve as a member of the Missoula County Office of Emergency Management’s Emergency Operation Center, with this individual being charged with assisting in the management and operation of the Facility.

ARTICLE 3 SERVICES AND OBLIGATIONS

3.1 City agrees to provide the Missoula County Office of Emergency Management access to the Facility for the purpose of operating non-congregate sheltering location for City and County residents ordered to isolate and/or quarantine by the Missoula City-County

Health Officer who do not have a home or other suitable place of isolation and quarantine. The Facility is intended to be used as a temporary housing location for such individuals, and is not intended to be used for the provision of medical care. In the event an individual housed at the Facility is in need of medical or health care other than emergency response services, the Missoula County Office of Emergency Management shall direct those individuals to seek health care services from a licensed health care facility.

- 3.2 The Missoula County Office of Emergency Management agrees to use the recently-purchased facility for the purpose of operating non-congregate sheltering location for City and County residents ordered to isolate and/or quarantine by the Missoula City-County Health Officer who do not have a home or other suitable place of isolation and quarantine.
- 3.3 The Missoula County Office of Emergency Management will operate the non-congregate shelter in accordance with the direction or guidance of health officials by the appropriate state or local entities and in accordance with the criteria of non-congregate sheltering for the COVID-19 emergency. In no event shall the operation of the Facility be intended to include the provision of medical or health care services.
- 3.4 The City will provide the Facility to the Missoula County Office of Emergency Management in good working order, and the City will be responsible for maintenance of the facility, including all major maintenance needed relating to structural, plumbing, HVAC, electrical, smoke detection, doors, windows and fixtures. The Missoula County Office of Emergency Management will provide for cleaning, security enhancements, and maintenance repairs needed for operations or as a result of operations.
- 3.5 The Missoula County Office of Emergency Management will be responsible for making physical security improvements to the Facility it deems necessary. The City will obtain the County's approval prior to implementing or constructing any physical security improvements that the City deems necessary.
- 3.6 The City will leave all furnishings and mattresses in the Facility at the time the City takes ownership for potential use by Missoula County Office of Emergency Management in operation of the Facility unless otherwise requested by Missoula County Office of Emergency Management. The County will not be responsible for damage done to furnishings and mattresses based on normal wear and tear or anticipated usages associated with operation of the Facility for the purposes set forth herein.
- 3.7 The Missoula County Office of Emergency Management will be responsible for actual utilities costs.
- 3.8 Upon termination of this Agreement, the Missoula County Office of Emergency Management will clean and sanitize the rooms used but will not clean and sanitize the entire facility or unused rooms.
- 3.9 The Office of Emergency Management will work out a staffed security presence as

deemed necessary.

ARTICLE 4 DURATION AND EFFECTIVE DATE

This agreement shall take effect the day after the City takes ownership of the facility, but in no event prior to April 22, 2020, and shall remain in force unless terminated pursuant to Article 5.

ARTICLE 5 TERMINATION

Termination: The Agreement may be terminated by the County or City for convenience upon 14 days written notice. Unless so terminated, the Agreement shall terminate when the current COVID 19 public health crisis in Missoula County has ended.

ARTICLE 6 PAYMENT FOR FACILITY USE

The lease cost for the facility is \$1,666 per day (34 rooms at \$49 per day).

ARTICLE 7 INDEMNITY AND INSURANCE

- 7.1 As set forth in this Agreement, the parties acknowledge operation of the facility described herein is necessary to protect the public health and safety of City and County residents. Therefore, the parties agree to jointly assume liability associated with the operation of the facility.
- 7.2 The Parties will, in good faith, pursue third party liability coverage for the operation of the Facility that will provide liability coverage to the City, the County, and the Missoula County Office of Emergency Management.
- 7.3 The City shall maintain liability coverage for the activities of City agents and employees described within this Agreement, which shall include the activities of City agents or employees participating as part of the Missoula County Office of Emergency Management's Emergency Operations Center, pursuant to statutory requirements set forth in Montana Code Annotated Title 2, Chapter 9. The City shall provide a certificate of insurance evidencing compliance with this requirement.
- 7.4 The County shall maintain liability coverage for the activities of County agents and employees described within this Agreement pursuant to statutory requirements set forth in Montana Code Annotated Title 2, Chapter 9. The County shall provide a certificate of insurance evidencing compliance with this requirement.
- 7.5 The City shall maintain appropriate property coverage for the building and contents thereof including contents brought to the property by residents ordered to isolate or quarantine by the Missoula City-County Health Officer. The City shall bear the cost of any deductible or self insured retention cost associated with said property insurance. In order for the City to insure the personal property contents of residents, the Missoula County Office of Emergency Management shall require any individual housed at the

Facility to fill out an intake form requiring the individual to itemize their personal belongings that they are bringing with them to the Facility.

- 7.6 The City and County shall maintain workers' compensation insurance for their respective employees while performing work under this Agreement. Upon request, the parties will provide proof of compliance in the form of workers' compensation insurance.

ARTICLE 8 MISCELLANEOUS PROVISIONS

- 8.1 Amendments: The parties may only amend or supplement the Agreement by written amendment and with mutual agreement of both parties.
- 8.2 Further Assurances: Each party will take such actions as any other party may reasonably request or as may be necessary or appropriate to consummate or implement the services contemplated by this Agreement.
- 8.3 Governing Law: This Agreement and the legal relations between the parties will be governed by and construed in accordance with the laws of the State of Montana applicable to contracts made and performed in Montana and without regard to conflicts of law doctrines unless certain matters are preempted by federal law.
- 8.4 Successors and Assigns: No Third Party Beneficiaries. This Agreement is binding upon and will inure to the benefit of each party and its successors or assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person or governmental entity rights or remedies of any nature whatsoever under this Agreement.
- 8.5 This Agreement may not be assigned without the prior written consent of both parties. Both parties understand and agree that the Missoula County Office of Emergency Management will utilize contractors to provide services needed for operation of the non-congregate sheltering location for City and County residents ordered to isolate and/or quarantine by the Missoula City-County Health Officer who do not have a home or other suitable place of isolation and quarantine.
- 8.6 Waiver: No failure on the part of a party to exercise or delay in exercising a right hereunder will be deemed a waiver thereof, nor will a single or partial exercise preclude a further or other exercise of such or any other right.
- 8.7 Severability: If a provision of this Agreement is held to be unenforceable for any reason, it will be adjusted rather than voided, if possible, to achieve the intent of the parties. All other provisions of this Agreement will be deemed valid and enforceable to the extent possible.
- 8.8 Nonexclusively: This Agreement is nonexclusive and the parties may enter into similar agreements with other parties without restriction as to number, location and application.
- 8.9 Place of Performance and Venue: The parties agree that performance of this Agreement is in Missoula County, Montana. In the event of litigation concerning it, venue is in the

4th Judicial District, in and for the County of Missoula, State of Montana.

ARTICLE 9 NON DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Section 49-2-303 and 49-3-207, of the Montana Code Annotated, no part of this contract shall be performed in a manner which discriminates against any person on the basis of race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disabilities, sexual orientation, gender expression, gender identity, or national origin by the persons performing the contract. Any hiring shall be on the basis of merit and qualifications directly related to the requirements of the particular position being filled.

ARTICLE 10 LIAISONS

The County liaison for purposes of this Agreement is the following person or that person's representative:

Adriane Beck
Director, DES Coordinator
Office of Emergency Management
Office 406-258-3632
Cell 406-830-0974
abeck@missoulacounty.us

The City liaison for purposes of this Agreement is the following person or that person's representative:

Eran Pehan

The parties agree that these persons shall be the first contacts concerning any problems or questions that may arise in the implementation of the terms of the Agreement.

DATED this ____ day of _____, 20__.

CITY OF MISSOULA

By: _____
John Engen
Mayor

ATTEST

By: _____
Martha L. Rehbein, CMC
City Clerk

BOARD OF COUNTY COMMISSIONERS
Missoula County, Montana

Chair

Commissioner

Commissioner

ATTEST:

Clerk & Recorder