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2017 BOARD OF COMMISSIONERS

Paul D. Kenner, President

Jeffrey L. McClure, Vice President

Michael J. Murphy, Secretary

PUBLIC UTILITY DISTRICT No. 1 *of Whatcom County*

Agenda for the Regular Meeting of February 14, 2017 8:00 a.m. at the PUD Office

1. Public Comment
2. Approval of Meeting Minutes held January 24, 2017
3. Approval of Claims for February 14, 2017
4. Award of Bid: Fiber Installation Project
5. Approve Resolution No. 719 – Adopting Data Privacy Policy
6. Approve Interlocal Agreement with Whatcom County Flood Control Zone District for Groundwater Model Funding
7. Approve Purchase of a Water Utility Vehicle from Columbia Ford under Washington State Department of Enterprises Procurement Contract
8. Manager's Report
9. Adjourn

Next Commission Meetings

February 28 and March 14, 2017 – Regular Meetings

*All meetings begin at 8:00 a.m. at PUD Administration Office -
1705 Trigg Road, Ferndale, WA unless other location announced.*

PUD #1 of Whatcom County • (360) 384-4288

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MINUTES OF THE MEETING OF THE COMMISSION

January 24, 2017

The regular meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 8:00 a.m. by Commissioner Paul Kenner. Said meeting was open to the public and notice thereof had been given as required by law. Those present included Commissioner Mike Murphy and Legal Counsel Jon Sitkin. Staff: Steve Jilk, General Manager; Ann Grimm, Administrative Assistant; Rebecca Schlotterback, Manager of Contracts and Regulatory Compliance; Annette Smith, Director of Finance; Duane Holden, Manager of Construction and Facilities; Paul Siegmund, Manager of Automation and Technology; Mike Macomber, IT/SCADA Tech; Fred Disch, Water Systems Supervisor; Lew Gaskill, Accountant I; and Traci Irvine, Accountant I.

Public attending: Oren Gaskill, Citizen; Dave Olson, Citizen; Rick Maricle, Citizen; Max and Carole Perry, Citizens.

◆ **Public Comment**

Carol Perry commented on the County Council’s Cherry Point amendments – she has been attending the council and Planning Commission public hearings with packed chambers. Several people commented at these meetings how the amendments will affect their jobs. Perry hopes that citizens keep following these events and that things can change. With a new change in leadership (president), things may become volatile and Perry believes that industry is important at Cherry Point.

Commissioner Kenner thanked her for her comments and noted that the Cherry Point Industrial Area is a huge economic base in our county supporting over 7,000 jobs.

◆ **Approval of the Meeting Minutes and Claims**

The Commissioners were presented with the Minutes of the Meeting January 10, 2017 and the following Claims of January 24, 2017:

VENDOR NAME	AMOUNT
AIR COMPRESSOR SERVICE	1,577.63
ANDGAR CORPORATION	8,218.43
APPLIED DIGITAL IMAGING	21.74
ASPLUNDH TREE EXPERT CO	12,800.00
ASSOC EARTH SCIENCES, LLC	765.00
BIRCH EQUIPMENT COMPANY	6,757.89
BONNEVILLE POWER ADMINISTRATION	650,592.00
CDW/COMPUTER DISCOUNT WAREHOUSE	154.36
CENTRAL WELDING SUPPLY	50.00
CESCO NEW CONCEPT CHEMICAL PRODUCTS	67.20
COMCAST	61.42
CORNERSTONE MANAGEMENT, INC.	2,040.00
DELTA ELECTRIC MOTORS	14,528.16
EDGE ANALYTICAL LABORATORIES	20.00
EES CONSULTING	680.00
ELECTRIC POWER SYSTEMS - EPS	3,764.25
FERNDALE ACE HARDWARE	165.98
FERNDALE LUBE	114.95
INTERNAL REVENUE SERVICE	15,525.44
IVOXY CONSULTING LLC	4,557.00
MANAGEMENT SERVICES NW	1,361.98
MAUL FOSTER & ALONGI	3,603.14
NESS CRANE SERVICE, INC	1,016.35

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NORTH COAST ELECTRIC COMPANY	9,576.59
PACIFIC NORTHWEST UTILITIES	683.00
PAYLOCITY	320.50
PAYROLL	175,710.74
PITNEY BOWES RESERVE ACCOUNT	133.03
PLATT ELECTRIC SUPPLY CO	103.39
PUBLIC UTILITY RISK MANAGEMENT SERVICES	29,766.50
PUD #1 OF WHATCOM COUNTY	14.32
PUGET SOUND ENERGY, INC	2,298.73
REISNER DISTRIBUTION, INC	582.25
RH2 ENGINEERING, INC	3,166.32
RICOH USA FINANCIAL SVC	152.18
SOFTWAREONE, INC	7,505.47
SOUND SHREDDING & RECYCLING	28.00
STERICYCLE ENVIRONMENTAL SOLUTIONS	27.00
SURETY PEST CONTROL	59.79
TYLER TECHNOLOGIES-INCODE	10,266.50
UTILITIES UNDERGROUND LOCATION	18.06
WA FEDERAL VISA CARD MEMBER SERVICES	3,483.38
WA PUBLIC UTILITY DISTRICTS ASSOCIATION	15,209.00
WA ST DEPT OF REVENUE	69,617.79
WESTERN CONFERENCE OF TEAMSTERS	5,934.50
WHATCOM COUNTY AUDITOR	3,833.12
WHATCOM FARMERS CO-OP	1,090.84
XEROX CORPORATION	135.80
GRAND TOTAL	\$1,068,159.72

ACTION: Commissioner Murphy motioned to approve the MINUTES OF THE MEETING HELD JANUARY 10, 2017 and the CLAIMS OF JANUARY 24, 2017. Commissioner Kenner second the motion. Motion passed unanimously.

◆ Utility Rate Study Update

Background – On May 26, 2015, the District entered into a Professional Rate Development Consulting Services Agreement with FCS Group to perform a utility rate study and analysis related to the District's services. Director of Finance Annette Smith provided an update on the study. Highlights included:

➤ *Goals of the Study*

(1) Review both Industrial Water and Grandview Water utilities; (2) Develop rate models for both; (3) Review financial policies, including reserves; (4) Review rate methodology; and (5) Review connection fees.

➤ *Financial Planning Review*

Review of the process includes (1) Revenue Requirement; (2) Cost of Service Analysis; and (3) Rate Design.

➤ *Grandview Utility*

The proposed model separates the Fire Charge from Fixed Meter Charge. Fixed Meter is still based on meter size while Fixed Fire Charge is based on the number of connections. The connection fee approach is still feasible with updated numbers. The forecast is highly variable with the uncertainty of capital projects. FCS recommends increasing rates to meet these needs.

➤ *Industrial Water Utility*

The current rate structure is viable; however, the recommendation is to eliminate the Fixed Fire Charge. FCS also recommended aligning Irrigation rates to Industrial Water rates. Currently there is no separation in the system for irrigation customers, and instead of having two connection fees (one at the time of contract and one at the time of actual connection/water flow), the recommendation is to

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have only one connection charge.

The challenge for the District in this would involve contract amendments where the Fixed Fire Charge is specifically called out. By setting a Fixed Charge, it allows for recovery of capital investment in the system. There are some cost structures that should be alike. This will be reviewed when preparation for the 2018 budget begins. Schlotterback added that many of the irrigation contracts are small or hobby farmers and should there be a higher connection charge, many would not be able to afford the fee increase.

➤ *Financial Policies*

A review of the District's financial policies in preparation of the 2018 budget, in terms of reserves is planned. FCS recommended that the District double-up in both minimum balance of the Restricted Reserves Operating Fund (60 day operating expenses) currently set at \$336,109; Restricted Reserves Capital Fund currently set at \$282,619, and the Emergency Fund Risk Assessment at \$350,000, and eliminate one of the funds. Based on an internal risk assessment, the District's insurance would cover most occurrences; however, the need to focus on what is a "good" number to use and what insurance does not cover needs to be further explored. For Capital Reserves, FCS recommends that a minimum balance equal to 1% of the Fixed Assets is established. The proposed scenario would be to eliminate the Restricted Operating Fund and Restricted Capital Fund and set the Emergency Fund yearly by consensus (estimated at \$300,000). In turn, a 60-Day Operating Expenses account of \$900,000 and a Minimum 1% of Capital Assets account of \$600,000 would be established.

The full report from FCS Group was distributed to the Commissioners and additional copies for customers are available.

ACTION: Information only. No action taken.

- ◆ **Resolution No. 689 – Review and Affirm Supplemental Customer Water Service Conditions Policy**
Background – The citizens of Washington State voted to legalize the cultivation, distribution and use of marijuana in a well-regulated manner in accordance with Initiative 502, which has since been become law and codified in Chapter 69.50 RCW. The United States federal government, Department of Justice has stated in what is known as the Cole Memorandum in August of 2013 that while marijuana cultivation and sale is legal in certain states it remains unlawful under federal law, the Department of Justice may not prosecute such activity although prosecution is not prohibited.

In order to provide predictability to PUD water customers that may use PUD water to serve marijuana production and processing operations, the District adopted Resolution 689, on December 16, 2014, approving a *Supplemental Customer Water Service Conditions Policy*. This policy essentially advises District Customers that use or could use water provided by the District to serve this type of business may be interrupted under conditions where the federal government enforces the federal statute regarding marijuana production and processing. In which case the District will terminate the supply of water to District customers utilizing the water in the production and/or processing of marijuana.

Legal Counsel Sitkin suggested that with changes taking place at the White House, a new President, and potential changes in the leadership at the Department of Justice that could affect the federal government's position on the enforcement of federal drug laws it is important for our District to again review the status of the regulations dealing with service to marijuana production and processing facilities. Also with this comes the potential of the new administration view on possible grant funding conditions, if in violation of a federal law, funding could be restricted or eliminated.

This recommendation is to allow the Commission to review/discuss and affirm the District's policy on service to customers and policy on potential interruption to that service as impacted by the federal government's regulatory stance. If the Commission re-affirms Resolution 689 staff will send letters of

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notice to all water service customers affirming such.

ACTION: Commissioner Murphy motioned to REAFFIRM AND CONFIRM RESOLUTION NO. 689, ADOPTING A *SUPPLMENTAL CUSTOMER WATER SERVICE CONDITIONS POLICY* and TO SEND AN UPDATE/NOTICE TO DISTRICT WATER CUSTOMERS as noted above. Commissioner Kenner second the motion. Motion passed unanimously.

◆ **Approve Amendment No. 3 to General Manager’s Contract**

Background – The General Manager entered into an employment contract with the District that commenced January 1, 2012 with an expiration date of December 31, 2016. That contract was amended on December 17, 2013 and amend a second time in December, 2015. The current term of the contract expires December 31, 2018. This third amendment allows for changes in sections 5.3 and 10.5, Sick Leave and Termination Benefits.

ACTION: Commissioner Murphy motioned to APPROVE AMENDMENT NO. 3 TO THE GENERAL MANAGER’S EMPLOYMENT CONTRACT. Commissioner Kenner second the motion. Motion passed unanimously.

◆ **Manager’s Report**

No report.

◆ **Approve Resolution No. 718 – Honoring Lois “Lew” Gaskill upon Retirement**

The Commissioners honored Lew Gaskill upon her retirement from the District after 15 years as Account 1. The Commissioners thanked Gaskill for her outstanding service to the District and presented Resolution No. 718 honoring her upon her retirement.

Resolution No. 718 expressed the Commissioners’ sincere appreciation for her valued employment with the District since 2001. Gaskill served the District “...most capably with the interests of the PUD always foremost, and gave generously of her time and talents in performing the duties of her job as the District’s Receptionist and Accountant, and Jilk noted she always had a camera on hand to photograph and document District wildlife and various events at the PUD.

Kenner presented Gaskill with a framed copy of the signed resolution and collage of photographs. Commemorative photos were taken and all congratulated and applauded Lew’s accomplishments.

ACTION: Commissioner Kenner motioned to APPROVE RESOLUTION NO. 718 HONORING LOIS “LEW” GASKILL UPON HER RETIREMENT AFTER 15 YEARS ACCOUNTANT 1 TO THE DISTRICT. Commissioner Murphy second the motion. Motion passed unanimously.

◆ **Adjourn**

There being no further business for the regular meeting, the Commission adjourned the regular meeting at 8:45 a.m.

Paul D. Kenner, President

Michael J. Murphy, Secretary

Jeffrey L. McClure, Commissioner

PUBLIC UTILITY DISTRICT NO. 1
of Whatcom County

1705 Trigg Road • Ferndale, WA 98248
P: (360) 384-4288 • F: (360) 384-4849

AGENDA ITEM # 4
February 14, 2017

Memo

To: Commissioners Kenner, McClure and Murphy
From: Alec Strand, Project Manager
Date: February 14, 2017
Re: Award Bid to Global Telecom Engineering and Construction, LLC for the 2016 Backbone Communications System Improvement Project

Requested Action: Award Bid and Additive Alternate-A to Global Telecom Engineering and Construction, LLC for the 2016 Backbone Communications System Improvement Project and authorize the General Manager to sign the contract.

Background: The District has developed a Capital Improvement Project list for work to be completed in 2017. This project was budgeted for under Capital Improvement Project (CIP-IS-15) to be completed in 2017. The District has budgeted for the install of fiber optic communication cable between the District's Water Treatment Plants No. 2 and No. 1. Included are two taps (one to the District's Northgate Potable Well and one to the District's Repeater Tower) that will provide the interconnections needed to improve the backbone communication system. The additive Alternate A is for spare fiber and splice boxes for the District's inventory.

On February 07, 2017 the District received and publicly read aloud two (2) bids submitted for this project. Engineer's Estimate for the project is \$872,000.00 not including tax. Totals below do not include tax. The bid results are as follows:

Contractor	Base Bid	Additive Alternate – A	Bid Total
Global Telecom Engineering and Construction LLC	\$455,821.12	\$4,608.29	\$460,429.41
Robinson Brothers Construction, Inc. (RBC)	\$788,537.05	\$7,977.98	\$796,515.03

Based on review of the submitted bids, staff recommends awarding the Bid to Global Telecom Engineering and Construction, LLC, who submitted the lowest priced, responsive bid.

Fiscal Impact: This project was budgeted for under Capital Improvement Project (CIP-IS-15) to be completed in 2017.

Recommended Action: Award Bid and Additive Alternate-A to Global Telecom Engineering and Construction, LLC for the 2016 Backbone Communications System Improvement Project and authorize the General Manager to sign the contract.

Memo

To: Commissioners Kenner, McClure and Murphy
From: Stephan Jilk
Date: February 14, 2017
Re: Approve Resolution No. 719 – Establishing a Data Privacy Policy

Requested Action – Approve Resolution No. 719 ESTABLISHING A DATA PRIVACY POLICY.

Background – In 2015, the Washington State Legislature changed the data privacy requirements for electrical utilities handling customer data. Chapter 19.29A RCW establishes data privacy requirements for electrical utilities handling customer data. All consumer-owned utilities¹ are required to establish a privacy policy consistent with the statewide minimum requirements. The data privacy requirements in RCW 19.29A.100 and .110 applies to both small and large utilities. In addition, these regulations supplement the disclosure rules provided in the Public Records Act, Chapter 42.56 RCW.

Currently, Whatcom PUD does not have a data privacy policy in place.

While the requirements in RCW 19.29A.100 and .110 only apply to electrical utilities, Whatcom PUD provides both electrical and water services. Whatcom PUD may consider adopting a consistent data privacy policy for both utilities for administrative efficiency. The minimum requirements for a data privacy policy are found at RCW 19.29A.100 subsections (1) through (8) and include the following:

- A provision that disclosed data cannot be used for commercial or marketing purposes without the consent of the customer;
- Distinguish releases authorized by the customer verses releases for essential business functions, which do not require customer authorization;
- A statement that information released in Official Statements are for essential business functions and such information may be released without consent from the customer;

¹ See RCW 19.29A.101 (6) "Consumer-owned utility" includes a public utility district formed under Title 54 RCW.

- An outline of the purpose that customer data will be used when released to a third-party (i.e., customer consent is not required when releasing the information is in the performance of an essential business function—for example providing information to a third-party vendor); and
- Procedures for investigation and resolution of complaints by a customer whose private or proprietary information may have been sold or disclosed by the utility for the purposes of marketing services or products;²
- The policy should inform the customers that the utility is subject to the Public Records Act and that the policy is supplemental to the provisions and exemptions that exist in the Act regarding certain private and proprietary customer information.

The proposed data privacy policy we believe would satisfy the requirements of RCW 19.29A.100 (1-8) and would be applicable to both electrical and water utilities.

Fiscal Impact – No fiscal impact to the District.

Requested Action – Approve Resolution No. 719 ESTABLISHING A DATA PRIVACY POLICY.

² See RCW 19.29A.100 (10).

RESOLUTION NO. 719

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE WHATCOM COUNTY PUBLIC UTILITY DISTRICT NO. 1
ESTABLISHING A DATA PRIVACY POLICY PROTECTING CUSTOMERS' DATA**

WHEREAS, protecting the privacy of our customers' personal data, known as their personally identifying information data and compliance with applicable records disclosure laws are priorities for Public Utility District No. 1 of Whatcom County; and

WHEREAS, Whatcom PUD and other parties subject to various state laws addressing the treatment of customer data by the PUD, third parties and customers including RCW 19.29A.100 (Data Privacy); the Washington State Public Records Act, including RCW 42.56.330, (2) (Exemption from Public Disclosure of certain customer data); RCW 42.56.590 (Notification of Data Breach); and RCW 42.56.235 and .335 (Law Enforcement); and,

WHEREAS, the attached Data Privacy Policy (Exhibit A to this Resolution) outlines the general principles Whatcom PUD follows to protect our customers' data privacy in compliance with applicable state and federal laws, including the Washington Public Records Act, RCW 42.56 et seq. This Policy is adopted to comply with the requirements of RCW 19.29A.100, and it is intended to be implemented to be consistent with the requirements of law.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of Public Utility District No. 1 of Whatcom County does hereby adopt the attached Data Privacy Policy (Exhibit A to this Resolution) to protect our customers' data, and provide an avenue for our customers to work with Public Utility District No. 1 of Whatcom County to be notified of, and investigate, identify and seek to resolve any disclosure or breach of their personally identifying information.

ADOPTED by the Commission of Public Utility District No.1 of Whatcom County at its regular meeting held on the 14th day of February 2017.

**PUBLIC UTILITY DISTRICT NO.1
of WHATCOM COUNTY**

Paul Kenner, President/Commissioner

Michael Murphy, Secretary/Commissioner

Jeffrey McClure, Commissioner

EXHIBIT A – RESOLUTION NO. 719

PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY

DATA PRIVACY POLICY

Protecting the privacy of our customers' data and compliance with applicable records disclosure laws are priorities for Whatcom PUD. This Data Privacy Policy outlines the general principles Whatcom PUD follows to protect our customers' data privacy in compliance with applicable state and federal laws, including the Washington Public Records Act, RCW 42.56 et seq. This Policy is adopted to comply with the requirements of RCW 19.29A.100, and it is intended to be implemented to be consistent with the requirements of law.

INFORMATION WE COLLECT

Whatcom PUD may collect the following information:

- Private customer information, which includes, but is not limited to, a customer's name, address, telephone number, and other personally identifying information.
- Proprietary customer information, which includes, but is not limited to, information that relates to the source, technical configuration, destination, and amount of service (i.e. water and/or electricity) used by a customer, a customer's payment history, and data that is made available by the customer solely by the virtue of the utility-customer relationship; and information contained in a customer's bill.

POLICY FOR RELEASE OF INFORMATION

Whatcom PUD does not sell private or proprietary customer information. Whatcom PUD may release private or proprietary customer information under three circumstances:

1. When required by **law or Court order**.
2. The release of customer information necessary and directly related to the **Essential Business Functions** of Whatcom PUD's business. These releases include, but are not limited to: bill generation, audits, maintenance, printing and mailing customer updates, energy efficiency program administration, customer surveys, or releases of private or proprietary customer information in official statements prepared by or on behalf of Whatcom PUD, or other similar documents necessary for the securing of municipal bonds. Whatcom PUD may release private or propriety customer information for Essential Business Functions without the consent of the customer.
3. Whatcom PUD may release private or propriety customer information for Non-Essential Business Functions with the **consent of the customer**. Non-essential Business Functions releases are those releases done for the purposes of marketing services or product offerings that the customer does not already subscribe to.

In conformity with the Public Records Act, RCW 42.56.070(9), this policy shall not be construed as giving Whatcom PUD the authority to release or provide access to lists of individuals or customers requested for commercial purposes.

If a customer believes that his or her private or proprietary information has been sold or disclosed in violation of this Policy or state or federal laws, that customer may report such a complaint to Whatcom PUD. A customer who wishes to make such a complaint must provide a request for investigation in writing, signed by the customer or by someone with the legal authority to act on the customer's behalf. Each request for investigation shall include a short plain statement of the circumstances and the information the customer believes was disclosed. The written request must be delivered to Whatcom PUD's General Manager at the following address:

Public Utility District No. 1 of Whatcom County
Attn: General Manager
PO Box 2308
Ferndale, WA 98248

Or the request for investigation may be submitted by electronic mail at the following address:

info@pudwhatcom.org

Upon receipt of the request for investigation, the General Manager or his or her designee will investigate the complaint and provide a response to the customer.

DISCLAIMER

Nothing in this policy is intended to impose mandatory duties on Whatcom PUD beyond those imposed by state and federal laws. Whatcom PUD will take reasonable steps to protect private and proprietary customer information consistent with law, including the Public Records Act; however, no data protection method can guarantee absolute security. Whatcom PUD shall not be liable for disclosures of private or proprietary customer information due to errors in transmission, unauthorized acts of third-parties, or other acts outside of Whatcom PUD's reasonable control.

Resolution No.719

Policy Effective Date: _____

PUBLIC UTILITY DISTRICT No.1
of Whatcom County

1705 Trigg Road • Ferndale, WA 98248
P: (360) 384-4288 • F: (360) 384-4849

AGENDA ITEM # 6
FEBRUARY 14, 2017

Memo

To: Commissioners Kenner, McClure and Murphy
From: Stephan Jilk
Date: February 14, 2017
Re: Interlocal Agreement (ILA) with Whatcom County Flood Control Zone District
Grant Pass-Through – Groundwater Modeling Project

Requested Action – Approve INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY FOR IMPLEMENTATION OF A GROUNDWATER MODELING PROJECT IN THE LYNDEN-EVERSON-NOOKSACK-SUMAS AREA

Background – The Whatcom LIO (Local Integrating Organization), comprised by the Watershed Management Board (WRIA1 and Salmon Recovery) identified the completion of the Groundwater Model as a high priority for the Whatcom LIO. Each year the Puget Sound Partnership (PSP) allocates \$100,000 for a high priority project identified by a LIO. This year the Whatcom LIO identified the Groundwater Model as that project. PUD staff offered to act as the sponsor for the project and the Puget Sound Partnership approved the project funding.

Whatcom County Flood Control Zone District (FCZD) has managed the first three phases of the project on behalf of Whatcom LIO and contracted with the consultant to do the work. As the PUD will receive the funds through the PSP the PUD can, through an ILA with the FCZD, receive the funds and pass those funds to the FCZD and the contract with the consultant can stay with the FCZD. This will bring efficiency and stability to the work and will not require the PUD to start the consultant process all over.

With this \$100,000 in revenue to the project there still remains a shortfall to the budget for the project of about \$44,000. There is a planned budget amendment request to the County Council, DBA the FCZD, in that amount to complete the project. The PUD can administer the grant and the billing/payments with the PSP and the FCZD through the ILA.

Fiscal Impact – None, as project funds are to be provided by the PSP grant.

Recommended Action – Approve INTERLOCAL AGREEMENT BETWEEN WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY FOR IMPLEMENTATION OF A GROUNDWATER MODELING PROJECT IN THE LYNDEN-EVERSON-NOOKSACK-SUMAS AREA.

INTERLOCAL AGREEMENT
BETWEEN WHATCOM COUNTY FLOOD CONTROL ZONE DISTRICT AND
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY FOR
IMPLEMENTATION OF A GROUNDWATER MODELING PROJECT IN THE
LYNDEN-EVERSON-NOOKSACK-SUMAS AREA

WHEREAS, the Whatcom County Flood Control Zone District (FCZD) is a special purpose district created pursuant to RCW 86.15, encompassing the entirety of Whatcom County; and

WHEREAS, Public Utility District No. 1 of Whatcom County (PUD) is a special purpose district created pursuant to RCW 54.04, encompassing the entirety of Whatcom County; and

WHEREAS, Whatcom County and Public Utility District No. 1 of Whatcom County (PUD) have been involved in cooperative watershed planning activities for decades, most notably as members of the WRIA 1 Watershed Management Project Joint Board (Joint Board), along with the City of Bellingham, Nooksack Indian Tribe, and Lummi Nation beginning in 1999 under RCW 90.82, which included the development of Watershed Management Plan in 2005, a Detailed Implementation Plan in 2007, and the Lower Nooksack Strategy in 2010; and

WHEREAS, one of the actions identified in the Lower Nooksack Strategy is the development of a numerical groundwater model that will provide a better understanding of the groundwater resources and the interaction of groundwater and surface water in Whatcom County and provide a necessary tool for water planning; and

WHEREAS, the City of Bellingham, Public Utility District No. 1 of Whatcom County, Lummi Nation, the Nooksack Indian Tribe, the Bertrand Watershed Improvement District, and Whatcom County initiated a groundwater modeling project primarily focused in the Lynden-Everson-Nooksack-Sumas area of Whatcom County in 2014; and

WHEREAS, the project was divided into four phases, and Phase 3 was completed in September 2016; and

WHEREAS, the 2017 FCZD budget includes funding for Phase 4 of the groundwater modeling project; and

WHEREAS, the PUD has been awarded U.S. EPA grant funding for the LENS groundwater modeling project through the Puget Sound Partnership, an agency of the State of Washington; and

WHEREAS, the FCZD and the PUD have a mutual interest in obtaining a better understanding of groundwater and surface water interactions in the LENS area for long-term water planning purposes, which is in the interest of the citizens of the FCZD and PUD; and

WHEREAS, the FCZD and the PUD each have access to specific funding sources that can be combined to implement Phase 4 of the groundwater modeling project in the LENS area;

NOW, THEREFORE, the FCZD and the PUD agree as follows:

1. SCOPE OF WORK

(a) The FCZD and PUD shall cooperate to implement Phase 4 of a groundwater modeling project in the LENS area (referred to as the "LENS Groundwater Modeling Project"). The FCZD will enter into a contract with a qualified consultant to conduct the LENS Groundwater Modeling Project.

(b) The FCZD will manage the LENS Groundwater Modeling Project on behalf of the FCZD and PUD.

(c) The FCZD will invoice the PUD for project activities eligible for funding under the PUD's grant agreement with the Puget Sound Partnership, provided as Exhibit "A". The invoices will include a description of charges and amounts paid by the FCZD.

2. TERM

(a) This agreement shall be effective February 21, 2017 and shall continue through December 31, 2018. The Agreement shall only be renewed, in writing, on terms then agreed to by the parties. The term shall be as stated in the Agreement regardless of the date of signature.

(b) This agreement may be terminated for cause by either party after giving the defaulting party thirty (30) days written notice of default and an opportunity to cure.

3. PAYMENT

(a) As compensation for the services specified in the Scope of Work, the PUD shall reimburse the FCZD for eligible costs for actual labor, contractor, equipment, and material expenses incurred for the LENS Groundwater Modeling Project, up to but not in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000). The maximum amount of \$100,000 payable under the Agreement may not be exceeded unless agreed to in writing by each party.

(b) Payments to the FCZD will be made quarterly based on invoices submitted to the PUD.

(c) The PUD shall promptly review and process invoices in accordance with its usual procedures.

(d) A short project update shall accompany each invoice.

4. PERSONS RESPONSIBLE FOR ADMINISTRATION OF THE AGREEMENT

The persons responsible for administration of this Agreement shall be:

Stephan Jilk
General Manager
Public Utility District No. 1 of Whatcom County
1705 Trigg Road
Ferndale, WA 98248
Phone: (360) 384-4288

Gary Stoyka
Natural Resources Manager
Public Works Department
Whatcom County
322 N. Commercial St., Ste 110
Bellingham, WA 98225
Phone: (360) 676-6876
Fax: (360) 738-2468

5. LEGAL RELATIONS

In performing the services outlined in this Agreement, neither party is acting as the agent or employee of the other; rather, each party is acting as an independent contractor.

6. LIABILITY

The PUD agrees to release, defend and indemnify the FCZD in its own capacity from any claims, damages or liabilities arising out of the acts or omissions of the PUD, its staff members and its contractors in the performance of this Agreement. Likewise, the FCZD agrees to defend and indemnify the PUD from any claims, damages or liabilities arising out of the acts or omissions of the FCZD, its staff members and its contractors in the performance of this Agreement.

7. MODIFICATIONS

The terms of this Agreement may be changed, modified, amended or waived only by written agreement executed by the Parties hereto. Waiver of breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

8. APPLICABLE LAW

In the performance of this Agreement, it is mutually understood and agreed upon by the Parties hereto that this Agreement shall be governed by the laws of the State of Washington, both as to interpretation and performance, and the venue of any action arising herefrom shall be in the Superior Court of the State of Washington in and for Whatcom County.

9. SEVERABILITY

In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications of this Agreement that can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

10. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the Parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the Parties hereto.

11. RECORDATION

Upon execution of this Agreement, the County shall file a copy of it with the office of its County Auditor or alternatively, list it by subject on its web site or other electronically retrievable public source, pursuant to the requirements of RCW 39.34.040.

EXECUTED this _____ day of February 2017 for **WHATCOM COUNTY**:

Jack Louws
County Executive
Flood Control Zone District

DEPARTMENTAL APPROVAL:

APPROVED AS TO FORM:

Jon Hutchings
Director, Public Works Department

Daniel L. Gibson
Prosecuting Attorney's Office



EXECUTED this _____ day of February 2017 for **PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY:**

Name: _____

Title: _____

EXHIBIT A

PUBLIC UTILITY DISTRICT No. 1
of Whatcom County

1705 Trigg Road • Ferndale, WA 98248
P: (360) 384-4288 • F: (360) 384-4849

AGENDA ITEM # 7
February 14, 2017

Memo

To: Commissioners Kenner, McClure and Murphy

From: Brian Walters – Director of Utility Operations

Date: February 14, 2017

Re: Approve Purchase of Water Utility Vehicle (CIP RW-14) from Columbia Ford under Washington State Department of Enterprise Services Procurement Contract

Requested Action: Approve the PURCHASE OF A WATER UTILITY VEHICLE (CIP RW-14) FROM COLUMBIA FORD UNDER A WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES PROCUREMENT CONTRACT FOR THE PRICE OF **\$36,792.76**, (INCLUDES SALES TAX) AND AUTHORIZE THE DISTRICT’S GENERAL MANAGER TO PROCEED WITH THE PURCHASE.

Background: As part of a scheduled vehicle replacement/upgrade plan, staff identified the need to purchase a new pick-up truck for water utility operations in 2017. The approved 2017 CIP budget includes the purchase of this vehicle. The new pick-up will replace a Ford Ranger pick-up scheduled for replacement. The Ranger will then be deemed surplus and sold at an auction.

The District, under contract with the State of Washington Department of Enterprise Services, may purchase vehicles available for sale by dealers throughout the State. The dealers and vehicles have been awarded contracts with the State through competitive bids in response to State Request for Bid solicitations. In this manner, the District can secure items at a competitive price, using the State’s competitive bid process in lieu of the District issuing its own bid solicitation.

If approved, the vehicle to be purchased is a 2017 Ford F-250, three-quarter ton, extended cab pick-up with 4-wheel drive. It is available through the Columbia Ford dealership in Longview, Washington. Columbia Ford was awarded a State contract under the State’s solicitation for competitive bids.

Fiscal Impact: Purchase of the new pick-up will have no impact on the District’s 2017 budget, as the purchase price is less than the 2017 budget amount for CIP RW-14.

Recommended Action: Approve THE PURCHASE OF A WATER UTILITY VEHICLE (CIP RW-14) FROM COLUMBIA FORD UNDER A WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES PROCUREMENT CONTRACT FOR THE PRICE OF **\$36,792.76**, (INCLUDES SALES TAX) AND AUTHORIZE THE DISTRICT’S GENERAL MANAGER TO PROCEED WITH THE PURCHASE.