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PUD No 1 of Whatcom County
1705 Trigg Road
Ferndale, WA 98248

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DOCUMENT TITLE(S):
Interlocal Agreement between PUD No 1 of Whatcom County and PUD No 1 of Clallam County for Sharing of Electric Related Services

AUDITOR FILE NUMBER & VOL. & PG. NUMBERS OF DOCUMENT(S) BEING ASSIGNED OR RELEASED:
8 Pages
Additional reference numbers can be found on page _____ of document.

GRANTOR(S)
PUD No 1 of Whatcom County
Additional grantor(s) can be found on page _____ of document.

GRANTEE(S):
PUD No 1 of Clallam County
Additional grantee(s) can be found on page _____ of document.

ABBREVIATED LEGAL DESCRIPTION: (Lot, block, plat name OR; qtr/qtr, section, township and range OR; unit, building and condo name.)
N/A
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**INTERLOCAL AGREEMENT
BETWEEN
PUBLIC UTILITY DISTRICT NO.1 OF WHATCOM COUNTY
AND
PUBLIC UTILITY DISTRICT NO.1 OF CLALLAM COUNTY

FOR SHARING OF
ELECTRIC SYSTEM RELATED SERVICES**

THIS INTERLOCAL AGREEMENT (the "Agreement") is made this 28 day of February 2017, between Public Utility District No. 1 of Whatcom County, a Washington municipal corporation (hereinafter "Whatcom PUD"), and Public Utility District No. 1 of Clallam County, a Washington municipal corporation (hereinafter "Clallam PUD"). Whatcom PUD and Clallam PUD are jointly referred to herein as (the "Parties") and individually as ("Party").

WHEREAS, Whatcom PUD and Clallam PUD are authorized to engage in the provision of electric energy supply and services to wholesale and retail customers; and

WHEREAS, Whatcom PUD and Clallam PUD are authorized to construct and operate facilities necessary to generate, transmit, and/or distribute electric energy within their respective service areas; and

WHEREAS, the Parties have a common interest in sharing resources, when feasible, for the cost-effective delivery of electric energy related services to their respective customers; and

WHEREAS, the Parties are both power supply and transmission customers of the Bonneville Power Administration; and

WHEREAS, it is in the public interest for the Parties as public entities to work in a cooperative manner; and

WHEREAS, the Parties desire to enter into this Agreement under the terms and conditions of Chapter 39.34 RCW (entitled the Interlocal Cooperation Act);

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Whatcom PUD and Clallam PUD agree as follows:

1.0 PURPOSE.

The purpose of this Agreement is to establish procedures whereby the Parties can combine, share, and use their respective skills and assets, thereby expediting their respective receipt and delivery of electric energy and related services to customers within their respective service areas. The cooperative efforts enabled by this Agreement are intended to reduce the cost of electric system planning, construction, and operation over what would otherwise be achieved if the Parties acted independently. Further, this Agreement enables a sharing of benefits available to each Party as a wholesale customer of the Bonneville Power Administration ("BPA").

2.0 DECISIONS.

All decisions under this Agreement shall be by consensus of the Parties, subject to the financial, technical, and legal limitations of both Parties. In the event that the Parties are unable to agree upon a means of undertaking any proposed action pursuant to this Agreement, then either Party shall have the unilateral right to reject such means, without contributing additional time or other resources to the further negotiation thereof.

3.0 GENERAL SCOPE OF SERVICES.

The services to be provided under this Agreement are limited in scope to the transfer from either Party to the other of a portion of either Party's BPA conservation budget, also referred to as the EEI budget. Such budget is determined by BPA through a rate setting process and allocated among each of BPA's power supply customers for each two year BPA power rate period. The allocated budget is available to customers to reimburse them for a portion of the cost of qualifying conservation (i.e. energy efficiency) programs and projects customers implement.

3.1 EXHIBIT A – TRANSFERS

Any transfer of BPA conservation funds as agreed to by the Parties shall be as described on Exhibit A, attached hereto and incorporated herein by this reference. Any revision to the transfer amount and/or conditions on such transfers shall be by amendment to Exhibit A.

4.0 COMPENSATION FOR SERVICES.

For the scope of services described above, there is no compensation by either Party to the other.

5.0 TERM.

This Agreement shall commence as of the date entered in the above first paragraph of this Agreement and shall continue until **day 31 of the month of December 2023** unless either Party terminates this agreement by providing written notice to the other Party, not less than 30 days prior to the date such party desires the termination of the Agreement to become effective. Either Party may require that the terms and conditions of this Agreement be re-negotiated by providing written notice to the other Party, not less than 30 days prior to the date such party desires the modification to the Agreement to become effective. A notice of re-negotiation shall not be a notice of termination; however, nothing prevents a party from delivering both a notice of re-negotiation and a notice of termination.

If the Agreement is terminated, in accordance with the provisions of this section 5, then the Parties agree to negotiate in good faith to unwind the obligations entered into under this Agreement. If the Parties cannot agree to a resolution of the obligations entered into within ninety days of the termination date of this Agreement, then the Parties agree to submit to binding arbitration, as set forth in Section 9.7 below.

6.0 CONTACT PERSONS.

The following persons, referred to as Contact Person(s), are responsible for the administration of this Agreement for each Party and have the authority to execute Task Orders on behalf of their Party under this Agreement:

For Whatcom PUD: General Manager
For Clallam PUD: General Manager

or such other persons as may be specified from time to time in writing by either Party.

7.0 RELATIONSHIPS OF THE PARTIES, RELEASE AND INDEMNIFICATION.

The Parties agree that they are each independent public entities operating pursuant to the terms and conditions of this Agreement. No agent, employee, or representative of a Party to this Agreement shall be deemed to be an agent, employee, or representative of any other party for any purpose. To the extent permitted by law, each Party remains solely and entirely responsible for the acts of its respective staff performing services for the other Party under this Agreement.

7.1 *Release by Clallam PUD.* To the extent permitted by law, Clallam PUD hereby releases Whatcom PUD, its successors and assigns, Directors, Commissioners, officers, employees, agents, and representatives from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses including all reasonable and necessary attorney's fees incurred in connection with Whatcom PUD and its employees' performance under this Agreement.

7.2 *Release by Whatcom PUD.* To the extent permitted by law, Whatcom PUD hereby releases Clallam PUD, its successors and assigns, Directors, Commissioners, officers, employees, agents, and representatives from any and all claims, losses, injuries, harm, liabilities, damages, costs, charges and expenses including all reasonable and necessary attorney's fees incurred in connection with Clallam PUD and its employees' performance under this Agreement.

7.3 *Indemnification.* Each Party, as an indemnitor, agrees to protect, defend, hold harmless, and indemnify each other Party from and against all third party claims, suits, and actions arising from the intentional or negligent acts or omissions of such indemnitor, its agents, or employees in the performance of this Agreement.

8.0 EXTENT OF AGREEMENT AND MODIFICATIONS.

This Agreement, together with the Exhibits and Addenda as may be added upon approval of both Parties, contains all of the terms and conditions agreed upon by the Parties. The Parties agree that there are no understandings, oral or otherwise, modifying or adding to this Agreement. No amendments, changes, or modification of this Agreement shall be valid or binding upon either Party unless such amendment, change, or modification be in writing and executed by both Parties.

9.0 MISCELLANEOUS PROVISIONS.

9.1 *No waiver.* The failure of either Party to insist upon or enforce strict performance by the other Party of any provision of this Agreement or to exercise any right under this Agreement shall not be construed as a waiver or relinquishment to any extent of such Party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.

9.2 *Applicable Law.* This Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of Washington, except to the extent such laws may be preempted by the laws of the United States of America.

- 9.3 *Governing Law and Venue:* The Parties agree that any dispute shall be governed by the laws of the State of Washington, and any proceeding in law or in equity shall be brought in Whatcom County, State of Washington, or such other place as both Parties may agree to in writing.
- 9.4 *Standards.* The Parties and the Parties' employees and agents will adhere to applicable professional and ethical standards and will perform all work in a manner consistent with generally accepted skill and care and prudent utility practice for the type of work undertaken.
- 9.5 *Neutral Authorship:* Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of the Parties. No presumption or other rules of construction, which would interpret the provisions of this Agreement in favor of or against the party preparing the same, shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.
- 9.6 *Entire Agreement.* This Agreement sets forth the entire Agreement and supersedes any and all prior Agreements of the Parties with respect to the subject matters hereof.
- 9.7 *Arbitration:* The Parties mutually covenant to work cooperatively to timely resolve any dispute that may arise between the Parties concerning this Agreement. However, if the Parties cannot mutually settle a dispute, the dispute or claim shall be submitted to binding arbitration. The Parties agree that the arbitration shall be governed by the rules and procedures outlined in RCW 7.04 *et.seq.* and the Whatcom County Mandatory Arbitration Rules, and that the Parties will jointly stipulate to an arbitrator. In the event that the Parties are unable to agree to an arbitrator, the Parties agree that the Presiding Judge of Whatcom County Superior Court may appoint the arbitrator. The prevailing Party as determined by the arbitrator shall be entitled to reasonable attorneys' fees and costs.
- 9.8 *Notices:* All notices, demands, requests, consents, and approvals which may, or are required to be given to any party or any other party hereunder, shall be in writing and shall be deemed to have been duly given if delivered personally, sent by facsimile, sent by a nationally recognized overnight delivery service, or if deposited in the United States mail and sent by registered or certified mail, return receipt requested, postage paid to:

Public Utility District No.1 of Whatcom Co: General Manager
Whatcom PUD
1705 Trigg Road
Ferndale, WA 98248

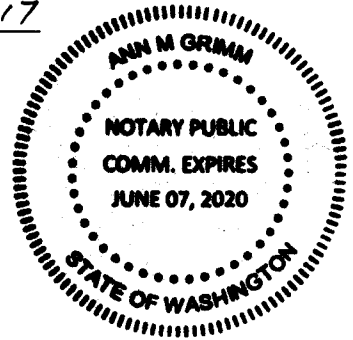
Public Utility District No.1 of Clallam Co: General Manager
Clallam PUD
104 Hooker Rd.
Sequim, WA 98324

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their duly authorized representatives all as of the day and year first above written.

PUBLIC UTILITY DISTRICT NO.1 OF WHATCOM COUNTY

Stephan Jilk
Stephan Jilk
General Manager

3-7-2017
Date



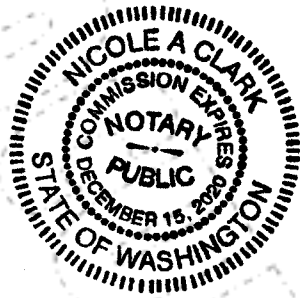
ATTEST:

Ann Grimm

PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY

Doug Nass
Doug Nass
General Manager

P.M. 3.1.17
Date



ATTEST:

Nicole A. Clark

EXHIBIT A

BPA EEI BUDGET TRANSFERS

This Exhibit A is attached to and by this reference incorporated into the Interlocal Agreement between Public Utility District No.1 of Whatcom County ("Whatcom PUD") and Public Utility District No. 1 of Clallam County ("Clallam PUD") (collectively referred to as the "Parties").

1.0 Budget Transfer – BPA FY 2017

Subject to Bonneville Power Administration ("BPA") approval, Whatcom PUD and Clallam PUD agree for each Party's respective BPA fiscal year (FY) 2017 as follows:

Whatcom PUD and Clallam PUD agree to request that BPA transfer **ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000)** of BPA's fiscal year 2017 Energy Efficiency Incentive (EEI) program budget funds, which were previously allocated to Whatcom PUD, to Clallam PUD. This transfer does not involve any actual monetary payment by Whatcom PUD to Clallam PUD, nor is Whatcom PUD obligated to make any payment to Clallam PUD. Rather, it is a joint request to BPA to re-allocate a portion of the BPA EEI program budget funds allocated to Whatcom PUD for FY 2017 to Clallam PUD.

2.0 Conditions on Transfer

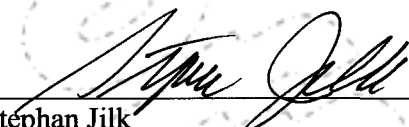
For this specific transfer of EEI program budget during BPA FY 2017 from Whatcom PUD to Clallam, there are no conditions on the transfer with the exception of BPA prior approval.

3.0 Amendments to Exhibit A

Should either Party request future fiscal year BPA conservation budget transfers from the other Party and such Party agrees, then it shall be by amendment to this Exhibit A, pursuant to written agreement of the Parties.

IN WITNESS WHEREOF, the Parties have caused this EXHIBIT A to the AGREEMENT to be executed by their duly authorized representatives all as of the day and year written above.


PUBLIC UTILITY DISTRICT NO.1 OF WHATCOM COUNTY

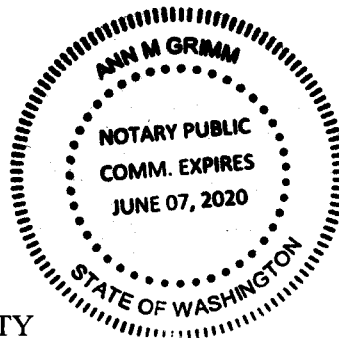


Stephan Jilk
General Manager


3-7-2017
Date

ATTEST:





PUBLIC UTILITY DISTRICT NO. 1 OF CLALLAM COUNTY


_____ *f.m.*
Doug Nass
General Manager

3.1.17
Date

ATTEST:

