

**INTERLOCAL AGREEMENT
BETWEEN THE JEFFERSON COUNTY PUD NO. 1 AND
PUBLIC UTILITY DISTRICT NO. 3 OF MASON COUNTY**

This Interlocal Agreement (“Agreement”) made and entered into this 27th day of July, 2021, pursuant to the provisions of Chapter 39.34 RCW, the Interlocal Cooperation Act (the “Act”), by and between Jefferson County PUD No. 1 (“JPUD”) and Public Utility District No. 3 Of Mason County (“PUD 3”) (collectively referred to as “the Parties”).

WHEREAS, JPUD and PUD 3 are Washington state Public Utility Districts; and

WHEREAS, RCW 39.34.080 permits Public Utility Districts to contract with one another for the performance of certain governmental services. Under the Act, Public Utility Districts may enter into agreements with one another for joint or cooperative action. and

WHEREAS, JPUD has entered into a construction agreement with the Bonneville Power Agency (“BPA”) for construction of certain fiber optic connections to BPA facilities that connect to both JPUD and PUD 3 owned facilities and a portion of the work will be completed by PUD 3 to benefit its system; and

WHEREAS, in order to facilitate the completion of the BPA Contract, JPUD has agreed to enter into the agreement directly with BPA.

NOW, THEREFORE, based upon mutual covenants to be derived from this Agreement, the Parties agree as follows:

1. **Purpose**: It is the purpose of this Agreement to allow the Parties to cooperate and make the most efficient use of their resources by working together to complete the work outlined in the attached agreement and incorporated herein as Exhibit A (the “BPA Contract”). The fiber routes to be built are listed in Exhibit B, incorporated herein by this reference.

2. **JPUD Work**. JPUD has entered into an agreement with BPA to provide for the construction of fiber optic facilities to be located, in part, in each Party’s substations, and interconnecting with BPA as more fully described in the BPA Contract. JPUD has agreed to build certain fiber optic connections to BPA’s facilities at Happy Valley, Fairmont, Quilcene, Duckabush, and Potlatch Substations, and assume all costs related to its improvements. ‘

3. **PUD 3 Work**. PUD 3 has agreed to complete a portion of the work in the BPA Contract, assume all costs related to that work, as further described in the BPA Contract and Exhibit B. JPUD and PUD 3 agree to allocate between them the costs of the BPA Contract, and allow each Party the future use of dark fiber constructed pursuant to the BPA Contract.

4. **Hold Harmless and Indemnification**: Each party (the “Indemnitor”) shall hold the other (the “Indemnitee”), harmless, indemnify and defend the other, its board or commission members, officers, officials, employees and agents, from and against any and all claims, actions, suits, liability, loss, expenses, damages, and judgments of any

nature whatsoever, including, but not limited to, reasonable costs and attorneys' fees in defense thereof, for injury, sickness, disability or death to persons or damage to property or business, caused by or arising out of the performance of this contract, its employees, agents, or subcontractors or anyone for whose acts any of them may be liable, except for injuries and damages caused by the sole negligence of the Indemnitee. If the claim, suit or action involves concurrent negligence of the Parties, the indemnity provisions provided herein shall be applicable only to the extent of the percentage of each party's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes each party's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Section shall survive the expiration or termination of this Contract.

5. Insurance: The PUD is self-insured through its membership in the Pacific Underwriters Management Services. PUD 3 is self-insured through its membership in the _____ . Within 30 days of executing this Agreement the JPUD and the PUD 3 shall mutually provide to each other certificates of coverage from their respective Risk Pools. Both Parties agree that not less than thirty(30) days prior to cancellation, suspension, reduction or material change in the membership of a party in its respective Risk Pool, notice of same shall be given to the other party by registered mail, return receipt requested and by email. The Parties further agree that their membership in their respective Risk Pools provide coverage for the following categories of risk and with coverage limits that equal or exceed what is listed below:

General Liability—with a minimum limit per occurrence of one million dollars (1,000,000) and an aggregate of not less than two million dollars(\$ 2, 000,000) for bodily injury, death and property damage unless otherwise specified in the contract specifications.

Business Automobile Liability coverage— with a minimum limit per occurrence of one million dollars(\$1,000,000) and an aggregate of not less than two million dollars \$2,000,000). Said coverage shall include liability coverage for all owned, non- owned and hired motor vehicles.

Worker's Compensation insurance with minimum limits not less than that required by state law.

Errors and Omissions for Professional Services Provided

Each party to this Agreement agrees that the coverage provided to it by its membership in its respective Risk Pool shall be primary with respect to any third- party claim presented to that party for the alleged negligent act and omissions of its employees, contractors or representatives. With respect to all claims of third- party liability against one party to this Agreement the coverage provided to the OTHER party by its membership in a Risk Pool shall be non- contributory.

6. Compliance with Laws: Each party hereto, in its performance of this Agreement, agrees to comply with all applicable local, State, and Federal laws and ordinances.

7. **Relationship of the Parties:** No agent, employee or representative of any party shall be deemed to be an agent, employee or representative of any other party for any purpose, and the employees of one party are not entitled to any of the benefits any other party provides to its employees. The relationship between PUD 3 and GHPUD is that of independent contractors and nothing in this Agreement shall be construed to create a partnership, joint venture, or agency relationship between PUD 3 and JPUD.

8. **Assignment.** Neither party shall assign, sublease, transfer or convey this Agreement without the prior written consent Of the other party, which consent shall be in such party's sole discretion

9. **Agreement Not for Benefit of Third Parties:** This Agreement is entered into solely for the benefit of the Parties hereto and vests no rights in, or is it enforceable by, any third parties.

10. **Dispute Resolution:** In the event any dispute should occur under this Agreement or related to the performance of any person or equipment, the dispute shall be referred to the General Manager of JPUD and the General Manager of PUD 3 for resolution. If not resolved within (30) days of referral, either party may pursue such legal actions as it may have available.

11. **Waiver and Venue:** A failure by any party to exercise its rights under this Agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Agreement unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Agreement. This Agreement will be governed by the laws of the State of Washington, both as to interpretation and performance. Any action at law, suit in equity or other judicial proceeding for the enforcement of this agreement may be instituted only in a court of competent jurisdiction in the State of Washington, County of Jefferson.

12. **Duration and Termination:** This Agreement shall commence and be effective upon execution and remain in full force and effect until terminated by agreement of the Parties, or by written notice of termination given by one party to the other party at least thirty (30) days prior to the date of such termination.

13. **Severability:** If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

14. **Entire Agreement – Modification:** The written provisions and terms of this Agreement supersede all prior written and verbal agreements and/or statements by any representative of the Parties, and those statements shall not be construed as forming a part of or altering in any manner this Agreement. This Agreement shall contain the entire Agreement between the parties unless modified in writing and signed by authorized representatives of the Parties.

15. **Filing:** Pursuant to RCW 39.34.040, this Agreement shall be posted on the JPUD and PUD 3 websites and/or filed with the County Auditor.

In Witness Whereof, the parties have executed this Agreement this 27th day of July, 2021.

JEFFERSON COUNTY PUD NO. 1



Kevin Streett, General Manager

PUBLIC UTILITY DISTRICT NO. 3, MASON COUNTY



Annette Creekpaum (Jul 27, 2021 15:16 PDT)

Annette Creekpaum General Manager

EXHIBIT A

**CONSTRUCTION CONTRACT BETWEEN
JEFFERSON COUNTY PUD NO. 1 OF JEFFERSON COUNTY, WASHINGTON
AND
BONNEVILLE POWER ADMINISTRATION**

EXHIBIT B

DESCRIPTION OF FIBER ROUTES ALLOCATED TO JPUD AND PUD 3

JPUD Fiber Lease Project

1. JPUD and Mason 3 will lease 2 BPA dark Fiber from Port Angeles to Olympia
2. JPUD will lease dark fiber from Port Angeles to Duckabush +
3. Mason 3 will lease dark fiber from Potlatch + to Olympia
4. JPUD and Mason 3 will interconnect at Duckabush
5. JPUD and Mason 3 will share the fiber lease cost between Potlatch and Duckabush.

Happy Valley Substation

1. BPA determines existing dark fiber that was terminated for NoaNet and assigns these fibers to JPUD and Mason 3
2. JPUD will connect through NoaNet for conductivity
3. JPUD will try and utilize the leased fiber to Port Angeles
4. JPUD will coordinate with NoaNet for any new equipment required at Happy Valley

Fairmont Substation

1. JPUD will run fiber from Discovery Bay Substation to Fairmont
2. BPA will splice fiber in front of Fairmont substation along Hwy. 101: PDF site view named Fairmont BPA Fiber Vault
3. JPUD will install C/O at Discovery Bay Substation
4. JPUD will coordinate with NoaNet and others for equipment and engineering

Quilcene Substation

1. JPUD will run fiber/conduit from BPA fiber vault to JPUD building
2. BPA will splice fiber in front of Quilcene substation along East Quilcene Rd. PDF site view named BPA Quilcene Fiber Vault
3. JPUD equipment is under review
4. JPUD will coordinate with NoaNet and others for equipment and engineering

Duckabush Substation (Mason 1)

1. Mason 3 will run fiber/conduit to new equipment site
2. Mason 3 and JPUD to work out inter connection agreement and shared costs
3. JPUD will install network equipment and coordinate with Mason 3, NoaNet and others

New fiber from Discovery Bay Substation to 310 Four Corners

1. JPUD will install fiber from Discovery Bay Substation to Four Corners C/O ~ 7.5 miles
2. Equipment at Discovery Bay Substation will be capable of re-routing traffic over the BTOP fiber or the BPA leased fiber
3. JPUD will coordinate with NoaNet and others for engineering, network design and equipment requirements.