

**INTERLOCAL AGREEMENT
CITY OF BELLINGHAM
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY
CARBON REDUCTION INITIATIVE**

This **INTERLOCAL AGREEMENT** (hereafter the "Agreement") is made and entered into this 26 day of October, 2021, by and between the **PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY** (hereafter "the PUD") and the **CITY OF BELLINGHAM** (hereafter "the City"). Hereinafter, the City and the PUD may be referred to individually as a "Party" or collectively as the "Parties").

WHEREAS, climate change, if unchecked, will have ever increasing impacts on human health, natural systems, wildlife, and infrastructure, creating mounting costs for individuals, communities, businesses, and local governments; and

WHEREAS, the scientific consensus demands we limit global temperature increases below 1.5 degrees Celsius to avoid the most destructive and dangerous effects of climate change; and

WHEREAS, the Washington State Department of Ecology has reported that, "human caused climate change poses an immediate and urgent threat"; and

WHEREAS, economists have concluded that Washington's families and businesses are likely to incur billions of dollars of annual economic costs if communities fail to drive reductions in greenhouse gas pollution. These economic impacts include increased energy costs, coastal and storm damage, reduced food production, increased wildland fire, and increased public health costs; and

WHEREAS, the City and the PUD are now seeking ways to expand their cooperative relationship to reduce emission of carbon pollution, named "The Carbon Reduction Initiative". This may include several outcomes including research toward the development of renewable and low carbon energy resources as well as analysis and strategy for acquiring low-carbon electricity delivered at a cost-effective rate. To this end, the City and PUD would aspire to maximize economic development and other benefits to the City and greater Whatcom County; and

WHEREAS, "renewable energy" and "low-carbon" is herein defined as hydrogen derived from renewable energy, wind power sited in ecologically responsible ways, solar, existing and low-impact hydroelectric, geothermal, biogas (including biogas produced from biomass), and ocean/wave technology sources; and

WHEREAS, "renewable energy" specifically excludes energy derived from fossil fuels, nuclear, biomass feedstocks sourced from state and federal lands, hydrogen produced from fossil fuels; and

WHEREAS, the City of Bellingham has shown its commitment, declaring ambitious climate action goals commensurate with its obligations as a signatory of multiple international climate agreements, including the We Are Still In Declaration, the City's Climate Protection Action Plan, the Compact of Mayors, 100% Clean Energy, and Local Governments for Sustainability (ICLEI) Cities for Climate Protection; and

WHEREAS, in 2007 the Bellingham City Council passed Resolution 2007-10 adopting greenhouse gas reduction targets and a Climate Protection Action Plan to achieve those targets; and

WHEREAS, the City's original 2007 Climate Protection Action Plan was updated in 2018 and adopted as policy by the Bellingham City Council under Resolution 2018-06; and

WHEREAS, staff have conducted analysis of all Climate Action Task Force recommendations, developed a process for assessing which of the recommended polices to advance for further consideration, and undertaken additional research on the feasibility of ten measures for inclusion in the 2018 Climate Protection Action Plan as policy of the City of Bellingham; and

WHEREAS, a partnership with the City will help the PUD meet several of its own initiatives including developing a plan and policies in 2022 to define the PUD's role in advancing clean and renewable energy; and

WHEREAS, the PUD is in support of carbon pollution reduction goals via use of renewable energy, demand-side management, and other methods; and

WHEREAS, the PUD, in support of development of renewable energy resources, demand side management, and other methods offers technical expertise, potential funding support, and operational support; and

WHEREAS, Chapter 39.34, Revised Code of Washington provides for cooperation between local governmental entities through interlocal agreement.

NOW, THEREFORE, it is agreed by and between the City and the PUD as follows:

1. Purpose. The purpose of this Agreement is to memorialize the intent of the City and PUD to work together to reduce carbon pollution generated by the burning of fossil fuels to create electricity. This agreement establishes a framework whereby the Parties can combine, share, and use their respective skills and assets, and authority granted to the Parties by the State of Washington, to reduce the financial and administrative costs that may be otherwise borne by an entity alone. This joint effort may result in several outcomes, including a study that would identify potential renewable energy resources, energy conservation and efficiency initiatives, and other methods of reducing carbon emissions from consumption of electricity. The cooperative efforts enabled by this Agreement are

intended to reduce the cost of related services over what would otherwise be achieved if the Parties acted independently.

2. Work Group. A joint staff-level work group between the PUD and the City will meet regularly. The working group will make decisions as they pertain to joint tasks, scope of works, funding, and policies, as it pertains to the Carbon Reduction Initiative.

2.1 The working group will develop actions and recommendations for the consideration of the City Council and PUD Commission as necessary on such matters as financial commitments, consultants, and construction that require action by the individual agencies.

2.2 The workgroup will be made up of two staff members of each entity. Support for facilitating the meeting and setting the agenda will be provided by both entities on a rotating basis.

3. Contracting for Third-Party Services. During the term of this Agreement, the Parties may find it advantageous to procure services or work from third-party providers, including, but not limited to, grant assistance, engineering, design, consulting, or construction work ("Third Party Services"). If the Parties identify a particular Third Party Service that they wish to procure in furtherance of the purposes of this Agreement, the Parties shall enter into an addendum to this Agreement that sets forth each Party's respective roles and obligations for such Third Party Service. At a minimum, the addendum shall identify the Party responsible for procuring and contracting for such services and shall specify the amount of money or other resources (if any) to be contributed by the other Party. Addenda with a reimbursement amount of up to \$75,000 shall be considered a Minor Addendum, requiring only administrative approval from the Mayor and the PUD General Manager. All other addenda shall be approved by City Council and the PUD Commission.

4. Project Managers. The following persons, referred to as Project Managers, are responsible for the administration of this Agreement for each Party.

For the City: Renee LaCroix, Assistant Public Works Director

For the PUD: General Manager Stephan Jilk

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

5. Treatment of Assets and Property. No fixed assets or personal or real property are anticipated to be jointly or cooperatively acquired, held, used, or disposed of pursuant to this Agreement.

6. Term of Agreement. This Agreement shall be effective on the date of the last authorized signature below ("Effective Date") and shall continue until terminated by either party in accordance with Section 7.

7. Termination. The City or the PUD may terminate this Agreement by providing thirty (30) days written notice to the other Party; provided, however, that any each Party shall remain responsible for its obligations under any addendum for Third Party Services executed prior to the termination effective date.

8. Assignment. This Agreement shall not be assigned by either Party to any third party without the prior written consent of the other Party, which consent may be withheld for any reason or no reason.

9. Release and Indemnify. To the extent permitted by law, each Party agrees to release, defend, indemnify, and hold harmless the other Party, its officers, agents, employees, and representatives from all claims, actions, suits losses, harm liabilities, damages, costs and expenses, including but not limited to, reasonable attorney's fees, arising out of the negligent acts or omissions arising in connection with performance of this Agreement. Where negligence by both Parties is concurrent and contributes to a claim, the Parties shall be responsible and liable in proportion to the degree of their own negligence. Nothing in this Agreement shall be construed to preclude either Party from pursuing any remedy against a third Party.

10. Public Records Act. All records received by the City or the PUD pursuant to this Agreement shall be a public record and therefore subject to the Public Records Act.

11. Miscellaneous Provisions.

a. Notices. Any notice, request, authorization, direction or other communication as required under this Agreement shall be given in writing and be delivered in person or by first class United States mail, properly addressed and stamped with the required postage, to the intended recipient as follows:

City of Bellingham
104 W. Magnolia
Bellingham, WA 98225
Renee LaCroix, Assistant Public Works Director

Public Utility District No. 1 of Whatcom County
1705 Trigg Road / Post Office Box 2308
Ferndale, WA 98248
Attention: Stephan Jilk, General Manager

Either Party may change its address specified above by giving the other Party notice of such change in accordance with this Section. All notices, requests and authorization of directions or other communications by a Party shall be deemed delivered when mailed as provided in this Section or personally delivered to the other Party.

b. **Governmental Authority.** This Agreement is subject to the rules, regulations, orders, and other requirements, now or hereafter in effect, of all governmental authorities having jurisdiction over this Agreement, and/or the Parties, or either of them.

c. **No Partnership.** This Agreement shall not be interpreted or construed to create an association, joint venture, or partnership between the Parties, nor to impose any partnership obligations or liabilities of either Party. Furthermore, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for or on behalf of, to act as or be an agent or representative of, or to otherwise bind the other Party.

d. **Nonwaiver.** 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.

e. **Entire Agreement.** This Agreement embodies the entire agreement and understanding of the Parties hereto with respect to the subject matter contained herein. This Agreement supersedes all prior and contemporaneous agreements and understandings between the Parties with respect to such subject matter. This Agreement may be amended only by a subsequent writing signed by both Parties and expressly stating the intention to amend this Agreement.

f. **No Specified Third-Party Beneficiaries.** Except as otherwise specifically provided in this Agreement, there are no third-party beneficiaries of this Agreement. Nothing contained in this Agreement is intended to confer any rights or interest on anyone other than the Parties, their respective successors, assigns and legal representatives.

g. **Amendment.** No change, amendment, or modification of any provision of this Agreement shall be valid unless set forth in a written amendment to this Agreement signed by both Parties.

h. **Implementation.** Each Party shall take such action (including, but not limited to, the execution, acknowledgement, and delivery of documents) as may reasonably be requested by the other Party for the implementation or continuing performance of this Agreement.

i. **Invalid Provision.** The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

j. 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 pre-empted by the laws of the United States of America.

k. Venue. The venue of any litigation arising out of this Agreement shall be in Whatcom County, State of Washington, or such other place as both Parties may agree to in writing.

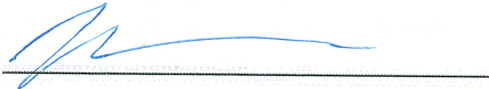
l. Interpretation and Fair Construction of Contract. This Agreement has been reviewed and approved by each of the Parties. In the event it should be determined that any provision of this Agreement is uncertain or ambiguous, the language in all parts of this Agreement shall be in all cases construed as a whole according to its fair meaning and shall not be construed either for or against either Party as the drafter.

IN WITNESS WHEREOF, the City and the PUD have executed this Agreement as of the day and year according to the signatures below.

EXECUTED THIS 24 day of October, 2021

PUBLIC UTILITY DISTRICT NO.1 OF WHATCOM COUNTY:

Approved as to Form.



Office of PUD Legal counsel



Stephan Jilk
General Manager

Attest:

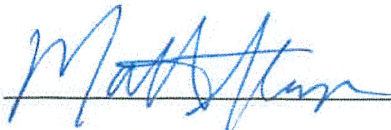


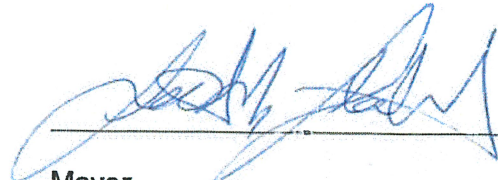
PUD Executive Assistant




CITY OF BELLINGHAM:


Approved as to Form:


Office of the City Attorney


Mayor

Attest:


Finance Director


Department Head

