

# Agenda Summary Report (ASR)

Franklin County Board of Commissioners

2020 - 245

<b>DATE SUBMITTED:</b> October 29, 2020	<b>PREPARED BY:</b> Shirley Jones
<b>Meeting Date Requested:</b> November 3, 2020	<b>PRESENTED BY:</b> Keith Johnson
<b>ITEM:</b> (Select One)      Consent Agenda <input checked="" type="checkbox"/> Brought Before the Board Time needed: 10 minutes	
<b>SUBJECT:</b> Acceptance and Adoption of CARES Act program with the Public Utility District #1 of Franklin County for Franklin County residents affected by COVID-19 shutdown.	
<b>FISCAL IMPACT:</b> \$7,101,000 is available from Congress to offset the direct costs incurred as a result of the COVID 19 Pandemic. That contract was previously approved and is administered through the State Department of Commerce. The county will use \$600,000 of those funds available under that contract to provide grants to residents in Franklin County by using the Public Utility District #1 of Franklin County as a contractor to qualify residents and process grant payments for delinquent utility payments. This agreement authorizes the Public Utility District #1 of Franklin County to administer the program on behalf of Franklin County and defines the scope of work under the program. \$500,000 will go directly to paying Franklin County residents delinquent utility bills and \$100,000 will be used for COVID related operating costs for the PUD.	
<b>BACKGROUND:</b> Congress adopted the CARES ACT to provide economic relief local government, businesses and residents who have been affected by the COVID-19 pandemic. This contract provides the terms, stipulations of use and reporting from the Public Utility District #1 of Franklin County necessary to properly account for the funds distributed to pay Franklin County residents delinquent utility bills and direct COVID-19 operating costs for the PUD.	
<b>RECOMMENDATION:</b> Approval of this Resolution.	
<b>COORDINATION:</b> Keith Johnson, Franklin County Administrator Franklin County Chief Civil Attorney Department of Commerce Public Utility District #1 of Franklin County	
<b>ATTACHMENTS:</b> (Documents you are submitting to the Board) ASR/Resolution/Contract with the Public Utility District #1 of Franklin County	
<b>HANDLING / ROUTING:</b> (Once document is fully executed it will be imported into Document Manager. Please list <u>name(s)</u> of parties that will need a pdf) Administration	

*I certify the above information is accurate and complete.*

\_\_\_\_\_ Keith Johnson, Administrator

**FRANKLIN COUNTY RESOLUTION 2020-245**

BEFORE THE BOARD OF COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON

***RESOLUTION ADOPTING THE CARE SUBRECIPIENT AGREEMENT BETWEEN FRANKLIN COUNTY AND THE PUBLIC UTILITY DISTRICT #1 OF FRANKLIN COUNTY FOR ASSISTANCE WITH IMPLEMENTING FRANKLIN COUNTY'S RESIDENT DELINQUENT UTILITIES GRANT PROGRAM***

**WHEREAS**, on March 27<sup>th</sup>, 2020, the Congress of the United States passed the Coronavirus Aid, Relief and Economic Security Act (CARES Act) which was subsequently signed into law by President Donald Trump; and,

**WHEREAS**, administration of the CARES Act funding was delegated to the States by Congress; and

**WHEREAS**, CARES Act funding in the State of Washington is administered for local governments by the State Department of Commerce; and

**WHEREAS**, Franklin County has been allocated a total of \$7,101,000 to offset the cost of the County's response to COVID-19 preventative and mitigation measures; and,

**WHEREAS**, Franklin County can use CARES Act funding to assist Franklin County residents with delinquent utility bills with COVID-19 costs; and

**WHEREAS**, Franklin County has authorized the Interagency Agreement and Amendment with the State Department of Commerce to request reimbursement of CARES Act funds; and

**WHEREAS**, the Public Utility District #1 of Franklin County have made their services available to Franklin County to administer the grant management of this program; and

**NOW, THEREFORE, BE IT RESOLVED**, the Board of Commissioners hereby accepts and approves the attached CARES Subrecipient Agreement with the Public Utility District #1 of Franklin County and authorizes the Chairman of the Franklin County Board of Commissioners to sign said Agreement on the County's behalf and hereby instruct the County Administrator to execute the County's responsibilities under this agreement.

**APPROVED** this 3rd day of November, 2020.

BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Chair Pro Tem

\_\_\_\_\_  
Member

**ATTEST:**

\_\_\_\_\_  
Clerk to the Board

## CARES SUBRECIPIENT AGREEMENT

This CARES Subrecipient Agreement (“Agreement”) is dated as of the 3<sup>rd</sup> day of November, 2020, by and between Franklin County, a Washington political subdivision (“County”), and Public Utility District #1 of Franklin County, a Washington state public utility (“Subrecipient”).

WHEREAS, Washington State has allocated to the County federal stimulus funding (“CARES Funds”) 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 Franklin County (“IGA”), identified as Attachment A, and the Coronavirus Relief Funds for Local Governments Program Guidelines (“Program Guidelines”), identified as Attachment B. Attachments A and B are attached hereto and incorporated herein by this reference.

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.

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 thru 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”).

WHEREAS, the County desires to allocate portions of the CARES Funds to Franklin 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.

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 advanced 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 and to reimburse the Subrecipient for its direct operating expenditures for COVID-19 related costs.

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:

1. 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.
2. 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.
3. 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.
4. 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 December 07, 2020, detailing the utility assistance grants disbursed by the Subrecipient and the detail of operating expenses paid. Such schedule may be modified with the prior approval of the County.
5. CARES Funds. The County agrees to pay the Subrecipient a total sum not to exceed \$600,000 by November 30, 2020. These funds are to be allocated as follows: Up to \$100,000 for COVID-19 related operating expenses consistent with the IGA incurred by the Subrecipient and up to \$500,000 for customer utility fees that are delinquent due to COVID-19 impacts.
6. Termination. The County may terminate this Agreement, for convenience or otherwise and for no consideration or damages, upon prior notice to the Subrecipient.
7. 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.
8. 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.

9. 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.
10. 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.
11. 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

Public Utility District #1 of Franklin County  
Attn: Scott Rhees  
PO Box 2407  
Pasco, WA 99302

Franklin County

Attn: Keith Johnson  
1016 N 4<sup>th</sup> Ave  
Pasco, WA 99301

12. 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.
13. 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.

14. Time. Time is of the essence in this Agreement.
15. 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.
16. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.
17. 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 Franklin County, Washington or as provided by RCW 36.01.050.
17. 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.
18. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.
19. 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.
20. Entire Agreement. This Agreement constitutes the entire agreement between the County and the Subrecipient for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.
21. 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.
22. 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.

23. 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.
24. 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.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2020.

**SUBRECIPIENT, PUBLIC UTILITY DISTRICT #1  
OF FRANKLIN COUNTY**

By: \_\_\_\_\_

Print Name: Scott Rhees

Its: General Manager

DATED this \_\_ day of \_\_\_\_\_, 2020.

**BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, WASHINGTON**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk of the Board

APPROVED AS TO FORM:

  
\_\_\_\_\_