

Memorandum of Understanding (MOU)
for
Emergency Alternate Facility Space Between
Lewis County Board of County Commissioners (County)
and
Bethel Church
July 15, 2020

I. Purpose

This agreement between **Lewis County Board of County Commissioners (County)** and the **Bethel Church** provides a framework for cooperation between the parties in the event an emergency or disaster results in the inability to access county facilities. Pursuant to this agreement, the **Bethel Church** will assist the **County** with space, furnishings, and telecommunications for the county government to perform their essential functions.

II. Definitions

Host: **Bethel Church**

Guest: **Lewis County Board of County Commissioners (County)**

III. Scope of Agreement

- A. This agreement provides, but is not limited to, the identified assistance in cases where the host is not affected by the emergency that precipitates the activation of this agreement.
- B. The time period of time the host support is expected to last is less than 30 business days during which time the guest will seek to acquire other more permanent facilities, or return to their original facility, or negotiate an extended support arrangement with the host.

IV. Procedures

- A. Availability of Space and Support
 - 1. The parties agree to work cooperatively to identify space, telecommunications, information technology services and equipment, security, and other services necessary to support the temporary relocation of the County to perform essential functions.
 - 2. The administrator of the host will immediately notify any member of the County staff of any situation that may reduce the guest's ability or capabilities to support the Continuity of Government (COG) plan activation.

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B. Activation of Space/Support

1. Staff from the County will promptly notify the administrator of Bethel Church that the COG plan was activated and alternate facilities are required.
2. During the period of COG plan activation, the host will provide support to the guest. However, modifications to those requirements are to be expected based on the particular circumstances of the incident or event.

C. Reimbursement of Costs

1. No exchange of funds in advance of activation of support requirements will take place.
2. The guest is responsible for reimbursing the host for reasonable costs associated with actual COG operations. Such costs are to be limited to extraordinary expenses of the host organization, such as supplies, equipment, personnel costs above normal salaries and benefits, security, and utilities. The host is to provide the guest with appropriate cost codes and other billing information as soon as practicable.

V. Terms

- A. This agreement will be effective on the date of the last signature thereto and will continue until rescinded, upon 30 days written notice, by either party.
- B. **Gary Stamper, Chair of the Lewis County Board of County Commissioners and Kyle Rasmussen of the Bethel Church** shall be responsible for an annual review of this agreement.

VI. Administration

This Memorandum of Understanding (MOU) does not create a separate entity. This MOU shall be jointly administered by County and Bethel Church.

VII. Modifications

Either Party may request changes in the MOU. Any and all agreed modifications shall be in writing, signed by each of the Parties.

VIII. Termination

Either Party may terminate this MOU upon 30 days' prior written notification to the other Party. If this MOU is so terminated, the Parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this MOU prior to the effective date of termination.

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IX. Termination for Public Convenience

Either Party may terminate the MOU, in whole or in part, whenever the terminating Party determines, in its sole discretion, that such termination is in the interests of the terminating Party. Whenever the MOU is terminated in accordance with this paragraph, the non-terminating Party shall be entitled to payment for actual work performed at unit MOU prices for completed items of work. The terminating Party shall make a reasonable, equitable adjustment in the MOU price for partially completed items of work, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this MOU by Party at any time during the term for convenience, shall not constitute a breach of MOU by the terminating Party.

X. Suspension of Performance and Resumption of Performance

In the event of government closure, suspension, or limitation of funding in any way after the effective date of this MOU and prior to normal completion, Parties may give notice to the other Party to suspend performance as an alternative to termination. Parties may elect to give written notice to the other Party to suspend performance when the Party determines there is a reasonable likelihood that the funding insufficiency may be resolved in a timeframe that would allow performance to be resumed prior to the end date of this MOU. Notice may include notice by facsimile or email to the MOU's Representative. The Parties shall suspend performance on the date stated in the written notice to suspend. During the period of suspension of performance, each Party may inform the other of any conditions that may reasonably affect the potential for resumption of performance. Notice may be contingent upon the occurrence or non-occurrence of a future event; e.g. the failure of the State of Washington to pass a budget by a date specified in the notice.

When the Parties determine that the funding insufficiency is resolved, the Parties may give written notice to resume performance and a proposed date to resume performance. Upon receipt of written notice to resume performance, the Parties will give written notice to the other as to whether it can resume performance, and, if so, the date upon which it agrees to resume performance. If Parties give notice that they cannot resume performance, the Parties agree that the MOU will be terminated retroactive to the original date of suspension of performance.

If the funding issue is not resolved, the Parties may terminate the MOU under the "Termination for Convenience" clause.

XI. Defense and Indemnity MOU

Either Party shall defend, protect, and hold harmless the other Party or any officers or employees thereof, from and against all claims, suits, or action arising from any intentional or negligent act or omission of the other Party or any employee, agent or representative of the other Party or any subcontractor, while performing under the terms of this MOU.

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XII. Resolution of Conflicts

In the event of an inconsistency in this MOU, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:

- i. Applicable federal and state statutes and regulations
- ii. Special terms and conditions
- iii. Exhibits
- iv. General terms and conditions
- v. Any other provision of this MOU whether incorporated by reference or otherwise.

XIII. Disputes, Venue and Choice of Law

Both Parties agree that any disputes that arise under or relating to this MOU that cannot be resolved to the satisfaction of both parties shall be submitted to mediation before either party starts litigation in any form. An impartial third party acceptable to both the County and Bethel Church will be appointed to mediate. Should the parties be unable to agree upon a mediator, then the dispute shall be mediated through the Washington Arbitration and Mediation Service, at its Tacoma office, and in accordance with the WAMS mediation rules. Each Party shall pay an equal percentage of the mediator's fees and expenses. Either Party may not use any funds received under this MOU to pay mediator's fees and expenses. The mediation shall be confidential in all respects, as allowed or required by law.

In the event that mediation does not resolve the dispute, the venue for any litigation arising under or relating to this MOU shall be in the courts of the State of Washington. This MOU shall be governed by the laws of the State of Washington, excepting only the choice of law rules of the State of Washington.

XIV. MOU Amendments

No amendment, modification or renewal shall be made to this MOU unless set forth in a written Memorandum of Understanding Amendment, signed by both parties. Work under a Memorandum of Understanding Amendment shall not proceed until both Parties duly executes the Memorandum of Understanding Amendment.

XV. Severability

If any term or condition of this MOU or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this MOU are declared severable.

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XVI. Conformance

If any provision of this MOU violates any statute or rule of law of the state of Washington or of the United States of America, it is considered modified to conform to that statute or rule of law.

XVII. Waiver

Waiver of any breach or condition of this MOU shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this MOU shall be held to be waived, modified or deleted except by an instrument, in writing, signed by the party granting such a waiver.

XVIII. Survival

The terms and conditions contained in this MOU will survive the completion, cancellation, termination or expiration of the MOU.

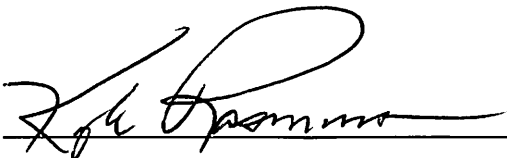
XIV. Entire MOU

This written MOU along with attached exhibits and the documents and terms incorporated herein of this MOU, represents the entire MOU between the parties.

Lewis County Board of County Commissioners:

Gary Stamper, Chair: _____ Date: _____

Bethel Church:

Kyle Rasmussen, Pastor:  _____ Date: 8.13.2020

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