

**INTERLOCAL AGREEMENT BETWEEN DIKE DISTRICT #17 AND  
PUBLIC UTILITY DISTRICT NUMBER 1 OF SKAGIT COUNTY**

THIS AGREEMENT is made and entered into this 1<sup>st</sup> day of AUGUST 2018, by and between Dike District #17 of Skagit County, herein referred to as "Dike District #17," and Public Utility District No. 1 of Skagit County herein referred to as "Public Utility District No. 1."

RECITALS

A. WHEREAS, Dike District #17 and Public Utility District No. 1 have the common goal of abandonment and decommissioning of an inactive Ranney Well owned by Public Utility District Number 1. This Ranney Well is located within the Skagit County Dike District No. 17 Levee System at 14012 Riverbend Road, Mount Vernon, Skagit County, Washington; and,

B. WHEREAS, Public Utility District No. 1 is in the process of planning and designing the **Ranney Well Decommission Project** ("Project") with the goal to abandon and decommission the above-described Ranney Well in compliance with all federal, state, and local standards for decommissioning such wells; and,

C. WHEREAS, Dike District #17 requires that it monitor the Project in that the Ranney Well is located within its Levee System; and,

D. WHEREAS, the parties believe the Project will be completed most efficiently and cost effectively if the parties work together towards the collective goal of engineering, undertaking, and completing the Project, consistent with the goals and provisions of the State of Washington Interlocal Cooperation Act, Chapter 39.34 RCW. The scope of work with respect to the Project includes the following: (i) engineering and planning for the Project; (ii) coordinating with federal, state, and local governmental agencies, as appropriate, including, but not limited to, the United States Corps of Engineers ("Corps"); (iii) putting the work out for bid and reviewing and negotiating a contract with a contractor(s) to implement the contracted work to carry out the Project; (iv) scheduling, overseeing, and coordinating the work and the Project so as to ensure it is in compliance with all federal, state, and local requirements, including, but not limited to, those set forth in WAC 173-160-381, and any variances thereunder due to the nature of the Ranney Well; and (v) verifying the completeness of the Project. The parties' agreement set forth below sets forth the responsibilities for each of these tasks; and,

E. WHEREAS, an important aspect of the scope of the work and of the Project is its engineering. By entering into this Agreement, the parties agree Dike District #17 will contract with a qualified engineer or engineers, at the expense of Skagit County Public Utility District No. 1, to assist Dike District #17 in its review of the planned work. The function of the engineer(s) will be to perform a review of the Project plans and bids prepared by Public Utility District No. 1 and to provide recommendations to Public Utility District No. 1 on behalf of Dike District #17. Acceptance of the Project's plans, bid documents, and bids must be by mutual agreement of the parties and the retained engineer(s). Dike District #17's retained engineer(s) shall also inspect the site conditions throughout execution of the Project, inspect the work performed in the execution of the Project, and certify that the actions performed by the contractors, retained by Public Utility District No. 1 in the execution of the Project is consistent with the engineering and the plans prepared by PUD; and,

F. WHEREAS, Dike District #17 and Public Utility District No. 1 are each independently authorized by law to conduct such activity; and,

G. WHEREAS, RCW 39.34.080 authorizes a public agency to contract with another public agency to perform any governmental service, activity, or undertaking which each public agency is authorized to perform, provided that such contract shall be authorized by the governing body of each party to the contract; and,

H. WHEREAS, RCW 39.34.010 permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities, including an agency of state government, on a basis of mutual advantage. In addition, under the authority of the Interlocal Cooperation Act, specifically RCW 39.34.030, public agencies, such as the parties, may enter into Interlocal Agreements such as this one; and,

I. WHEREAS, it is of mutual advantage to Dike District #17 and Public Utility District No. 1 to enter into this Agreement setting forth the scope of the work with respect to the Project providing a mechanism for the work of the engineer(s) selected by and representing Dike District #17 as related to the Project and paid for by Public Utility District No. 1 as part of the Project; and,

J. WHEREAS, it is necessary for Dike District #17 and Public Utility District No. 1 to enter into an agreement setting forth the terms, conditions, and requirements for completing the Project.

#### AGREEMENT

NOW, THEREFORE, in consideration for the terms and conditions contained herein and in the documents incorporated herein, the parties agree as follows:

#### STATEMENT OF WORK

1. The parties agree the sequential steps of the Project are as follows:
  - i. Engineering and Planning for the Work. Public Utility District No. 1 will prepare the engineering and plans for the Project. Dike District #17's retained engineer(s) will review the plans and, in doing so, will coordinate with both Public Utility District No. 1 and Dike District #17. The parties agree it may be necessary to confer and coordinate with other professional consultants, including, but not limited to, a geotechnical consultant, at the expense of the Public Utility District No. 1, and Dike District #17's engineer(s) will coordinate such work and review;
  - ii. Coordination with Governmental Agencies. Public Utility District No. 1 and Dike District #17 and Dike District #17's engineer(s) will work together to coordinate with federal, state, and local governmental agencies, as appropriate, including, but not limited to, the United States Corps of Engineers ("Corps") and State of Washington Department of Ecology ("DOE");
  - iii. Contract Bidding. Public Utility District No. 1, working with Dike District #17's engineer(s), as a reviewer, will put the work out for bid and review and negotiate a contract with a contractor(s) to implement the contracted work to complete the Project;
  - iv. Implementation and Overseeing of Work. Public Utility District No. 1 will schedule, oversee, and coordinate the work and the Project so as to ensure it is in compliance with all federal, state, and local requirements, including, but not limited to, those set forth in WAC 173-160-381 and any and all DOE's regulations and any variances thereunder, due to the nature of the Ranney Well, with input, oversight, and inspections by Dike District #17's engineer(s); and

- v. Certification of the Project. Public Utility District No. 1 will prepare and submit the necessary well abandonment completion reports and any accompanying technical memoranda documenting the activities and an as-built of well abandonment, which such work shall be subject to review and approval by Dike District #17 and its engineer(s).

Dike District #17 will retain and contract with an engineer, or engineers, to represent Dike District #17 in the review of the Project's plans and each sequential step of the scope of work for the Project prior to bidding by Public Utility District No. 1, to support Dike District #17's approval of these plans and scope of work, and to provide construction inspection services as needed to substantiate that all work per the plans prepared by Public Utility District No. 1 has been performed to certify decommissioning of the Ranney Well. The parties agree the scope of work proposal by the engineer(s) will be mutually agreed upon by Public Utility District No. 1 and Dike District #17. The estimated cost of such work is as follows:

Review drafts and provide recommendation for mutual acceptance of drawings and scope of work (Dike District #17 Engineer)	EST	\$4,000
Construction inspection and certification of decommissioning (Dike District #17 Engineer)	EST	\$3,000
<b>TOTAL</b>		<b>\$7,000</b>

**COMPENSATION**

- 2. Dike District #17 will charge Public Utility District No. 1 for the services described above at Dike District #17's actual costs for a maximum compensation not to exceed \$7,000 without further authorization from Public Utility District No. 1. Requests by Dike District #17, or its retained engineer(s), for additional work in excess of the \$7,000 scope of work, shall be negotiated as a mutually agreed written amendment to this Agreement.

**PAYMENT PROCEDURE**

- 3. Dike District #17 shall submit invoices to Public Utility District No. 1 on a monthly basis. Payment shall be made by warrant or account transfer by Public Utility District No. 1 to Dike District #17 within 30 days of receipt of the invoice. Details of payment process shall be determined by the parties' respective financial offices.

**INDEPENDENT CAPACITY**

- 4. The officials, employees and agents of each party who are engaged in the performance of this Agreement shall continue to be officials, employees or agents of that party and shall not be considered for any purpose to be officials, employees or agents of the other party.

**LEGAL RELATIONS**

- 5. By entering into this Agreement, the parties agree the Project is the responsibility of Public Utility District No. 1 and its employees, engineers, and contractors, to complete, at its cost, but is subject to the review of Dike District #17 and the engineer(s) retained by Dike District #17. The parties further agree it will be a condition of the Project that both parties are named as additional insureds under any contractors' insurance policy. Neither party shall be liable for damage or claims which arise from or relate to the performance or non-performance of this Agreement by the other party. Each party shall be responsible only for the negligent acts and omissions of its own officers, employees, and agents, and no party shall be considered the agent of the other.

## ASSIGNMENT

6. Public Utility District No. 1 understands that Dike District #17 will contract with an engineer(s) to provide to Dike District #17 the services as described under this Agreement and amendments thereto. Neither party shall assign or convey its interests or obligations under this Agreement without the written consent of the other. There are no third-party beneficiaries of this agreement.

## DISPUTES

7. It is expected that any conflicts arising out of the implementation of this Agreement will be resolved at the staff level. In the event that issues cannot be resolved by staff in a timely fashion, the parties agree to elevate the dispute through equivalent management levels of each party, and if necessary to Public Utility District No. 1 General Manager and the Dike District #17 Commissioners.

In the event that a dispute cannot be resolved in the manner described above, resolution of the dispute shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, contract terms and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.

## AMENDMENT

8. This Agreement shall be amended only by written mutual agreement of the parties. Amendments to this Agreement may be initiated by any of the parties and will become final after written agreement by all parties and appropriate signatories is executed.

## TERMINATION

9. This Agreement is effective from the date of signature by all parties and remains in effect until modified by written mutual agreement, termination as provided below, or completion of the Project. Either party may terminate this Agreement upon thirty (30) days written notification to the other party. If this Agreement is so terminated, Public Utility District No. 1 shall be responsible to Dike District #17 for performance rendered or costs incurred or contracted for in accordance with the terms of this Agreement prior to the effective date of termination, including the cost of any work contracted for by Dike District #17 and the cost to Dike District #17 to terminate the contract for said work.

## CONTRACT MANAGEMENT

10. The contract administrators shall be the persons listed below. The contract administrator for each party shall be responsible for and shall be the contact person for all notices and communications regarding the performance of this Agreement.

Public Utility District No. 1

Wendy LaRocque  
Environmental Compliance Coordinator  
Public Utility District No. 1 of Skagit County  
PO Box 1436  
1415 Freeway Drive  
Mount Vernon, WA 98273  
(360) 848-4451  
larocque@skagitpud.org

Dike District #17

Dale Ragan  
Commissioner Position 1  
Dike District #17 of Skagit County  
219 Warren Street  
Mount Vernon, 98273  
(360) 708-0975  
daleragan@comcast.net

and to:

Daryl Hamburg  
Dike District #17 of Skagit County  
Director of Operations  
P.O. Box 2926  
Mount Vernon, WA 98273  
(360) 708-7670  
dhamburgdd17@outlook.com

### **GOVERNANCE**

11. This Agreement is entered into and under the authority granted by the laws of the state of Washington and any applicable federal laws. The provisions of this Agreement shall be construed to conform to those laws.

In the event of an inconsistency in the terms of this Agreement, or between its terms and any applicable statute or rule, the inconsistency shall be resolved by giving precedence in the following order:

- Applicable state and federal constitution statutes and rules;
- Statement of work; and
- Any other provisions of the Agreement, including materials incorporated by reference.

### **WAIVER**

12. The failure to seek redress for violation of, or to insist upon the strict performance of, any covenant or condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a violation, from having the effect of an original violation.

### **SEVERABILITY**

13. If any provision of this Agreement, or any provision of any document incorporated by reference, shall be held by a court of competent jurisdiction to be invalid, the remainder of this Agreement, and such, will remain in full force and effect.

### **ALL WRITINGS CONTAINED HEREIN**

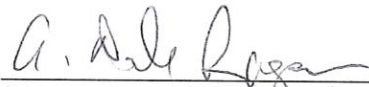
14. This Agreement, including its exhibits, constitute the entire agreement between the parties regarding the project and supersedes all prior agreements and understandings between the Parties relating to the subject matter of the Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**ADDITIONAL PROVISIONS**

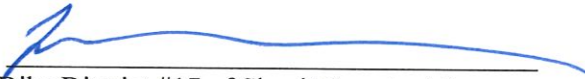
- 15. This Agreement does not create any separate legal entity, create any joint organization, establish any common budget, nor authorize the joint acquisition of any personal or real property.
- 16. This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original, but any number of which, taken together, will be deemed to constitute one and the same instrument.

DATED this 30 day of JULY, 2018.

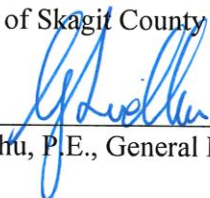
Dike District #17 of Skagit County

By:   
Commissioner Position # 1

APPROVED AS TO FORM:

By:   
Dike District #17 of Skagit County Attorney,  
Laura Minton Breckenridge

PUD No. 1 of Skagit County

  
George Sidhu, P.E., General Manager

APPROVED AS TO FORM:

  
PUD No. 1 of Skagit County Attorney