INTERLOCAL AGREEMENT FOR TRANSMISSION LINE RELOCATION COSTS
BETWEEN DOUGLAS COUNTY
AND PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

THIS INTERLOCAL AGREEMENT ("Agreement") is hereby entered into by and between Douglas County, Washington (the "County"), and Public Utility District No. 1 of Chelan County, Washington (the "District"), sometimes collectively referred to as the "Parties". This Agreement is made pursuant to the Interlocal Cooperation Act, Chapter 39.34 RCW.

WHEREAS, the County is engaged in County Eastmont Extension Road Project 924 ("Project"), involving improvements to Eastmont Road in Douglas County, Washington (the "Project"), as generally depicted on the Project plans and specifications. ("Project Plans").

WHEREAS, the District is the owner and holder of easement rights over and across the real property ("Property") upon which the Eastmont Road Project is being constructed.

WHEREAS, the District owns, operates and maintains a transmission line on the Property, ("Transmission Line").

WHEREAS, as a result of the County's Project the District's Transmission Line is impacted and portions of the Transmission Line must be relocated.

WHEREAS, rather than relocating only the impacted portions of the Transmission Line, the District has determined it to be in the Parties best interests to relocate a larger portion of the Transmission Line located adjacent to the improved Eastmont Road into the County right of way and adjacent to the Eastmont Road under a "cost sharing" arrangement with the County pursuant to which the District will pay eighty (80%) percent of the relocation costs and the County will pay Twenty (20%) percent of the relocation costs up to a maximum of $72,000. To be included in this amount, the County has agreed to install culverts for District installation of new transmission poles.
WHEREAS, the County staff and the District staff have worked cooperatively through the preliminary design phase of the Project for the mutual benefit of the Parties and to assure compliance with the Parties' property rights.

WHEREAS, as a result of the cooperative planning between the Parties, the District will develop plans for the relocation of the Transmission Line (the "District Work") which will be completed by the District.

WHEREAS, the District desires to complete its District Work in the Project area before final completion of the Project.

WHEREAS, as set forth in this Agreement, the County and the District desire to continue their cooperative efforts construction of the District Work and the Project by the County.

WHEREAS, the District's easement rights are paramount to the County's rights over and across the Property and the Parties agree that while the Transmission Line is being relocated into the County right of way, the Transmission Line is still within the District's easement and not subject to the District's franchise agreement with the County.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, the foregoing representations, which are incorporated by this reference into the Agreement, the County and the District agree as follows:

1. **Purpose.** The purpose of this Agreement is to coordinate District Work concurrent with Project construction improvements by the County and to provide for the reimbursement to the District by the County for the District Work.

2. **Scope of Work.** District Work includes the relocation of approximately one (1) mile of electrical Transmission Line and associated structures and facilities, and related general, day-to-day, on-site inspection of such work.

3. **County Obligations.** The County shall:

   (a) Coordinate the Project work by the County with the District Work.

   (b) Reimburse the District for Twenty percent (20%) of the District's costs of completing the District's Work up to a maximum reimbursement amount of $72,000. Included in this cost shall be the installation of "culverts" for installation of new transmission poles at mutually agreed upon depths and locations.
(c) Assume liability, indemnify, defend and hold harmless the District for claims related to the County designs of the plans and/or specification for the Project Work, the County's inspection of the Project Work, and for County, or its contractors, errors and omissions and negligence related to the Project Work.

4. **District Obligations.** The District shall:

(a) Coordinate the District Work with the County.

(b) Complete the District Work in coordination with the County Road project schedule.

(c) Assume liability, indemnify, defend and hold harmless the County for claims related to District design of the plans and/or specifications for the District Work, for District inspection of District Work, and for District errors and omissions in its District Work.

(d) Provide general day-to-day, on-site inspection of District Work through an inspector having authority to approve District work and provide inspection services when required by Project progress.

5. **Filing and Effective Date.** This Agreement shall become effective upon the date of the filing of the executed Agreement with the Douglas County Auditor.

6. **Duration and Termination.** This Agreement will terminate after final payment for that portion of the District Work for which the County is responsible by the District from the County upon completion of the District Work. Section 7 below shall survive termination of this Agreement and termination shall not affect or modify the District easement rights.

7. **Future Relocation.** The Parties agree that the District’s easement rights and other property rights over and across the Property upon which the District’s Transmission Line is located (and will be relocated) are paramount to and prior to the rights of the County and that the District Work to relocate the Transmission Line into the public right of way is being performed to accommodate the Project and shall not alter, amend or impact the Rights of the Parties in the Property. Future relocation shall be governed by those rights, including but not limited to the District’s easement, and not pursuant to any franchise agreement between the Parties. Future relocation of the District’s Transmission Line at the County’s request shall, unless otherwise agreed, be at the sole cost of the County.

8. **Payment.** Upon completion of the District Work and receipt of an invoice from the District, the County shall pay the District within thirty (30) days of the date of receipt. The County shall provide documentation to the District of the County costs incurred
to install the culverts agreed upon and the District shall credit this cost against the reimbursement obligation set forth in Section 3(b).

9. **Mutual Indemnity.** To the fullest extent allowed by law:

9.1. The District and its contractors shall indemnify, defend and hold harmless the County, its officers, agents and employees, contractors, and subcontractors from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the District, its officers, agents, and employees, and its contractors in connection with the District Work, or arising out of the District's or its contractors non-observance or non-performance of any law, ordinance, or regulation applicable to the District Work.

9.2. The indemnification obligation of the District and its contractors shall not be limited in any way by the application of any workmen's compensation acts, disability benefit acts or other employee benefit acts and the District expressly waives the protection afforded by such laws. The foregoing waiver and indemnification obligations have been mutually negotiated.

9.3. The County and its contractors shall indemnify, defend and hold harmless the District, its officers, agents, employees, contractors, and subcontractors from and against any and all claims, losses or liability, or any portion thereof, arising from injury or death to persons or damage to property occasioned by any negligent act, omission or failure of the County, its officers, agents, and employees, and its contractors in connection with the Project, or arising out of the County's or its contractors non-observance or non-performance of any law, ordinance, or regulation applicable to the Project.

9.4. The indemnification obligation of the County and its contractors shall not be limited in any way by the application of any workmen's compensation acts, disability benefit acts or other employee benefit acts and the County expressly waives the protection afforded by such laws. The foregoing waiver and indemnification obligations have been mutually negotiated.

10. **Amendment.** The County and the District may mutually amend this Agreement. Such amendment(s) shall not be binding unless made in writing and signed by personnel authorized to bind the County and the District.

11. **Public Records Act.** Public records of either party to this agreement which contain confidential information may be subject to state public records act and other public records laws, as now exist or as may be hereafter amended. If inspection and/or copying of public records containing confidential information is requested, the party to this agreement receiving such request agrees to notify the other party's Public Records Officer of the request at least ten (10) business days prior to the records
being made available for inspection or copying by the requestor. The other party to this agreement may promptly seek a protective order in the appropriate court. The party to which a public records act request is made will reasonably cooperate with the other party to this agreement in its protective order action, but is under no obligation to obtain or seek any court protection. The Parties Public Records Officers are:

The County:
Douglas County Prosecuting Attorney
P.O. Box 360
Waterville, WA 98858
tel. (509) 745-8535
fax (509) 745-8670
email: sclem@co.douglas.wa.us

The District:
Public Records Officer
Public Utility District No. 1 of Chelan County
327 N. Wenatchee Ave
Wenatchee, WA 98807
tel. (509)661-4258
fax (509)661-8121

12. Relationship of Parties. The Parties intend that an independent contractor relationship will be created by this Agreement. Neither party, their officers, employees, agents, contractors or subcontractors shall be considered an agent or employee of the other for any purpose and neither party is entitled to any of the benefits that the other provides for its respective employees.

13. Contact Information. The following shall be the contact person for each party:

The District:
Jim Caldwell, Project Manager
Public Utility District No. 1 of Chelan County
327 N. Wenatchee Ave
Wenatchee, WA 98807
tel. 509-661-4530
fax 509-661-8131
James.caldwell@chelanpud.org

The County:
Douglas Bramlette
County Engineer
Douglas County TLS
140 19th St. N.W.
Each party shall arrange for an alternate contact person in the circumstance that the aforementioned contact person is unavailable.

14. **Governing Law; Venue.** This Agreement is 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 enforcement of this Agreement shall be instituted only in the Superior Court of Douglas County, State of Washington.

15. **Disputes.** In the event that a dispute arises under this Agreement and prior to initiation of any legal action, authorized representatives of each party shall meet and negotiate in good faith to attempt to resolve the dispute.

16. **Attorney Fees; Costs.** If it is necessary for either party to utilize the services of an attorney to enforce any of the terms of this agreement, each party shall be responsible for its own attorneys’ fees and costs.

17. **Mutual Negotiation and Construction.** This Agreement and each of the terms and provisions hereof are deemed to have been explicitly negotiated between, and mutually drafted by, the Parties, and the language in all parts of this Agreement shall, in all cases, be construed according to its fair meaning and not strictly for or against either Party.

18. **Severability.** In the event that any provision of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provision shall be enforced and validated to the extent permitted by law. All other provisions of this Agreement are severable, and the unenforceability or invalidity of any single provision hereof shall not affect the remaining provisions.

19. **Entire Agreement.** The preamble and the Exhibit A attached to this Agreement are incorporated into this Agreement. This instrument embodies the whole agreement of the Parties. There are no promises, terms, conditions, or obligations between the Parties with regard to the subject matter of this Agreement other than those contained in this Agreement. This Agreement supersedes all previous communications, representations or agreements, either oral or written between the parties about the subject matter of the Agreement.
DATED this 20 day of March 2012.

DOUGLAS COUNTY, WASHINGTON
BOARD OF COUNTY COMMISSIONERS

Ken Stanton, Chair

Steve Jenkins, Vice Chair

Dale Snyder, Member

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Prosecuting Attorney

APPROVED BY

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

DATED this 16th day of March 2012.

Kirk Hudson, Managing Director-Generation