

RESOLUTION NO. _____ APPROVING
AN INTERLOCAL AGREEMENT RELATING TO
PAYMENT IN LIEU OF FRANCHISE
COMPENSATION WITH CHELAN COUNTY

FACTUAL BACKGROUND AND REASONS FOR ACTION

Chelan County (“County”) owns public rights of way that the Public Utility District No. 1 of Chelan County (“District”) uses to deliver services to the citizens of Chelan County.

The County granted the District a 20-year franchise agreement (“Franchise Agreement”) by resolution dated June 6, 2025, reserving the right to charge the District compensation for its use of the public rights of way.

Under state law, the County has the right to charge franchisees a fee related to property rights used by the franchisee. In lieu of calculating and implementing such a fee, the County and the District have negotiated an interlocal agreement (“Interlocal Agreement”), a copy of which is attached hereto as Exhibit A, pursuant to which the District will to pay the County an amount based on its retail electric service in the unincorporated County, as outlined below.

Among other points, the Interlocal Agreement provides:

- Beginning in January, 2027, the District will pay the County an amount equal to 5.5% of the District’s prior year’s retail electric service revenue in unincorporated Chelan County, excluding certain categories of load. For illustration purposes, this amount for 2025 would have been \$1.35 million, which represents a floor for such future payments, with certain exceptions.
- The County will use these funds for purposes that benefit the District’s customer-owners, including law enforcement, public works, emergency management, natural and cultural resources, and other categories as the parties may agree. In particular, the County will support the District’s law enforcement needs, consistent with other agreements between the parties regarding that topic.
- The County will not charge the District any fee under the Franchise Agreement during its term and will otherwise seek to increase the County’s revenues consistent with state law.
- The payment under the Interlocal Agreement would cease if the County receives the authority under state law and implements a county utility tax.

District staff have reviewed the Agreement and recommend that it is in the best interest of the District to approve the Agreement.

The General Manager has reviewed the District staff’s recommendation and concurs in the same.

Resolution No. _____

ACTION

IT IS RESOLVED BY THE COMMISSION OF PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON, as follows:

Section 1. The Commission hereby approves the Interlocal Agreement for Payment in Lieu of Franchise Compensation with Chelan County and authorizes the General Manager to execute such Agreement.

Section 2. The Commission hereby delegates to the General Manager, or his designee, the authority to take any and all necessary actions to effectuate the Interlocal Agreement for Payment in Lieu of Franchise Compensation with Chelan County.

Dated this 21st day of September, 2026.

President

ATTEST:

Vice President/s2

Secretary

Commissioner

Commissioner

Contacts:
PM: Justin Erickson

EXHIBIT A – INTERLOCAL AGREEMENT RE: PAYMENT IN LIEU OF FRANCHISE
COMPENSATION

DRAFT

INTERLOCAL AGREEMENT RE: PAYMENT IN LIEU OF FRANCHISE COMPENSATION

THIS INTERLOCAL AGREEMENT ("Agreement") is hereby entered into this date by and between CHELAN COUNTY (the "County"), and the PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY (the "District"), sometimes collectively referred to as the "Parties."

WHEREAS, the COUNTY owns public rights of way that are used by the District to deliver services to the citizens in Chelan County; and

WHEREAS, Resolution 2025-48 was approved by the County on June 6, 2025, thereby granting a 20-year franchise to the District ("Franchise Agreement"); and

WHEREAS, the County does not presently have statutory authority to impose a utility tax; and

WHEREAS, the County may apply a franchise compensation system to capture the value of property rights granted by franchise agreements; and

WHEREAS, the Parties seek to establish a mutually negotiated fee in lieu of a franchise fee or other compensation process.

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/Recitals.

The purpose of this Agreement is to provide a compensation payment from the District to the County in lieu of a franchise fee. The foregoing Recitals are incorporated into this Agreement by reference.

2. Term.

This Agreement shall be effective on the latest date of execution by the Parties ("Effective Date").

This Agreement shall terminate on June 9, 2045, concurrent with the Franchise Agreement, or as otherwise contemplated herein.

Upon termination of this Agreement, all obligations and liabilities incurred by the Parties through the date of termination shall be preserved until satisfied.

Notwithstanding any provision of this Agreement to the contrary, the rights and obligations of this Agreement set out at Sections 6 and 7 shall survive termination of this Agreement.

3. Payment.

On or before January 30 each year, the District shall pay to the County 5.5% of the District's retail electric service revenue in unincorporated Chelan County, excluding Schedule 4 Large Load services and off-system sales, for the prior calendar year ("Payment"). For illustrative purposes, based on 2025 revenue, the Payment would have been approximately \$1.35 million. Except as the Payment may be adjusted under the provisions of Section 5.2, the Parties agree that \$1.35 million shall be the minimum amount for a Payment based on any prior calendar year during the entirety of this Agreement. The first Payment shall be due January 30, 2027.

For the revenue year 2045, should this Agreement not be extended or otherwise renegotiated as part of a new franchise agreement, the District's final payment shall be prorated through June 30, 2045 and paid to the County by January 30, 2046.

4. County's Use of Funds.

The County agrees to use the Payment funds only for the following purposes:

1. County law enforcement operations, including, but not limited to, necessary equipment to patrol and service the Columbia River and Lake Chelan;
2. Activities that fall under the accustomed description of "Public Works," including, but not limited to, road and right-of-way maintenance, snow removal, flooding mitigation, disaster recovery, and similar work;
3. Emergency management administration and activities, including, but not limited to, wildfire resiliency efforts, weather events, environmental hazards and similar activities;
4. Natural and cultural resource activities, including, but not limited to, forestry, conservation, mitigation, preservation, recreation, and similar activities; and
5. Other uses as the Parties may agree in writing.

5. County Obligations.

In consideration of the Payment, the County shall:

1. Suspend application of Section 8 (Franchise Compensation) for the Franchise Agreement for the duration of this agreement.
2. Seek funding sustainability through other means, including an annual adjustment to the property tax levy of at least the 1% levy limit. If the County elects not to make an annual adjustment of at least 1%, the District's Payment percentage of retail electric service revenue in unincorporated Chelan County under Section 3 shall change to 3.5% instead of 5.5% for each year in which the County fails to make the annual adjustment of at least 1%.
3. Support District law enforcement needs on a good faith basis and in accordance with Interlocal Agreement 17-003 (or future agreement) between the Parties, which provides direct reimbursement to the Sheriff's Office for services delivered, such as uniformed law enforcement presence at public meetings and in support of public operations.
4. Upon request, provide the District with a brief annual report of how the Payment funds have been spent by the County.

6. Records.

The Parties shall keep and maintain accurate and complete records pertaining to this Agreement. Each party shall have full access and right to examine any records during the term of this Agreement and for six (6) years thereafter. All records, books, documents and other materials maintained, prepared or issued by each Party in the implementation of this Agreement shall be the property of the issuing Party, and each Party shall have the responsibility of the retention and release of these materials. The records

retention period shall be tolled during the pendency of any claims or suits related in any way to this Agreement and any records for which a party has custody or responsibility shall not be destroyed or purged until final resolution of all claims or lawsuits.

7. Indemnity.

The County shall indemnify, defend and hold harmless the District, its commissioners, 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, in connection with any use of the Payment funds, except to the extent caused by the negligent acts or omissions of the District or its agents.

The indemnification obligation of the County 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.

8. Administration of the Agreement.

No separate legal or administrative entity is created pursuant to this Agreement. The County Administrator will administer this Agreement for the County. The General Manager will administer this Agreement for the District.

9. Termination.

As expressed above, this Agreement shall terminate on June 9, 2045, concurrent with the Franchise Agreement, or as provided in Section 20. This Agreement may also be terminated at any time on such terms as agreed to in a writing signed by the Parties.

10. Notices.

All notices and payments hereunder shall be sent or delivered to the following respective address:

County:

Chelan County Administrator
400 Douglas St. Suite 201
Wenatchee, WA 98801

District:

General Manager
Public Utility District No. 1 of Chelan County
203 Olds Station Rd.
Wenatchee, WA 98801

Or to such other respective addresses as either Party may hereinafter designate in writing (including via email or wire transfer if agreed by the Parties). All notices and payments mailed by regular post (including first class) shall be deemed to be given on the second business day following the date of

mailing. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

11. Amendment.

The County and the District may mutually amend this Agreement in a writing signed by the Parties.

12. 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.

13. Attorney Fees.

In the event of litigation regarding any of the terms of this Agreement, each Party shall pay its own attorney fees and costs.

14. Construction.

This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.

15. 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.

16. Governing Law; Venue.

This Agreement is governed by the laws of the state of Washington, without regard to its conflict of law provisions. The jurisdiction of any action hereunder shall be in the Superior Court, Douglas County, Washington.

17. Public Disclosure.

The obligations of the parties regarding confidential information may be subject to state and federal public disclosure laws, as now exist or as may be hereafter amended. The parties may disclose confidential information to the extent it is required to be disclosed pursuant to the public disclosure laws. If a public disclosure of confidential information is requested, the party receiving the request agrees to notify the other of such request at least ten (10) business days prior to disclosure being made. The other party may immediately seek a protective order in the appropriate court. The receiving party will reasonably cooperate with the other in such action, but is under no obligation to obtain or seek any court protection.

18. Relationship of Parties.

The Parties intend that an independent contractor relationship will be created by this Agreement. Neither Party, its 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.

19. No Third-Party Beneficiaries.

This Agreement is made and entered into for the sole benefit of the Parties, and the Parties intend that no other person or entity shall be a direct or indirect beneficiary of this Agreement.

20. Other Terms.

The Parties may regularly meet to discuss activities and projects of mutual interest and/or benefit. Through this engagement, additional partnership opportunities, which may or may not include funding by either Party or joint funding, may be identified and effectuated via separate interlocal agreements.

Should counties in Washington State gain statutory authority to impose a utility tax similar to municipalities, this Agreement will terminate 180 days after the passage of a resolution by the County to implement said tax. The District's final Payment shall be prorated as of the termination date and is due by January 30 of the following year.

Nothing in this Agreement prohibits the District from contributing funding to additional County projects and areas of mutual interest.

APPROVED BY:

CHELAN COUNTY

This ___ day _____ of 2026.

By: _____

Name: _____

Title: _____

Attest: _____

APPROVED BY:

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

This ___ day of _____, 2026.

By: _____

Name: _____

Title: _____

Attest: _____