

CARES ACT SUBRECIPIENT AGREEMENT
BETWEEN
[DISTRICT NAME] AND WHATCOM COUNTY
FOR CUSTOMER RELIEF ASSOCIATED WITH THE
IMPACTS OF THE COVID-19 PANDEMIC

This CARES Act Subrecipient Agreement (“Agreement”) is dated as of the _____ day of November, 2020, by and between Whatcom County, a Washington State political subdivision (“County”), and [District Name], a Washington State special purpose district regulated under Title 57 Revised Code of Washington (“Subrecipient”).

WHEREAS, Washington State (“the State”) has allocated to the County federal stimulus funding (“CARES Funds”) (Catalog of Federal Domestic Assistance No. [County Insert CFDA No.]) under Section 601(a) of the Social Security Act, as amended by Section 5001 of the Coronavirus Aid, Relief, and Economic Security Act and Section V and VI of the CARES Act (“CARES Act”) for the limited purposes identified in the Interagency Agreement between the Washington State Department of Commerce and Whatcom County (“IGA”), identified as Exhibit A, and the Coronavirus Relief Funds for Local Governments Program Guidelines (“Program Guidelines”), identified as Exhibit B. Exhibits A and B are attached hereto and incorporated herein by this reference; and

WHEREAS, the CARES Act authorizes the County to seek reimbursement from the State for certain costs incurred in response to the COVID-19 public health emergency during the period of March 1, 2020 through November 30, 2020, which may include reimbursement of expenditures incurred to respond directly to the emergency as well as expenditures incurred to respond to second-order effects of the emergency, such as providing economic support to those suffering from employment or business interruptions due to COVID-19 related business closures; and

WHEREAS, all requests submitted by the County to the State for reimbursement must be for expenses that are 1) connected to the COVID-19 emergency; 2) necessary expenses, 3) not filling a short fall in government revenues, 4) not funded through another budget line item, allotment or allocation, as of March 27, 2020, and 5) would not exist without COVID-19 or would be for a substantially different purpose as provided in the IGA and Program Guidelines (collectively “Reimbursements”); and

WHEREAS, the County desires to allocate portions of the CARES Funds to Whatcom County residents experiencing severe financial hardship due to job loss, layoff, reduction of work hours or other circumstances resulting from the COVID-19 emergency that need utility payment assistance to avoid utility disconnect and thereby endanger the health and well-being of such impacted residents, with such allocation of funds to be consistent with the Reimbursement requirements; and

WHEREAS, the County and Subrecipient desire to enter into this Agreement so that the County may seek CARES Funds for appropriate and qualifying Reimbursements of grant funds provided to the Subrecipient by the County for provision of residential utility assistance

grants to be made by the Subrecipient to eligible residents who are utility customers of the Subrecipient under the IGA and Program Guidelines;

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated herein by reference, and the terms and conditions set forth below, the parties agree as follows:

- I. Effective Date and Term. This Agreement shall commence when last executed by all parties and remain in effect until December 15, 2020, unless terminated by the County in writing.
- II. Subrecipient's Use of CARES Funds. The Subrecipient shall ensure that the CARES Funds requests are necessary and eligible Reimbursements under one of the following cost categories: a) medical expenses, b) public health, c) payroll expenses, d) expenses of actions to facilitate compliance with COVID-19 public health measures, e) expenses associated with the provision of economic support, or f) any other COVID-19 related expense necessary to the function of government that satisfy the Reimbursement eligibility criteria.
- III. Ineligible Costs. Non-allowable costs include, without limitation, the following: a) expenses for the State share of Medicaid; b) damages covered by insurance; c) payroll or benefits expenses for employees whose work duties are not substantially dedicated to mitigating or responding to the COVID-19 public health emergency; d) 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; e) reimbursement to donors for donated items or services; f) workforce bonuses other than hazard pay or overtime; g) severance pay; and h) legal settlements.
- IV. COVID-19 Reimbursement Request Support. To facilitate the County's seeking reimbursement of CARES funding under the IGA, the Subrecipient will submit an A-19 equivalent report to the County, on or before November 30, 2020, detailing the utility assistance grants disbursed by the Subrecipient. Such schedule may be modified with the prior approval of the County. Failure to provide any of the required documentation may result in termination of the Agreement and no Reimbursement of funds paid to the Subrecipient by the County.
- V. CARES Funds. The County agrees to Reimburse the Subrecipient a total sum not to exceed \$ [REDACTED] by December 15, 2020 provided that the COVID-19 Reimbursement request support is received as stated in Section IV of this Agreement. The County will not provide the funds up front to the Subrecipient upon Execution of this Agreement.
- VI. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Subrecipient.
- VII. Independent Contractor. Each party under the Agreement shall be for all purposes an independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. The Subrecipient shall not be, or be

deemed to be, or act or purport to act, as an employee, agent, or representative of the County for any purpose.

- VIII. 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 Subrecipients' performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.
- IX. Compliance with Laws, Guidelines. The Subrecipient shall comply with all federal, state, and local laws and all requirements (including certifications and audits) of the IGA and Program Guidelines, to the extent applicable, when seeking Reimbursement.
- X. Maintenance and Audit of Records. 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 designee, the Washington State Auditor's Office and as required by the IGA and Program Guidelines for five (5) years following termination of this Agreement. If it is determined during the course of the audit that the Subrecipient was reimbursed for unallowable costs under this Agreement or any, the Subrecipient agrees to promptly reimburse the County for such payments upon request.
- XI. Notices. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Subrecipient
District Name
Attn: Name
Address
City, WA ZIP

Whatcom County
Attn: Name
311 Grand Avenue, Suite __
Bellingham, WA 98225

- XII. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

- XIII. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.
- XIV. Time. Time is of the essence in this Agreement.
- XV. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.
- XVI. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.
- XVII. Governing Law; Venue. The Agreement will be governed in all respects by the laws of the Washington State, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Whatcom County, Washington or as provided by RCW 36.01.050.
- XVIII. Non-Waiver. No failure on the part of the County to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the County of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to the County at law or in equity.
- XIX. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.
- XX. Assignment. The Subrecipient shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of the County.
- XXI. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either Party has to the Washington State Department of Commerce in connection with the use of CARES funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.
- XXII. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.
- XXIII. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument.
- XXIV. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

IN WITNESS WHEREOF, this Agreement is executed and shall become effective as of the last date signed below.

WHATCOM COUNTY:

Approved as to form:

Satpal Sidhu, Whatcom County Executive

Christopher Quinn, Chief Civil Deputy
Prosecutor

STATE OF WASHINGTON)
) ss.
County of Whatcom)

On this ___ day of _____, 2020, before me personally appeared SATPAL SIDHU, to me known to be the County Executive of WHATCOM COUNTY, and who executed the above instrument and who acknowledged to me the act of signing and sealing thereof.

NOTARY PUBLIC in and for the State of
Washington residing at _____.
My appointment expires: _____

EXHIBIT A
Interagency Agreement between
the Washington State Department of Commerce and Whatcom County

EXHIBIT B
Washington State Department of Commerce
Coronavirus Relief Funds for
Local Governments Program Guidelines
dated May 18, 2020