

RETURN ADDRESS
City of Vancouver
City Clerk's Office
PO Box 1995
Vancouver, WA 98668-1995

**INTERLOCAL AGREEMENT
BETWEEN CLARK PUBLIC UTILITIES AND THE CITY OF VANCOUVER**

THIS AGREEMENT is made and entered into by the City of Vancouver, a first class city of the state of Washington (hereinafter the "City"), and Clark Public Utilities, a Washington municipal corporation (hereinafter "CPU"), collectively referred to in this Agreement as "the Parties."

WHEREAS, this Agreement is made under the authority of Chapter 39.34 RCW (Interlocal Cooperation Act); and

WHEREAS, the City desires to establish a Utility Customer Assistance Program ; and

WHEREAS, CPU already administers a Low Income Home Energy Assistance Program (hereinafter "LIHEAP") authorized by the Low Income Home Energy Assistance Act of 1981, the Omnibus Budget Reconciliation Act of 1981, the Energy Policy Act of 2005, Public Law 109-58 as part of which CPU screens households for eligibility for energy assistance under LIHEAP; and

WHEREAS, by using the same LIHEAP eligibility criteria for the City's program as CPU already uses for the programs it already administers, CPU can screen persons for the City's program; and

WHEREAS, the City desires to utilize the existing administrative capability and expertise of CPU in screening applicants for LIHEAP for screening applicants for the City's Utility Customer Assistance Program under the eligibility criteria for LIHEAP; and

WHEREAS, by using CPU to screen applicants for the City's program, both agencies can maximize efficiencies in providing emergency utility assistance to customers of both utilities; and

WHEREAS, CPU and the City desire to reduce to writing their understanding related to the provision of applicant eligibility screening services by CPU to the City.

NOW THEREFORE, the CITY and CPU agree as follows:

Section 1. PURPOSE.

The purpose of this Agreement is to make efficient use of the resources of the Parties and of available City funds to screen applicants for the City's Utility Customer Assistance Program.

Section 2. TERM.

The term of this Agreement is from June 1, 2011, until terminated by the parties.

Section 3. TERMINATION.

Either party may terminate this Agreement for any or no cause with thirty (30) days written notice to the other party.

Section 4. SCOPE OF WORK.

CPU agrees to provide the services as described in the Scope of Work, attached as Exhibit A to this Agreement and incorporated into this Agreement as if fully set forth.

Section 5. COMPENSATION.

As part of its existing LIHEAP eligibility review, CPU agrees to provide services as set forth in the Statement of Work without compensation from the City; provided that CPU is only required to provide screening under the criteria it already uses to screen applicants for LIHEAP and that the City of Vancouver is responsible for funding the City's Utility Customer Assistance Program to aid those screened and found eligible by CPU.

Section 6. ADMINISTRATION AND COMMUNICATIONS.

No new or separate legal or administrative entity is created by this agreement. Contract managers designated by the CPU General Manager and the Vancouver City Manager shall administer this Agreement. Contract managers shall meet as needed to review service levels and administrative procedures to implement this Agreement. Contract managers shall also communicate as needed via telephone or e-mail to relay information, answer questions, or raise concerns.

Section 7. DISPUTE RESOLUTION.

In the event of a dispute between CPU and the City regarding the delivery of services under this Agreement, which cannot be resolved by their respective designated contract managers, the dispute shall be resolved by CPU's General Manager and the Vancouver City Manager or their designated representatives. Their determination regarding the dispute shall be final as between the parties.

Section 8. INDEPENDENT CONTRACTOR.

CPU is and shall at all times be deemed to be an independent contractor in the provision of the services set forth in this Agreement. Nothing herein shall be construed as creating the relationship of employer and employee, or principal and agent, between CPU and the City or between any of the CPU's or City's employees. CPU shall retain all authority for provision of services, standards of performance, discipline and control of personnel, and other matters incident to the performance of services by CPU pursuant to this Agreement. Nothing in this Agreement shall make any employee of CPU an employee of the City or any employee of the City an employee of CPU for any purpose, including but not limited to, for withholding of taxes, payment of benefits, workers' compensation pursuant to Title 51 RCW, or any other rights or privileges accorded their respective employees by virtue of their employment.

Section 9. APPLICANT PERSONAL INFORMATION.

Personal information collected or used by CPU from applicants in connection with the federally funded LIHEAP program is required by CPU's Interlocal Contract for Services (CPU #20011-CPU-1) to be kept confidential. CPU shall, with the prior written consent of the applicant, provide only basic information as to whether a particular applicant does or does not meet LIHEAP eligibility criteria. No other information shall be shared with the City without the written consent of the applicant.

Section 10. INTERLOCAL ACT COMPLIANCE.

Pursuant to RCW 39.34 RCW, the purpose of this Interlocal Agreement is as set forth in Section 1 (Purpose). Its duration is set forth as specified in Section 2 (Term). Its manner of termination is set forth in Section 3 (Termination). Its manner of financing is described in Section 5 (Compensation). No property shall be acquired pursuant to this Agreement which will need to be disposed of upon partial or complete termination of this Agreement.

Section 11. GENERAL TERMS AND CONDITIONS.

11.1 Ratification. Acts taken prior to the execution of this Agreement that are consistent with the intent and purpose of the same are hereby ratified and confirmed.

11.2 Survival of Terms. The terms and conditions in this Agreement which, by their sense and context, are intended to continue after the expiration or termination of this Agreement, shall survive.

11.3 Amendments. The provisions of this Agreement may be amended with the mutual consent of the parties. No amendments, additions to, or alterations of, the terms of this Agreement shall be valid unless made in writing and formally approved and executed by the duly authorized agents of both parties.

11.4 Notices. Any notices to be given under this Agreement shall at minimum be delivered, postage prepaid and addressed to:

CONTRACTUAL

To the City:
CITY OF VANCOUVER
P.O. Box 1995
Vancouver, Washington 98668-1995
Attention: City Manager

To Clark Public Utilities:
CLARK PUBLIC UTILITIES
P.O. Box 8900
Vancouver, Washington 98668
Attn: General Manager

OPERATIONAL

To the City:
CITY OF VANCOUVER
P.O. Box 1995
Vancouver, Washington 98668-1995
Attention: Amy Sorenson
360-487-7998
amy.sorenson@cityofvancouver.us

To Clark Public Utilities:
CLARK PUBLIC UTILITIES
P.O. Box 8900
Vancouver, Washington 98668
Attn: Gretchen Alexander
360-992-3583
galexander@clarkpud.com

The name and address to which notices shall be directed may be changed by either the County or City giving the other notice of such change as provided in this section.

11.5 Waiver. No waiver by either Party of any term or condition of this Agreement shall be deemed or construed to constitute a waiver of any other term or condition or of any subsequent breach, whether of the same or different provision. Any waiver of any term or condition of this Agreement must be in writing signed by a person with authority to make such waiver.

11.6 Assignment/Subcontracting. CPU shall not transfer or assign, in whole or in part, any or all of its rights or obligations under this Agreement without the prior written consent of the City.

11.7 Non-Discrimination. In connection with the provision of services pursuant to this Agreement, the Parties shall not discriminate against any employee or applicant for employment or against any consumer of or applicant for services because of age, sex, race, creed, religion, color, national origin, marital status, pregnancy, veteran status, the presence of any physical, mental or sensory disability, or perceived or actual sexual orientation. The Parties certify that they are Equal Employment Opportunity Employers.

11.8 No Third-Party Beneficiary. CPU and the City do not intend there be any third-party beneficiary under this Agreement. Neither party intends, by this Agreement, to assign any contractual obligations to or assume any contractual obligations by any party other than between the City and CPU.

11.9 Forum Selection/Choice of Law. This Agreement has been and shall be construed as having been made and delivered in the state of Washington. It is mutually agreed by the Parties that this Agreement shall be governed by the laws of the state of Washington. Venue for any lawsuit.

11.10 Entire Agreement. This Agreement constitutes the entire, final, complete and exclusive statement of the terms of the Agreement between the Parties on the subject matter of this Agreement, and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties.

11.11 Severability. If any section or part of this Agreement is held by a court to be invalid, such action shall not affect the validity of any other part of this Agreement.

11.12 Document Execution and Posting. The parties agree that there shall be two (2) duplicate originals of this Agreement procured and distributed for signature by the necessary officials of the parties. Upon execution, one executed original of this Agreement shall be retained by the Vancouver City Clerk and one shall be retained by CPU. The Vancouver City Clerk shall cause a copy of this Agreement to be posted on the City of Vancouver website pursuant to Chapter 32, Laws of Washington 2006 (RCW 39.34.040). Upon execution of the originals and posting of a copy on the City's website, each such duplicate original shall constitute an agreement binding upon the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement at Vancouver, Washington the 2nd 16th day of May, 2011.

CLARK PUBLIC UTILITIES

CITY OF VANCOUVER

SIGNATURE ON FILE

SIGNATURE ON FILE

Wayne W. Nelson, General Manager

Eric Holmes, City Manager

Dated: 5-16-11

Dated: May 3, 2011

Approved as to form:

Approved as to form:

SIGNATURE ON FILE

SIGNATURE ON FILE

John Eldridge, Legal Counsel

Ted H. Gathe, City Attorney

EXHIBIT

A - Scope of Work

EXHIBIT A

STATEMENT OF WORK

**ELIGIBILITY SCREENING FOR CITY OF VANCOUVER UTILITY
CUSTOMER ASSISTANCE PROGRAM**

CPU shall screen and refer to the City persons served by City of Vancouver utility services for eligibility for the City of Vancouver Utility Customer Assistance Program in accordance with the income eligibility criteria of the Low Income Home Energy Act of 1981 and Low Income Home Energy Assistance Program ("LIHEAP") policies of the federal government and state of Washington.

CPU shall only provide the City with verification whether a particular person or household does or does not meet the eligibility criteria for LIHEAP. CPU shall not provide the City with any additional personal or other information regarding applicants for the City's Utility Customer Assistance Program obtained through the screening process except with written authorization of the applicant.

CPU shall not be responsible for evaluating applicants for eligibility under any other criteria for the City's Utility Customer Assistance Program support – e.g. as to how many times the applicant has received such assistance in the prior 24 months.

The City shall provide all forms and program materials related to this Agreement.