

**PUBLIC UTILITY DISTRICT No. 1  
of Whatcom County**

Agenda for the Regular Meeting of November 26, 2024  
8:15 a.m. at the PUD Office  
(In-person, Zoom, & Teleconference)

1. Call to Order | Pledge of Allegiance
2. Approval of Agenda (2 minutes)
3. Consent Agenda (5 minutes)
  - a) Approval of the Minutes of the Regular Meeting of November 12, 2024
  - b) Approval of the Minutes of the Special Meeting of November 19, 2024
  - c) Approval of Claims for November 26, 2024
4. Public Comment (10 minutes – Individual speakers: 3 minutes)
5. General Manager Report (10 minutes)
  - a) Action Item 1: Approve Agreement for Professional Services With ADP Resources & Authorize The District's General Manager Or His Designee To Execute The Agreement
6. Operations Report (10 minutes)
7. Old Business (30 minutes)
  - a) Broadband Update
  - b) Adjudication Update
  - c) Geothermal Update
  - d) Strategic Plan Update
  - e) Report 1: Final Draft Budget Presentation
8. New Business (30 minutes)
  - a) Resolution 1: Resolution No. 863 A Resolution of the Board of Commissioners of Public Utility District No. 1 of Whatcom County ("District") Honoring Commissioner Todd Lagestee
9. Commissioner Reports (10 minutes)
  - a) Upcoming Per Diem Requests  
Commissioner Arnett: None as of publication  
Commissioner Lagestee: None as of publication  
Commissioner Deshmane: None as of publication
10. Public Comment (10 minutes– Individual speakers: 3 minutes)
11. Executive Session: None as of publication
12. Adjourn (Estimated 10:20 AM)

**Notice:**

All Commissioners will participate either in-person, via Zoom/internet or teleconference.

**The public meeting can be accessed:** In-person at location announced;

**By internet:** <https://us02web.zoom.us/j/84630584729>

**NOTE: IF ATTENDING VIA ZOOM WE WOULD APPRECIATE YOUR FULL NAME FOR THE COMMISSION RECORD THOUGH IT IS NOT REQUIRED**

<p><b>Or telephone:</b> Dial 1 (253) 215 8782 <u>or</u> 1 (253) 205 0468 <b>Webinar ID:</b> 846 3058 4729</p>
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**2024 BOARD OF COMMISSIONERS**

JAIME ARNETT, PRESIDENT  
ATUL DESHMANE, VICE PRESIDENT  
TODD LAGESTEE, SECRETARY

**Next Commission Meetings**

December 10 & 17, 2024 |8:15 a.m.| Regular Meetings

Meetings to be held at the District Office

1705 Trigg Road, Ferndale, WA 98248

*or other location announced*

Contact: Chris Heimgartner, General Manager (360) 384-4288 x 19

[info@pudwhatcom.org](mailto:info@pudwhatcom.org)

[www.pudwhatcom.org](http://www.pudwhatcom.org)

**Public Utility District No. 1 of Whatcom County  
Commission Meeting Attendance Sheet**

Date of Meeting: November 12, 2024 Platform: Hybrid In Person Zoom

Start Time: 8:15 Am Adjourn: 9:43

Adjourn to Executive Session 10:25 Am if applicable

In Attendance:  
Initial Please:

- AD Atul Deshmane, Commissioner
- JM Jaime Arnett, Commissioner
- X Todd Lagestee, Commissioner
- X Jon Sitkin/Peter Ruffatto, Legal Counsel
- X Chris Heimgartner, General Manager
- \_\_\_\_\_ Aaron Peterson, IT/SCADA Technician
- X Andrew Entrikin, Director - Broadband and New Power Supply
- AS Annette Smith, Finance Director
- X Brian Walters, Assistant General Manager
- \_\_\_\_\_ Devin Crabtree, Chief Water Operator
- X Garrett Love-Smith, Engineering Manager
- \_\_\_\_\_ Jacob Wittmer, Automation Technician
- \_\_\_\_\_ Jon Littlefield, Electric System Supervisor
- X Joseph Shay, Clerk of the Board / Records
- X Kurt Wank, Assistant General Manager
- X Lisa Moeller, Director - HR & Communications
- X Mike Macomber, IT/SCADA Technician
- \_\_\_\_\_ Paul Siegmund, Automation & Technology Manager
- X Rebecca Schlotterback, Contracts & Regulatory Compliance Manager
- SA Stephanie Hooper, Accountant I

Also in Attendance:

Name/Organization	Name/Organization
<u>Robin Dexter</u>	<u>citizen</u>
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Attendee Report

Report Generated 11/12/2024 11:19

Topic	Webinar ID	Actual Start Time	Actual Duration (m)	Unique Viewers	Total User	Max Conc	Enable Registration
November 12, 2024	837 6240 9160	11/12/2024 7:47	184	7	12	6	No

Host Details

Attended	User Name (Original Email)	Join Time	Leave Time	Time in Session	Is Guest	Country/Region Name
Yes	Mike M.   Whatcom mikiemacomber@pudwh	11/12/2024 7:47	11/12/2024 10:51	184	No	United States

Panelist Details

Attended	User Name (Original Email)	Join Time	Leave Time	Time in Session	Is Guest	Country/Region Name
Yes	Whatcom PUD zoom@pudwhatcom.or	11/12/2024 7:48	11/12/2024 10:51	183	No	United States
Yes	Brian Walters brianwalters@pudwhat	11/12/2024 8:10	11/12/2024 9:43	93	No	United States
Yes	Kurt Wank kurtwank@pudwhatcor	11/12/2024 8:12	11/12/2024 9:43	92	No	United States
Yes	Aaron Peterson aaronpeterson@pudwh	11/12/2024 8:14	11/12/2024 10:51	158	No	United States

Attendee Details

Attended	User Name (Original Email)	Join Time	Leave Time	Time in Session	Is Guest	Country/Region Name
Yes	stephanieh	11/12/2024 8:03	11/12/2024 9:43	100	Yes	United States
Yes	Whatcom PUD zoom@pudwhatcom.or	11/12/2024 7:48	11/12/2024 7:48	1	No	United States
Yes	garrettl	11/12/2024 8:50	11/12/2024 9:43	53	Yes	United States
Yes	Lisa Moeller	11/12/2024 8:15	11/12/2024 10:51	157	Yes	United States
Yes	Michael Macomber (Michael)	11/12/2024 8:01	11/12/2024 10:51	171	Yes	United States
Yes	Rebecca Schlotterback, Whatcom PUD	11/12/2024 8:12	11/12/2024 9:43	91	Yes	United States
Yes	Annette Smith - W annettesmith@pudwha	11/12/2024 8:13	11/12/2024 9:43	90	No	United States

**MINUTES OF THE REGULAR  
MEETING OF THE COMMISSION  
November 12, 2024**

**1. Call to Order | Pledge of Allegiance**

The regular meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 8:15 a.m. by Commissioner Jaime Arnett. Said meeting was open to the public and notice thereof had been given as required by law.

Those present at the meeting included:

**COMMISSION AND STAFF**

Atul Deshmane	Commissioner
Jaime Arnett	Commissioner
Todd Lagestee	Commissioner
Jon Sitkin	Legal Counsel
Chris Heimgartner	General Manager
Andrew Entrikin	Director – Broadband and New Power Supply
Annette Smith	Director of Finance
Brian Walters	Assistant General Manager
Garrett Love-Smith	Engineering Manager
Joseph Shay	Clerk of the Board / Records
Kurt Wank	Assistant General Manager
Lisa Moeller	Director – HR & Communications
Mike Macomber	IT/SCADA Technician
Rebecca Schlotterback	Contracts and Regulatory Compliance Manager
Stephanie Hooper	Accountant I

**VISITORS**

Robin Dexter	Citizen
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## 2. Approval of Agenda

### **ACTION:**

Commissioner Lagestee made a motion to approve the agenda. Commissioner Deshmane seconded the motion. The motion passed unanimously.

## 3. Approval of Consent Agenda

### **a) Approval of the Minutes of Regular Commission Meeting of October 22, 2024 & Approval of the Claims of November 12, 2024:**

Commissioner Deshmane made a motion to approve the Consent Agenda as a whole including both the minutes and the claims. Commissioner Lagestee seconded the motion. The motion passed unanimously.

### **Claims of November 12, 2024:**

ALUMICHEM CANADA INC (formerly WATERHOUSE ENV.)	62,906.00
APPLIED INDUSTRIAL TECHNOLOGIES, INC	20.42
INDUSTRIAL SUPPLY, INC	143.06
AT&T MOBILITY	1,853.86
CENTRAL WELDING SUPPLY	101.49
CIVICPLUS LLC	4,784.37
COBB, FENDLEY & ASSOCIATES, INC	15,936.25
CONSOR NORTH AMERICA, INC.	178,150.60
CORNERSTONE MANAGEMENT, INC.	5,515.91
CRABTREE, DEVIN	205.02
CULLIGAN NORTHWEST	232.86
EDGE ANALYTICAL LABORATORIES	58.00
EMERSON LLLP	4,326.06
EXACT SCIENTIFIC SERVICES INC.	27.00
FASTENAL	125.99
FERNDALE CITY OF	280.67
FOSTER GARVEY PC	15,425.00
GRANICH ENGINEERED PRODUCTS, INC.	9,846.40
GRUNDFOS CBS/PACO PUMPS	89,229.42
HD FOWLER CO, INC	1,144.50
HDR ENGINEERING, INC.	50,066.53
HEALTH PROMOTIONS NORTHWEST	150.00
HOOPER, STEPHANIE	66.35
INDUSTRIAL RESOURCES, INC	8,648.15
LFS MARINE	143.90
MOELLER, LISA	1,032.49
MOTION AND FLOW CONTROL PRODUCTS INC	80.28
NEL/SON DISTRIBUTING DBA NELSON-REISNER	2,917.48
NORTHWEST FIBER DBA ZIPLY FIBER	790.11
ODP BUSINESS SOLUTIONS LLC	1,783.31

P&P EXCAVATING, LLC	67,587.66
PLATT ELECTRIC SUPPLY CO	603.90
PROSCAPES	565.76
PUBLIC UTILITY RISK MANAGEMENT SERVICES	74.16
PUGET SOUND ENERGY, INC	4,644.40
REGENCE BLUE SHIELD	45,490.77
RICOH USA	274.81
SCHLOTTERBACK, REBECCA	165.62
SHAY, JOSEPH	242.65
SMITH, ANNETTE	420.76
SSC - SANITARY SERVICE COMPANY	631.93
STAR RENTALS	2,150.37
STERICYCLE ENVIRONMENTAL SOLUTIONS	59.53
TEAMSTER LOCAL #231	699.00
UNITED RENTALS	27,997.74
UNITED WAY OF WHATCOM COUNTY	637.00
UTILITIES UNDERGROUND LOCATION	23.76
VALVOLINE	137.75
WA PUBLIC UTILITY DISTRICTS ASSOCIATION	136.00
WASHINGTON DENTAL SERVICE	2,926.45
WASHINGTON TEAMSTERS WELFARE	15,505.60
WHATCOM COUNTY ADMINISTRATIVE	4,231.50
WHATCOM FARMERS CO-OP	9.25
WHATCOM JANITORIAL	1,430.00
WHISTLE WORKWEAR	213.61
WINDWOOD ENTERPRISES INC.	3,531.60
<b>GRAND TOTAL</b>	<b>\$ 636,383.06</b>

**4. Public Comment** – None

**5. General Manager’s Report** – General Manager Heimgartner briefed the commission on upcoming events he will be attending and had attended since the last meeting. The general manager asked the commission for permission to attend the annual conference of the American Public Power Association in February of 2025. The commission gave their approval.

**6. Operations Report** – Kurt Wank, Assistant General Manager reported that the new plant 1 substation is fully online. This has been a multi-year process. A more detailed report of the entire project will be presented at a future meeting per the request of the commission.

**7. Old Business**

**a) Broadband Update** –Broadband Director Entrikin reported that the notice of funding opportunity for BEAD Grants should be release today (November 12, 2024). It was supposed to have been released as of early this morning but has not been released yet. It is expected it will be released at some point in the day.

**b) Adjudication Update** – Legal Counsel reported to the Commission that the first case committee meeting was held last week and the committee sought clarification with the courts on several issues. The committee nominated chairs and vice chairs for the committee and will be working with the courts on the clarification of the rules process.

**c) Geothermal Update** – Broadband Director Entrikin reported that the Nooksack tribe are still working on the planning for a geothermal 101 meeting. The commissioners are invited to attend.

**d) Strategic Plan Update** – The general manager reported that there will be a special commission meeting next week (November 19, 2024) to begin the formal strategic planning process. The start time for the meeting was discussed and the commission requested an 8:30 start time.

## **8. New Business**

**a) Action1: Approve Agreement for Professional Services with Drayton Archaeology** – The purpose of the agreement is to hire an archeologist to survey Point Roberts for Native American artifacts prior to any work being done there are on the broadband project. Commissioner Lagestee made a motion to approve action no. 1. Commissioner Deshmane seconded the motion. The motion passed unanimously.

**b) Resolution No. 862 Authorizing Cancellation Of Warrant Nos. 01198978 For CivicPlus LLC., 01202582 For CSD, and, 01202591 For Mills Electric** – Stephanie Hooper, PUD Accountant explained to the commission the circumstances regarding the need to cancel and reissue the three warrants described in the resolution. Commission Lagestee made a motion to approve the resolution. Commissioner Deshmane seconded the motion. The motion passed unanimously.

## **9. Commission Reports/Per Diem Requests**

**a) Commission Reports / Per Diem Requests** –. Commissioner Arnett reported that she will be attending the WRIA 1 meeting on November 14, 2024. Commissioner Arnett will also be attending the Washington State Auditors audit exit meeting at the PUD office on November 13, 2024.

Commissioner Lagestee reported that he will be attending the WPUDA meeting at the end of the week. Commissioner Lagestee also reported on his attendance to the public power forum at Energy Northwest. Commissioner Lagestee presented to the commission designs for nametags for the commissioners to wear when they attend meetings outside the PUD. The commission decided on a design and commissioner Lagestee will follow up with Bellingham Signs by Tomorrow to get the nametags ordered.

Commissioner Deshmane reported that he will be attending the WPUDA Water Committee meeting on November 14, 2024 in commissioner Arnett’s place. He will also be attending a Grid Storage Conference with PNLL on the evening of November 15<sup>th</sup>. Commissioner Deshmane requested to go to the Point Roberts PRCAC meeting on November 21<sup>st</sup> to talk with attendees at the meeting about the upcoming adjudication and to inform them that they need to seek all clarification on the adjudication from the Department of Ecology.

## **10. Public Comment** – No public comment.

**11. Executive Session**

An executive session was called regarding GM performance review and general litigation that will take approximately 30 minutes.

**12. Adjourn**

There being no further business Commissioner Arnett adjourned the meeting at 9:43 a.m.

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Jaime Arnett, President/Commissioner

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Atul Deshmane, Vice President/Commissioner

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Todd Lagestee, Secretary/Commissioner

**Commission Clerk Note:**

Video recordings of the Whatcom PUD Commission Meetings are available online at the following link on the PUD's Website: <https://www.pudwhatcom.org/the-commission/2024-agenda-packets-meeting-minutes-recordings/>

**Public Utility District No. 1 of Whatcom County  
Commission Meeting Attendance Sheet**

*Special Strategic Plan*

Date of Meeting: 11-19-2024 Platform: Hybrid In Person Zoom

Start Time: 8:30 AM Adjourn: 11:32

Adjourn to Executive Session \_\_\_\_\_ if applicable

In Attendance:  
Initial Please:

- AD Atul Deshmane, Commissioner
- JAL Jaime Arnett, Commissioner
- Todd Lagestee, Commissioner
- Jon Sitkin/Peter Ruffatto, Legal Counsel
- Chris Heimgartner, General Manager
- \_\_\_\_\_ Aaron Peterson, IT/SCADA Technician
- Andrew Entrikin, Director - Broadband and New Power Supply
- \_\_\_\_\_ Annette Smith, Finance Director
- \_\_\_\_\_ Brian Walters, Assistant General Manager
- \_\_\_\_\_ Devin Crabtree, Chief Water Operator
- \_\_\_\_\_ Garrett Love-Smith, Engineering Manager
- \_\_\_\_\_ Jacob Wittmer, Automation Technician
- \_\_\_\_\_ Jon Littlefield, Electric System Supervisor
- \_\_\_\_\_ Joseph Shay, Clerk of the Board / Records
- \_\_\_\_\_ Kurt Wank, Assistant General Manager
- Lisa Moeller, Director - HR & Communications
- \_\_\_\_\_ Mike Macomber, IT/SCADA Technician
- \_\_\_\_\_ Paul Siegmund, Automation & Technology Manager
- \_\_\_\_\_ Rebecca Schlotterback, Contracts & Regulatory Compliance Manager
- \_\_\_\_\_ Stephanie Hooper, Accountant I

Also in Attendance:

Name/Organization	Name/Organization
<i>Robin Dexter</i>	<i>citizen</i>
<i>Brian</i>	<i>PSE</i>

**MINUTES OF THE SPECIAL  
MEETING OF THE COMMISSION  
November 19, 2024**

**1. Call to Order | Pledge of Allegiance**

The special meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 8:30 a.m. by Commissioner Atul Deshmane. Said meeting was open to the public and notice thereof had been given as required by law. This meeting was in-person only with the exception of Legal Counsel who reported to the meeting via zoom as he was out of town.

Those present at the meeting included:

**COMMISSION AND STAFF**

Atul Deshmane	Commissioner
Jaime Arnett	Commissioner
Todd Lagestee	Commissioner
Jon Sitkin	Legal Counsel
Chris Heimgartner	General Manager
Lisa Moeller	Director – HR & Communications
Andrew Entrikin	Director – Broadband and New Power Supply
Joseph Shay	Clerk of the Board / Records

**VISITORS**

Robin Dexter	Citizen
Brian Heinrich	PSE

**2. Approval of Agenda**

**ACTION:**

Commissioner Deshmane made a motion to approve the agenda. Commissioner Lagestee seconded the motion. The motion passed unanimously.

- 3. Broadband / BEAD Application Discussion:** Andrew Entrikin, Director of Broadband and New Power Supply gave a presentation to the commission outlining the history of the PUD’s involvement with broadband expansion in Whatcom County leading up to the current BEAD grant process. The commissioners, Mr. Entrikin and General Manager Heimgartner discussed the possible ways forward in the BEAD grant process. The Commission requested that staff provide additional information regarding the IRUs with the Port and additional information including past studies and breakdowns of the BEAD scoring rubric. The Commission noted they will review the requested information and resume this discussion at the November 26<sup>th</sup> Commission meeting where any action the commission wishes to take can be made.

**4. Strategic Plan Update:** The commission met for a roundtable discussion regarding the updating of the PUD of Whatcom County No. 1 Strategic Plan. The Commissioners discussed what inspired them to become commissioners and how that impacts their approach to the strategic planning process. Discussion was had regarding the form and function of the strategic plan and it was determined to have further meetings to work on formulating the strategic plan.

**5. Adjourn**

There being no further business Commissioner Arnett adjourned the meeting at 11:32 a.m.

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Jaime Arnett, President/Commissioner

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Atul Deshmane, Vice President/Commissioner

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Todd Lagestee, Secretary/Commissioner

**Commission Clerk Note:**

Video recordings of the Whatcom PUD Commission Meetings are available online at the following link on the PUD's Website: <https://www.pudwhatcom.org/the-commission/2024-agenda-packets-meeting-minutes-recordings/>

# Action Memo

**To:** Commissioners Arnett, Deshmane and Lagestee  
**From:** Andrew Entrikin, Director of Broadband & Power Supply  
**Date:** November 26, 2024  
**Re:** **Approve Agreement for Professional Services with ADP Resources**

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**REQUESTED ACTION: APPROVE AGREEMENT FOR PROFESSIONAL SERVICES WITH ADP RESOURCES & AUTHORIZE THE DISTRICT'S GENERAL MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT.**

**Background:**

The Washington State Association of Counties (WSAC) released funding to support technical assistance for BEAD applications. The Department of Commerce provided approximately \$925,000 to WSAC to support approved activities.

Whatcom PUD submitted an application on behalf of Whatcom County for the maximum amount available. While WSAC had more funding requests than the amount available, they were able to reimburse Whatcom PUD for up to \$37,500 for eligible activities. With the expanded language in their grant award from the Department of Commerce, they can contract directly with Whatcom PUD.

The approved activities are as follows:

- Aiding public entities and community members in designing local broadband networks that maximize grant awards for the broadest connectivity of residents and anchor institutions.
- Creating alignment between community plans and grant applications.
- The evaluation of project applications, prior to public entities submitting them to WSBO.
- Preparing BEAD grant applications, including, but not limited to, engineering design, letter of credit applications, and compilation of project leadership resumes.
- Helping to establish and coordinate necessary broadband workforce development initiatives that align with the WSBO's goals.
- Assisting public entities in negotiating public-private partnerships.
- Providing technical network expertise and understanding of industry practices to public entities not familiar with the telecommunications sector.
- Providing a neutral voice when educating policymakers and community leaders, for the application.
- Providing coordination of community efforts to maximize the outcomes of other broadband grants in conjunction with BEAD applications.

ADP Resources will provide design services for BEAD project areas. Included with this memo is the Agreement for Professional Services, which includes ADP's scope of services

**Fiscal Impact:** Not to exceed \$37,500. WSAC Grant funded. Drayton services will be fully reimbursable.

**Recommended Action: APPROVE AGREEMENT FOR PROFESSIONAL SERVICES WITH ADP RESOURCES & AUTHORIZE THE DISTRICT'S GENERAL MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT.**

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

**AGREEMENT FOR PROFESSIONAL SERVICES  
(CHAPTER 39.80 RCW)**

**Agreement #24-00-ADP**

This **AGREEMENT FOR PROFESSIONAL SERVICES (“Agreement”)** is made and entered into as of the later of the two signature dates below, by and between:

**PUBLIC UTILITY DISTRICT  
NO. 1 OF WHATCOM COUNTY**  
P.O. Box 2308  
1705 Trigg Road  
Ferndale, WA 98248

**(“PUD”)**

AND

**ADP Resources**  
163 SW Academy St.  
Dallas, OR, 97338  
360-450-1166  
Adp-resources.com

**(“Consultant”)**

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- **TERM OF CONTRACT 11/26/24 – 1/31/2025**\_\_\_\_\_
  - **SCOPE OF WORK:** Pursuant to specific task orders as described in the general provisions herein.  
**See attached Exhibit “A”.**
  - **COMPENSATION:** The Consultant shall be compensated on the basis of hours worked and expenses incurred by its employees at the rates shown herein: **See attached Exhibit “B”.**
  - **GENERAL PROVISIONS:** Work covered by this Agreement shall be performed in accordance with the General Provisions (which are attached hereto and form a part of this Agreement) and any attachments or schedules.
  - **ENTIRE AGREEMENT:** This Agreement supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.
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**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the later of the dates indicated below. By signing below, each signatory represents that he or she has authority on behalf of his or her respective party to enter into this agreement, which shall be binding upon the parties according to its terms.

**CONSULTANT**

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

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## GENERAL PROVISIONS

In consideration of the mutual covenants and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

**1. Scope of Work.** The objective of this Agreement is the timely preparation, completion and/or delivery of the scope of work and/or deliverables described in the Task Order(s) issued pursuant to and governed by the terms of this Agreement. A copy of the Task Order form(s) to be executed by the parties is included as Exhibit "A," attached hereto and incorporated herein by this reference. Additional Task Orders and/or amendments to Task Orders shall be attached hereto as amendments and shall be made part of this Agreement upon approval as required herein. Any Task Order(s) issued by the PUD prior to the termination date of this Agreement shall be governed by the terms of this Agreement until completed even if the Task Order work extends beyond the termination date of this Agreement.

1.1 Work covered by this Agreement shall be performed in accordance with the provisions and any attachments or schedules. Except as may be otherwise provided for herein, this Agreement may only be amended by the mutual consent of both parties hereto, in writing and signed by duly authorized representatives of both parties.

**2. Term of Agreement.** The Consultant shall not begin work under the Agreement or any Task Order until the PUD has specifically authorized the Consultant to do so in writing. The time required for completion of all work under each Task Order and, if appropriate under a schedule for completion of phases of the work, shall be specified in each Task Order. The completion dates for Task Orders, or for phases of work under a Task Order, may be modified only upon written agreement of the parties hereto. The completion dates for Task Orders, or for phases of work under a Task Order may be, but are not required to be, extended in the event of a delay caused by change order work requested by the PUD, or if the Consultant's work is delayed by unavoidable circumstances beyond the control of the Consultant and which the Consultant could not reasonably have anticipated. This Agreement may be extended for multiple terms at the sole discretion of the PUD and subject to budget appropriations and Commission approval when required; if so extended, all of the terms and conditions herein shall apply to such extension.

**3. Compensation and Payment.** The Consultant shall be compensated on the basis of

hours worked and expenses incurred by its employees at the rates shown in the attached Consultant's Fee Schedule, Exhibit "B". The Consultant shall receive no other payment for materials or disbursements unless expressly allowed by the Task Order. The Consultant shall not adjust the wage rates in Exhibit "B" without written authorization from the PUD.

3.1 Consultant shall supply PUD with a monthly invoice and written documentation, satisfactory to PUD, for all amounts due under this Agreement, including but not limited to project budget status and a narrative progress description of work performed that is acceptable in form to the PUD. All invoices submitted by Consultant to PUD shall reference any applicable billing codes provided by PUD to Consultant. Any applicable taxes shall be listed as separate line items on each Consultant invoice. All invoices and documentation may be reviewed and audited by PUD and payment may be subject to review or audit. Subject to the preceding, payments shall be due net thirty (30) days of receipt of such invoice by PUD. In no event shall the PUD be charged interest on payments due under this Agreement. If required by PUD, Consultant shall provide periodic forecasts of its total fees and costs incurred to date. With regard to time and materials Task Orders, only the reimbursable expenses specifically listed in the attached Exhibit "B" will be payable expenses under this Agreement.

3.2 If a Task Order specifies that the work is to be performed on a fixed fee basis, the Consultant shall be paid the amount of the fixed fee as consideration for full and satisfactory performance of the work regardless of the Consultant's cost to perform the work. The PUD shall have sole authority for determining when all work has been satisfactorily performed by the Consultant. The fixed fee amount comprises all of the Consultant's payment for the work and includes without limitation all costs of salaries, overhead, non-salary expenses (including, but not limited to, travel, reproductions, telephone, supplies, and fees of outside consultants), as well as the Consultant's profits. The Consultant's payment for the work shall not exceed the specified amount unless first authorized by the PUD in writing.

3.3 The Consultant shall obtain the prior

written approval of the PUD for any charges for additional services by the Consultant, the additional services of others retained by Consultant, or the furnishing of additional supplies, materials or equipment. The Consultant shall not be entitled to compensation for any such additional charges incurred in violation of this paragraph.

4. **Payment of Subconsultants.** At the time of project completion or as a condition of any payment hereunder, the Consultant agrees to certify to the PUD that all employees (including without limitation any union fees and any benefit plans), and subconsultants have been paid in full. Final payment or any partial payment may be preconditioned upon receipt of such certification by the PUD; the PUD may, in its sole discretion, withhold payment until receipt of such certification. The Consultant shall be solely responsible for the performance and payment of any and all subconsultants. All such subconsultants shall possess all licenses and insurance as required by this Agreement and/or the laws of the State of Washington.

5. **Termination.** This Agreement may be terminated by either party upon seven (7) days' written notice should one party fail to perform in accordance with its terms through no fault of the other. In the event the party that fails to perform is the Consultant, the determination of "fail to perform in accordance with its terms" shall be in the sole judgment of the PUD. In the event of termination, the Consultant shall be compensated for satisfactory services performed to the termination date by reimbursement of the Consultant's actual costs directly related to the project plus normal overhead and reasonable profit, less damages caused by Consultant's breach. The PUD shall have sole authority for determining when all work has been satisfactorily performed by the Consultant. In no case, however, shall such reimbursement exceed the agreed upon fee as approved and amended by the PUD. Any work product generated by the Consultant prior to such termination shall be the sole property of the PUD, and the Consultant agrees to provide the PUD with all such materials. If the accumulated payment made to the Consultant prior to notice of intent to terminate exceeds the total amount that would be due as set forth herein above, then no final payment shall be due, and the Consultant shall promptly reimburse the PUD for the excess paid.

5.1 Further, this Agreement may be terminated by the PUD at any time for any reason whatsoever, at the sole discretion of the PUD, with seven (7) days' written notice. If the PUD terminates for convenience, the PUD will pay according to the payment terms as provided in Paragraph 5, above. If, after termination for failure of the Consultant to fulfill contractual obligations, it is determined that the Consultant has not so failed, the termination shall be deemed to have been effected for the convenience of the PUD.

5.2 In addition to the above, the PUD reserves the right to suspend all or any portion of the work and services for Consultant's default or PUD's convenience. If the Consultant's work is delayed for more than thirty (30) calendar days due to circumstances for which the Consultant is responsible, the PUD may find the Consultant in default and terminate the Task Order and/or this Agreement.

6. **Deviations from Scope of Work.** The PUD may at any time issue written directions within the general scope of this Agreement. If any such direction causes an increase or decrease in the cost of this Agreement or otherwise affects any other provision of this Agreement, the Consultant shall immediately notify the PUD and take no further action concerning those written directions until such time as the parties have executed a written change order. No additional work shall be performed or charges incurred unless and until the PUD approves in writing the change order and the increased cost thereof. Any work done in violation of this paragraph shall be at the sole expense of the Consultant. Additionally, the PUD reserves the right to modify the amount spent for identified project tasks within the scope of work, provided that the Contract Amount, as may be modified under Paragraph 3.3, is not exceeded.

6.1 The Consultant shall make all revisions and changes in the completed work under this Agreement as are necessary to correct the Consultant's, and its subconsultants', errors or omissions without additional compensation from the PUD.

7. **Insurance.** Consultant, concurrently with the execution of this Agreement, shall provide the PUD with evidence that Consultant has obtained and is maintaining the insurance listed as follows:

7.1 **Workers' Compensation Insurance** as required by law.

7.2 Employers' Liability Insurance (bodily injuries) with a limit of One Million Dollars (\$1,000,000) per occurrence with an insurance company authorized to write such insurance in all states where the Consultant will have employees located in the performance of its work covering its common law liability to such employees.

7.3 Commercial General Liability Insurance with limits of One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate and Automobile Liability Insurance covering all owned and non-owned automobiles or vehicles used by or on behalf of Consultant with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury and/or property damage.

7.4 Professional Liability Insurance covering Errors and Omissions of the Consultant in the amount of not less than One Million Dollars (\$1,000,000) per claim.

7.5 Except with regard to the Professional Liability Insurance and Workers' Compensation Insurance, each of the policies required herein shall name the PUD as an additional insured by way of a policy endorsement. Furthermore, each policy of insurance required herein shall (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to the PUD except upon forty-five (45) days' prior written notice from the insurance company to the PUD; (iii) contain an express waiver of any right of subrogation by the insurance company against the PUD and its elected officials, employees, or agents; (iv) expressly provide that the defense and indemnification of the PUD as an "additional insured" will not be effected by any act or omission by Consultant which might otherwise result in a forfeiture of said insurance; (v) contain a separation of insureds provision such that the policy applies separately to each insured that is subject of a claim or suit; (vi) not contain a cross-claim, cross-suit, or other exclusion that eliminates coverage by one insured against another; and (vii) provide for coverage for damage to the PUD's property caused by the Consultant.

7.6 With regard to the Professional Liability Insurance, policy shall be issued on a claims made form, with the following additional terms applying to the policy: (i) coverage shall be maintained for a minimum of six (6) years after Contract completion, with evidence of the same

provided to the PUD annually, (ii) the Retroactive Date must be shown and must be before the date of this Contract or commencement of Work hereunder, (iii) if the policy is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the date of the Contract or commencement of Work hereunder, the Consultant must purchase "extended reporting" coverage for a minimum of six (6) years after completion of the Contract work.

7.7 The Consultant shall furnish the PUD with copies of Certificates of Insurance evidencing policies of insurance required herein. Except as otherwise specified herein, the Consultant and its subconsultants shall maintain these policies as identified above for the term of this Agreement and for a period of one year thereafter. The PUD's failure to request such certificates shall not relieve the Consultant of the obligation to provide them.

7.8 The Consultant shall maintain the insurance in effect at all times that it is performing work under this Agreement. Failure to obtain and/or maintain such insurance shall be grounds for the PUD to find the Consultant in default and terminate the Agreement accordingly. Alternatively, the PUD may at its option purchase such insurance and deduct the reasonable expense therefore from payments made to or owing to the Consultant.

7.9 If the Consultant maintains broader coverage and/or higher limits than the minimums set forth above, the PUD requires and shall be entitled to such broader coverage and/or higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage listed herein shall be available to the PUD.

**8. Consultant Not an Agent or Employee of the PUD.** In performing work and services hereunder, the Consultant and Consultant's employees, agents, and representatives shall be acting as independent Consultants and shall not be deemed or construed to be partners, employees or agents of the PUD in any manner whatsoever. No employee of the Consultant shall be considered an employee of the PUD even while performing work required under this Agreement. Furthermore, the Consultant shall not hold itself out as, nor claim to be, an officer or employee of the PUD by reason hereof and will not make any claim, demand or application to or for any right or

privilege applicable to an officer or employee of the PUD.

9. **Conflict of Interest.** Consultant covenants that it presently has no interest and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. Consultant further covenants that no person having such interest shall be employed by it or any of its subconsultants.

10. **Compliance with Applicable Law.** The Consultant shall comply with all the PUD's resolutions and all federal, state, and local laws, regulations and ordinances that are applicable to the work performed pursuant to this Agreement. Both parties mutually agree to re-negotiate scope, budget, and schedule should a change in any of the applicable PUD's resolutions, federal, state or local laws, regulations or ordinances during the performance of the work affect the cost of performing the work. The Consultant shall register (and shall require the same of all subconsultants), as required by RCW 23B.15.010, to do business in the State of Washington and provide proof of the same to the PUD.

11. **Indemnification.** The Consultant shall defend (with legal counsel satisfactory to the PUD), indemnify and hold the PUD, its elected officials, agents and employees (collectively "PUD") harmless from and against all liabilities, obligations, fines, claims, damages, penalties, lawsuits, governmental proceedings, judgments, costs and expenses (including, without limitation, all attorneys' fees, costs and expenses of litigation):

- Arising out of any negligent act or omission of Consultant, its directors, officers, subconsultants, agents and/or employees (collectively "Consultant") in connection with the work performed pursuant to this Agreement; provided, however, that in the event of concurrent negligence of the Consultant and the PUD, then this defense and indemnification shall apply only to the extent of the Consultant's negligence; and/or
- Arising from a breach of this Agreement by Consultant; and/or
- Arising out of or due to any failure on the part of Consultant to perform or comply with any rule, ordinance or law to be kept and performed.

The PUD will inform Consultant of any such claim

or demand that alleges liability based in whole or in part on any act or omission of Consultant, its directors, officers, agents, or employees. Thereafter the Consultant shall (i) reasonably cooperate in the defense of such claim and (ii) pay the PUD's defense of such claim as incurred, whether or not such claim is ultimately successful. In this regard, the PUD will reasonably cooperate with Consultant in allowing Consultant to jointly select, with the PUD, attorneys to defend the PUD and Consultant provided that Consultant confirms its obligation to pay the PUD's defense costs.

11.1 In the event of concurrent negligence by the PUD and Consultant, then at the conclusion of the action (e.g., judgment, arbitration award or settlement), the attorneys' fees and costs incurred in defending the PUD shall be apportioned to the parties based on their respective fault as provided by RCW 4.24.115.

11.2 The foregoing indemnification obligation shall include, but is not limited to, all claims against the PUD by an employee or former employee of the Consultant or any subconsultant or service provider. For this purpose, the Consultant expressly waives, as respects the PUD only, all immunity and limitation on liability under any industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim. **BY INITIALING BELOW THE PUD AND CONSULTANT CERTIFY THE WAIVER OF IMMUNITY SPECIFIED BY THIS PROVISION WAS MUTUALLY NEGOTIATED.**

\_\_\_\_\_  
Consultant

\_\_\_\_\_  
PUD

12. **Work Product Confidentiality.** Any reports, documents, questionnaires, records, information or data given to or prepared or assembled under this Agreement which the PUD requests to be kept confidential shall not be made available by the Consultant to any individual or organization without prior written approval of the PUD except as may be ordered by a court of competent jurisdiction. The provisions of this section shall survive the expiration or earlier termination of this Agreement. No reports, records, questionnaires, or software programs provided by the PUD or

other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

**13. Public Disclosure Request.**

Correspondence, reports, and other written work product will be generated during the course of the relationship created by this Agreement, and third parties may request such information pursuant to the Washington State Public Disclosure Act (RCW 42.17.250 *et. seq.*). The parties agree that in the event that such a request is filed, the party with whom the request is filed will promptly notify all other parties to this Agreement. The parties further agree that they will not disclose any such requested material until at least ten (10) business days after providing notification to all other parties to this Agreement. The intent of this clause is to provide all parties the opportunity to seek injunctive relief so as to protect the vital functions of those entities. This clause shall survive the termination or expiration of this Agreement.

**14. Plans, etc. Property of PUD.** All work performed under this Agreement is work for hire. All deliverables, including but not limited to original plans, drawings and specifications, prepared by the Consultant and any and all sub-consultants for the PUD and funded by the PUD are and shall remain the property of the PUD whether or not the Project for which they are made is executed. This shall not apply to proprietary software or documentation that may be provided to the PUD and that was developed independent of funding by the PUD. The Consultant assumes no liability for any use of the drawings and specifications other than that originally intended for the project. Originals, including electronic forms of the data prepared by the Consultant and funded by the PUD, shall become the property of the PUD. No reports, records, questionnaires, software programs provided by PUD or other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant. The Consultant's work shall not infringe on any copyright, patent, trade secret, or other proprietary rights held by any third party.

**15. Electronic File Compatibility.** All electronically transmitted output must be compatible with existing PUD software and shall be provided to the PUD in a CAD or other appropriate electronic format. All CAD deliverables shall be consistent with the PUD's

standard CAD layering system, as provided by the PUD to the Consultant. Consultants shall check with the PUD for software application, system compatibility and preferred file type.

**16. Non-Discrimination.** In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, or being handicapped, a disadvantaged person, or a disabled or Vietnam-era veteran or a member of any other protected class. The Consultant shall take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex, national origin, age, marital status, or being a handicapped or disadvantaged person or a disabled or Vietnam-era veteran or a member of any other protected class.

**17. Federal Restrictions on Lobbying.**

Consultant certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

**18. Federal Debarment and Suspension.** The Consultant certifies, that neither it nor its "principals" (as defined in 49 CFR.29.105) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. Contractor will include this clause without modification in all lower tier transactions, solicitations, proposals, agreements, contracts, and subcontracts. Where the offeror/consultant or any lower tier participant is unable to certify to this statement it shall attach an explanation to this Agreement. The PUD reserves the right to require Consultant to replace a subconsultant or lower tier participant who cannot meet the foregoing certification requirement.

19. **Subletting or Assigning of Agreement.**

The Consultant shall not sublet or assign any of the work covered by this Agreement without the express written consent of the PUD.

20. **Notices.** All notices and payments hereunder may be delivered or mailed to the addresses listed above. If delivered by messenger or courier (including overnight air courier), they shall be deemed delivered when received at the street address. All notices and payments mailed, whether sent by regular post or by certified or registered mail, shall be deemed to have been given on the second business day following the date of mailing, if properly mailed to the mailing addresses provided above, and shall be conclusive evidence of the date of mailing. The parties may designate new or additional addresses for mail or delivery by providing notice to the other party as provided in this section. The address for delivery of notices and payments are as set forth in the introductory paragraph of this Agreement.

21. **Review of Title Documents.** Prior to the execution or recordation of any documents effecting title to any property, said document shall be reviewed by the PUD. Consultant shall not execute or record (or make to be executed or recorded) any such document prior to the PUD's review and approval.

22. **Jurisdiction.** This Agreement is made and delivered in the State of Washington and shall be construed and enforced in accordance with the laws thereof. Jurisdiction and venue of any dispute hereunder shall be solely and exclusively in the Superior Court of the State of Washington in and for Whatcom County. In the event of a dispute arising out of or under this Agreement, the substantially prevailing party shall be entitled to its reasonable attorneys' fees and costs.

23. **Pollution.** PUD acknowledges that the Consultant is not responsible for the creation or presence of contamination or pollution, if any, at

the property except to the extent that such a discharge, release or escape is caused by the Consultant's acts or omissions. For the purpose of this clause, contamination or pollution shall mean the actual or alleged existence, discharge, release or escape of any irritant, pollutant, contaminant, or hazardous substance into or upon the atmosphere, land, groundwater, or surface water of or near the property. The Consultant will promptly notify the PUD of contamination or pollution, if identified. Notwithstanding the foregoing, the PUD does not waive any cause of action for damages resulting from the PUD's reliance on any misrepresentation (made either knowingly or negligently) by the Consultant with regard to the presence of any contamination or pollution.

24. **Consultant Work.** Consultant's work shall meet or exceed the standard for similar services performed by similarly licensed professionals performing work in Whatcom County, Washington.

25. **Entire Agreement.** This is the entire agreement between the parties. There is no other oral or written understanding between the parties concerning this matter. The Consultant specifically understands that no PUD employees other than the project manager or his/her supervisor are authorized to direct the work of the Consultant.

26. **Compliance with Grant and/or Loan Terms and Conditions.** In the event the Consultant is made aware of grant and/or loan terms and conditions by the PUD, the Consultant shall comply with any and all conditions, terms and requirements of any federal, state or other grant and/or loan that wholly or partially funds the Consultant's work or services hereunder

27. **Signing Authority.** Anyone signing this Agreement by said signature certifies that he/she has the authority to execute said document on behalf of the Consultant and that his/her signature is binding upon the firm or corporation.

EXHIBIT A

**TASK ORDER FORM**

**Public Utility District No. 1 of Whatcom County  
Agreement for Professional Services  
Task Order #00-01**

**PROJECT NAME**

**PUD Project #**

**PUD Billing Code:**

This work order is issued pursuant to the Agreement for Professional Services #24-00-ADP dated \_\_\_\_\_ between the Public Utility District No. 1 of Whatcom County and ADP Resources whose address is 163 SW Academy St., Dallas, OR 97338. Unless otherwise specified below, the performance of services hereunder and the payment therefore shall be subject to the terms and conditions of said Agreement.

**(A) Scope of Work:**

ADP Resources will provide a FTTH Design to the BSL's identified on the Washington State Broadband Office Project Area map. During this time, we will review each BSL to determine if it is a serviceable location or a structure that does not require service (Barn/Out Building). There will be additional research on locations that may be best served by Fixed Wireless due to the high cost of FTTH.

**(B) Deliverables:**

The designs will be provided in KML and Shape Files and stamped by a PE per WSBO requirements.

**Note:** All CAD deliverables shall be consistent with the PUD's standard CAD layering system, as provided by the PUD to the Consultant. Consultants shall check with the PUD for software application, system compatibility and preferred file type.

**(C) Schedule:**

11/26/24-1/31/2025

**(D) Fee Basis:**

Services to be billed on a Fixed Fee Basis, not to exceed \$4.25 per BSL as summarized below, and per the attached cost breakdown.

Task	Not-To-Exceed Dollar Amount
1.0 Design Project Area(s) 8, 212 & 185	\$4.25 per BSL
2.0	\$X,XXX
3.0	\$X,XXX
Reimbursable Expenditures	\$X,XXX
<b>TOTAL</b>	<b>\$X,XXX</b>

**CONSULTANT**

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

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

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

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT B**

**CONSULTANT'S FEE SCHEDULE**

[Exhibit B should set forth the agreed upon schedule of hourly rates and other charges and disbursements the PUD is agreeing to pay the consultant. This should identify all job classifications, reimbursable expenses, and sub-consultant mark-ups.]

**RESOLUTION NO. 863**

**A RESOLUTION OF THE  
BOARD OF COMMISSIONERS OF  
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY (“DISTRICT”)  
HONORING  
COMMISSIONER TODD LAGESTEE**

**WHEREAS**, Todd Lagestee volunteered and was appointed to serve as Commissioner of Public Utility District No.1 of Whatcom County from May 28, 2024 until November 26, 2024 to fill a vacated commission position; and

**WHEREAS**, the Commission and the District staff are indebted to Mr. Lagestee for his willingness to serve the public and the District faithfully with the best interests of the District always foremost in his deliberations and official actions, and having given generously of his time and talents;

**NOW, THEREFORE, BE IT RESOLVED** that the members of the Board of Commissioners of Public Utility District No. 1 of Whatcom County do hereby express their sincere appreciation, and the appreciation of the people of Whatcom County, for Todd Lagestee’s service to the District and for the privilege of having been associated with him on the commission.

**BE IT FURTHER RESOLVED** that the members of this Commission extend to Mr. Lagestee their sincere best wishes for the future; and,

**BE IT FURTHER RESOLVED** that this Resolution be recorded in the official minutes of this meeting and that a copy thereof be delivered to Mr. Lagestee

**ADOPTED** by the Board of Commissioners of Public Utility District No. 1 of Whatcom County at a regular meeting thereof held this 26<sup>th</sup> day of November 2024.

**Public Utility District No. 1 of  
Whatcom County**

\_\_\_\_\_  
Jaime Arnett, President/Commissioner

\_\_\_\_\_  
Atul Deshmane, Vice President/Commissioner