



<b>TRANSMITTAL MEMORANDUM</b>
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TO: The Honorable Mayor and City Council

FROM: Karl R. Amylon, City Manager

DATE: August 11, 2020

RE: **Approving CARES Act Funds Transfer Agreement Between the Ketchikan Gateway Borough and the City of Ketchikan**

The Ketchikan Gateway Borough has requested that the City enter into a CARES Act Funds Transfer Agreement prior to releasing funding for the City's utility relief and sheltering & food security programs. The attached agreement was prepared by the Borough and City Attorneys, who requested that it be placed before the City Council for consideration at its meeting of August 20, 2020. The terms of the agreement are self-explanatory and require no elaboration on the part of my office. City Attorney Mitch Seaver will attend the City Council meeting of August 20, 2020, in order to address any questions and/or concerns that Councilmembers may have.

A motion has been prepared for City Council consideration.

**RECOMMENDATION**

It is recommended the City Council adopt the motion approving the CARES Act Funds Transfer Agreement between the City of Ketchikan and the Ketchikan Gateway Borough and authorizing the City Manager to execute the agreement on behalf of the City Council.

**Recommended Motion:** I move the City Council approve the CARES Act Funds Transfer Agreement between the City of Ketchikan and the Ketchikan Gateway Borough and authorize the City Manager to execute the agreement on behalf of the City Council.

## Karl Amylon

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**From:** Mitch Seaver  
**Sent:** Monday, August 10, 2020 3:58 PM  
**To:** Karl Amylon  
**Cc:** Diane Bixby  
**Subject:** CARES Act Funds Transfer Agreement  
**Attachments:** City of Ketchikan-KGB CARES Act Funds Transfer Agreement 8.10.2020.pdf

CARES Act Funds Transfer Agreement attached for the packet.

Mitch

**Mitch Seaver**

City Attorney  
City of Ketchikan, Alaska  
334 Front Street  
Ketchikan, Alaska 99901  
907-228-5611  
[mitchs@ktn-ak.us](mailto:mitchs@ktn-ak.us)

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## **CARES ACT FUNDS TRANSFER AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of August, 2020 by and between the Ketchikan Gateway Borough, a general law municipality and a borough of the second class, 1900 First Avenue, Ketchikan, Alaska 99901, hereinafter referred to as the "Borough," and the City of Ketchikan, 334 Front Street, Ketchikan, Alaska 99901, hereinafter referred to as the "City".

### **RECITALS**

- A. WHEREAS**, United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency for COVID-19 on January 31, 2020, retroactively applicable to January 27, 2020; and
- B. WHEREAS**, on March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which contains \$2.2 trillion in relief aid to individuals and businesses affected by the pandemic and economic downturn; and
- C. WHEREAS**, distribution of the CARES Act funding to the various states followed by the State of Alaska receiving \$1.25 billion in relief funds; and
- D. WHEREAS**, following legislative appropriation, the Governor announced on May 12, 2020 an aid package totaling \$568 million to municipalities in amounts determined in accordance with several economic activity metrics including retail, hospitality and tourism, regional commercial fishing, and other measures of commerce activity, as well as population; and
- E. WHEREAS**, pursuant to the formula, Ketchikan Gateway Borough was deemed eligible for up to \$10.4 million in aid, and the City of Ketchikan was eligible for up to \$12.2 million, payable in three installments to the respective municipalities; and
- F. WHEREAS**, CARES Act guidance provided by the U.S. Department of Treasury lists among allowable uses of CARES Act funding transfers of funds from county-level

governments to a city, town, or school district within the county, provided that the transfer qualifies as a necessary expenditure incurred due to the public health emergency and meets the other criteria of section 601(d) of the Social Security Act; and

- G. WHEREAS**, the Borough Assembly approved the establishment of aid programs utilizing CARES Act monies to include: \$3,000,000 for a business relief program; \$1,000,000 for utility relief, \$200,000 for PPE/hygiene reimbursements, \$200,000 for food and shelter security, and \$500,000 for a rent/mortgage security program; and
- H. WHEREAS**, the City council of the City of Ketchikan approved the establishment of aid programs utilizing CARES Act monies to include: \$1,440,000 for utility relief; \$299,347 for moorage relief; \$350,000 for day-care assistance; \$2,480,000 for small business relief; \$1, 000,000 for rent and mortgage assistance; \$350,000 for non-profits assistance program and sheltering and food security program to be funded by \$200,000 from the Borough.
- I. WHEREAS**, in an effort to avoid duplication of effort and to streamline the distribution of CARES Act aid to the community, the City and the Borough have agreed to each jointly administer aid programs and to transfer CARES Act funds between the municipalities as needed to administer the combined programs.
- J. WHEREAS**, it is the desire of the parties to memorialize the terms of the funds transfer, and to distribute said funds in full conformity with federal guidance relative to allowable uses of CARES Act funds.

**NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:**

**Section 1.** The parties, and each of them, agree to perform the program administration assigned to them as described in Exhibit A, which is attached hereto and incorporated by reference as if fully set forth herein. The parties represent that they are willing to undertake the Projects under the terms of this agreement, and that each has the capacity to fulfill the obligations set forth in this agreement.

**Section 2.** Project Funding and Terms of Payment.

- A. The total amount of funds to be provided by the Borough to the City under this agreement is not to exceed \$1,200,000.00, to be apportioned as follows:

1. \$1,000,000 toward utility assistance program; and
  2. \$200,000 toward shelter and food security program, with both programs being administered by the City.
- B. The total amount of funds to be provided by the City to the Borough under this agreement is not to exceed \$2,480,000 the entirety of which is to be applied toward the business relief program being administered by the Borough. Payment of grant funds shall be made in full as soon as practicable following execution of this agreement.
- C. The parties acknowledge and understand that the source of the funds provided under this agreement are the Federal CARES Act disbursements from the State of Alaska, and as such, may only be used in conformity with guidance provided by the State of Alaska and the U.S. Department of Treasury. The parties acknowledge that at the time of execution of this agreement, the U.S. Department of Treasury has issued guidance in the form of FAQ's on May 28, 2020, June 24, 2020, and June 30, 2020. The parties further acknowledge that amounts paid from the CARES Act funds are subject to the restrictions outlined in the Guidance as set forth in section 601(d) of the Social Security Act, as added by section 5001 of the CARES Act, as well as applicable Internal Revenue Code provisions. The parties agree to only use the funds for these permitted purposes, to cooperate in defending the use of the funds in the event of a challenge to the appropriate use of the funds, to cease spending any of the funds in the event of notification by the other party that any inquiry has been commenced or uncertainty has arisen concerning the expenditure of these funds, and to return any unexpended funds should such challenge be successful.
- D. The parties hereby agree that they will use all funds paid to them under this agreement solely for the Projects as described in Exhibit A. This agreement may only be amended in writing, signed by the authorized representatives of each party.
- E. The parties will each shall maintain records sufficient to account for all funds provided under this agreement.
- F. The Projects will be completed and all funds expended by December 30, 2020. Each party will return to the other party all unexpended grant funds no later than January 15, 2021.

**Section 3. Obligations of Ketchikan Gateway Borough:**

- A. The Borough shall make payments in accordance with Section 2.A., above.

- B. The responsibility for ensuring the use of the funds received from the City is in conformity with all applicable laws, guidance and regulations is borne by the Borough as the party administering the programs funded. The Borough will retain, for a period of six years after the Project has been completed, all contracts, invoices, materials, payrolls, personnel records, conditions of employment, and other data relating to matters covered by the grant.
- C. The Borough shall identify a Grant Administrator. The Grant Administrator for this grant is:
- Cynna Gubatayao, Finance Director  
Ketchikan Gateway Borough  
1900 First Avenue, Suite 126  
Ketchikan, Alaska 99901  
Telephone: (907) 228-6620  
E-mail address: [cynnag@kgbak.us](mailto:cynnag@kgbak.us)
- D. The Borough will allow the City, on request, reasonable access to all Project related records, including but not limited to financial records, for the purpose of audit or other procedures to verify compliance with the terms of this agreement.

**Section 3.** Obligations of the City of Ketchikan:

- A. The City shall make payments in accordance with Section 2.B., above.
- B. The responsibility for ensuring the use of the funds received from the Borough is in strict conformity with all applicable laws, guidance and regulations is borne by the City as the party administering the programs funded. The City will retain, for a period of six years after the Project has been completed, all contracts, invoices, materials, payrolls, personnel records, conditions of employment, and other data relating to matters covered by the grant.
- C. The City shall identify a City Representative. For this agreement, the authorized City representative shall be:
- Robert Newell, Finance Director  
City of Ketchikan  
334 Front Street  
Ketchikan, AK 99901

Telephone: (907) 228-5613  
Email address: bobn@city.ketchikan.ak.us

D. The City will allow the Borough, on request, reasonable access to all Project related records, including but not limited to financial records, for the purpose of audit or other procedures to verify compliance with the terms of this agreement.

IN WITNESS WHEREOF, the parties have executed this agreement.

KETCHIKAN GATEWAY BOROUGH

\_\_\_\_\_  
Ruben Duran  
Borough Manager

ATTEST:

\_\_\_\_\_  
Kacie Paxton  
Borough Clerk

CERTIFIED FUNDS AVAILABLE:

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

Account #

APPROVED AS TO FORM:

\_\_\_\_\_  
Glenn Brown  
Borough Attorney

\*\*\*\*\*

CITY OF KETCHIKAN

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

Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Kim Stanker  
City Clerk  
\_\_\_\_\_

CERTIFIED FUNDS AVAILABLE:

By:

Account #

## **EXHIBIT A**

### **CITY SCOPE OF WORK:**

City to administer a utility assistance program.

City to administer a shelter and food security program.

City to transfer to Borough \$2,480,000 for Borough use in administering business relief program.

### **BOROUGH SCOPE OF WORK:**

Borough to administer a business relief program.

Borough to transfer to City \$1,000,000 for City use in administering a utility relief program.

Borough to transfer to City \$200,000 for City use in administering shelter and food security program.



## Karl Amylon

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**From:** Ruben Duran <rubend@kgbak.us>  
**Sent:** Tuesday, August 04, 2020 1:58 PM  
**To:** Karl Amylon  
**Subject:** CARES Act fund transfers  
**Attachments:** Saxman CARES Act Funds Transfer Agreement 7.10.2020.docx

### CAUTION: External Email

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Karl,

In order to transfer the Borough's share of the CARES Act funds to the City for the Electric Utilities Subsidy program, we will need a document to memorialize the action. I have provided a copy of the City of Saxman agreement as an example of what the Borough has already approved. Since we will also need to receive funds from the City for the Business Impact Grant program, we should utilize agreed upon language for both agreements.

If you have determined that the City will not need the full amount for Electric Utilities Subsidy program due to a low application rate, please indicate that and we can reallocate the funds.

Look forward to our call this afternoon.

Ruben

Ruben A. Duran  
Borough Manager, ICMA-CM  
Ketchikan Gateway Borough  
1900 First Avenue, Suite 210  
Ketchikan, Alaska 99901  
(907)228-6608

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