



LOW-INCOME CONSERVATION AND ENERGY-EFFICIENCY PROGRAM AGREEMENT

THIS LOW INCOME CONSERVATION AND ENERGY-EFFICIENCY PROGRAM AGREEMENT ("Agreement"), is entered into by and between Public Utility District No. 1 of Cowlitz County, Washington ("District"), and Lower Columbia Community Action Program ("Agency"). The District and Agency may be collectively referred to as "parties", and individually as "party".

WHEREAS, the District is a municipal corporation organized and existing under Title 54 of the Revised Code of Washington and provides electric utility services; and

WHEREAS, the Agency is a private, non-profit corporation conducting its charitable activities in Cowlitz County, Washington; and

WHEREAS, the parties each operate parallel low-income conservation and energy-efficiency programs with slightly different standards to serve a common customer population in the community, and

WHEREAS, given the current economic conditions, the parties recognize the need to leverage their available funds and collaborate in order to meet the increasing demand for these services by integrating program activities to increase efficiency and reduce duplication.

NOW THEREFORE, the parties agree as follows:

- 1. Agency's Duties.** Agency agrees to provide low-income conservation and energy-efficiency measures to eligible households receiving electric heating service from the District. Agency agrees to follow the specific terms, conditions and requirements of the various programs outlined in the Conservation and Energy Efficiency Program Summary, attached as Exhibit A and incorporated by this reference. Agency may continue its Weatherization program in addition to its participation and collaboration with the District as provided in this Agreement.

Agency agrees to act as the lead coordinating organization for all related low-income work and will perform the following activities:

- A.** Verify the eligibility of interested Cowlitz County residents for the District's low-income program by certifying that the household income is less than or equal to 200% of Federal Poverty Guidelines.
- B.** Notify the District of residents' eligibility.

- C. Schedule all and conduct necessary audits of residences being considered for weatherization.
- D. Manage weatherization work and other agreed upon measures, excluding window installation. This includes:
 - 1. Issue all work orders and/or purchase authorization orders to applicable contractors for approved projects.
 - 2. Schedule and oversee work conducted.
- E. Upon completion of work, schedule all necessary inspections including those required by District staff.
- F. Submit, in a format acceptable to the District the following documentation for each project:
 - 1. Resident's name and address
 - 2. Date work was completed
 - 3. Contractor(s) that performed the work
 - 4. Measures implemented
 - 5. Project and/or measure costs
 - 6. Results of final inspection
- G. Agency shall provide, upon request of the District, historical reports on the Agency's low-income projects for the purpose of assuring there is no duplication of funding through the parties' separate low-income programs.

2. District's Duties. The District will perform the following activities:

- A. Provide to the Agency a list of all eligible conservation and energy-efficiency measures and corresponding rebates/incentives.
- B. Provide to the Agency all necessary or required forms for proper documentation of work.
- C. Compensate Agency for work performed after final inspections are completed.

3. Compensation.

- A. For the customer-verification work described in Section 1.A., Agency shall invoice District \$30.00 for each project completed at a single-family residence through the District's program. For a multi-family building, if the building qualifies for the low income program, rate shall be \$30.00 for any living unit with a low income resident. Each January, the District will submit to the Agency a list of projects completed the previous calendar year through the District's program. Customer-verification fee will be limited to one per qualifying residence or living unit.
- B. Upon completion of any project, Agency shall submit to the District an invoice, including information identified in Section 1.F. above. The District shall remit payment to Agency within 30 days of receipt of invoice.

Periods of performance under this Agreement are as follows:

- October 1, 2017 – September 30, 2018
- October 1, 2018 – September 30, 2019

The total value of each performance period shall not exceed \$300,000, will be at the discretion of the District, and dependent upon many factors, including BPA EEI allocated dollars available, other District customer preferences, and changes to state/regional and/or federal codes, standards and laws that may negatively affect conservation and/or energy-efficiency measures, their cost-effectiveness or the implementation thereof. The value is subject to change at any time.

- C. Agency may invoice the District for work performed creating historical reports, identified in Section 1.G. at a rate of \$15 per hour.
4. **Personnel.** Agency shall furnish all personnel necessary to perform the services contemplated herein.
 5. **Instructions and Approvals.** District shall appoint its representative who shall provide to Agency necessary information and approvals during the course of services provided hereunder. Agency may reasonably rely upon the accuracy, timeliness and completeness of the information provided by the District, at Agency's request.
 6. **Oversight & Verification.** The District and/or the Bonneville Power Administration may perform inspections of all records, reports, and physical installations of the measures covered by this Agreement.
 7. **Indemnification.** Each party agrees to defend, indemnify, and hold the other party, its agents and employees harmless, from any and all claims, demands, losses and liabilities to or by third parties arising from, resulting from or connected with services performed under this Agreement by either party or its agents, subcontractors or employees to the fullest extent permitted by law and subject to the limitations provided below.

The parties' duty to indemnify the other party shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the other party.

Agency's duty to indemnify the District for liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent negligence of (a) District or District agents or employees and (b) Agency or Agency's subcontractors, agents or employees, shall apply only to the extent of negligence of Agency, Agency's subcontractors, agents or employees.

The Agency specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Further, the indemnification obligation under this Agreement shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation act, disability acts or other employee benefits acts; provided the Agency's waiver of immunity by the provisions of this paragraph does not include or extend to any claims by the Agency's employees directly against the Agency.

The Agency's duty to defend, indemnify and hold the District harmless shall include, as to all claims, demands, losses and liability to which it applies, the District's personnel related costs, reasonable attorneys' fees, court costs and all other claim related expenses.

8. **Insurance Requirements.** The Agency shall secure and maintain during the life of the Contract such General Liability (CGL) insurance, if necessary, commercial umbrella insurance, which shall protect the District, its directors, officers, employees, and agents from claim which may arise from operations under this Contract, whether such operations are by itself, by any subcontractor, or by anyone directly or indirectly employed by either of them. The Agency shall provide a Certificate of Insurance designating the District as additionally insured and showing liability limits not less than the following amounts:

A. Commercial General Liability Insurance:

Commercial General Liability insurance, the limits of liability shall not be less than:

- \$1,000,000 Each Occurrence (combined single limit for bodily injury and property damage)
- \$1,000,000 Personal and Advertising Injury Liability
- \$1,000,000 Products-Completed Operations Aggregate
- \$1,000,000 General Aggregate

- B. Additional Insured Provision: The District, its officers, directors, employees and agents shall be named as Additional Insured on all general liability, excess, umbrella and property insurance policies, per Additional Insured Endorsement CG 20 10 11 85 or equivalent. The policy shall stipulate that the insurance afforded the Additional Insured shall apply as primary and non-contributory to any other insurance carried by the District, its officers, directors, employees and agents. The policy must provide coverage for completed operations. Endorsements or underlying policy language limiting coverage to "ongoing operations" are not acceptable. Exclusions of contractual liability as to bodily injuries, personal injuries and property damage MUST BE ELIMINATED from the basic policy and endorsements.

- C. Waiver of Subrogation Provision: All insurance policies of the Agency shall include a waiver of subrogation against the District, its officers, directors, employees and agents.

9. **Notices.** Any notice or other communication under this Agreement given by either party shall be sent by email, mail, or otherwise delivered to the addresses specified below. Either party may from time to time change such address by giving the other party notice of such change.

Agency

Deanna Dahlberg
Lower Columbia CAP
526 Commerce Avenue
Longview, WA 98632
360-425-3430 (x-264)
deannad@lowercolumbiacap.org

District

Colleen Neel
Cowlitz PUD
961 12th Avenue/P.O. Box 3007
Longview, WA 98632
360-501-9560
cneel@cowlitzpud.org

10. **Term & Termination.** This Agreement shall be in effect from October 1, 2017 through September 30, 2019. At periodic intervals an evaluation of the results of the Program shall take place and parties will make appropriate changes as needed. This agreement may be extended for an additional two year period, at the discretion of the District.

This Agreement may be terminated by either party upon forty-five (45) days written notice to the other party. In the event of such termination, all projects in progress at the time of termination must be completed.

11. **No Third-Party Beneficiaries.** Nothing in this Agreement shall be interpreted or construed as granting any rights or benefits to anyone other than the Agency and the District.
12. **Confidentiality.** Subject only to such valid legal requirements for disclosure of information as may exist under law, Agency shall hold confidential all information provided by the District to the Agency. This provision shall survive the termination of this Agreement. Information which is presently in the public domain and information which comes into the public domain subsequent to the start of this Agreement through no fault of either party shall be excluded from this Confidentiality section.
13. **Governing Law and Severability.** This Agreement shall be governed by Washington law. If any term, condition or provision of this Agreement or the application thereof to any circumstance is determined to be invalid or unenforceable to any extent, the remaining provisions of this Agreement shall not be affected but shall instead remain valid and fully enforceable. This Agreement incorporates and supersedes all prior negotiations, agreements, and representations, whether verbal or written.
14. **Dispute Resolution.** The parties hereto agree in the event of a dispute they will meet and confer in good faith within 10 days of the date of the dispute to reach a reasonable resolution. If a resolution is not reached, the parties agree to refer their dispute to non-binding arbitration, the terms and conditions of such to be agreed on in writing or, in the absence of agreement on terms and conditions, to refer the matter to the American Arbitration Association office in Seattle under the rules for commercial arbitration. The parties may agree in writing to make any arbitration binding.
15. **Supersedure.** In the event that any provision of an exhibit to this Agreement is in conflict with this Agreement, the provisions of this Agreement shall supersede.

[Signatures on following page.]

BY SIGNING BELOW, the parties acknowledge agreement with the provisions herein.

**LOWER COLUMBIA COMMUNITY
ACTION PROGRAM**

**PUBLIC UTILITY DISTRICT NO. 1 OF
COWLITZ COUNTY, WASHINGTON**

Authorized Signature

Ilona Kerby

Printed Name

Executive Director

Title

Date

Authorized Signature

Steven D. Kern

Printed Name

General Manager

Title

Date

Attachment:

Exhibit A – Conservation and Energy Efficiency Program Summary