

## RESOLUTION NO. 1562

**A RESOLUTION** of the Board of Commissioners of Public Utility District No. 1 of Okanogan County relating to the acquisition by eminent domain of certain properties and property interests required for the installation and maintenance of structures and other improvements necessary for the possession, use, development and construction of facilities and infrastructure and for use by the public for the transmission and distribution of electrical power and telecommunications within the District, describing the public convenience, use, and necessity of such properties and property interests; providing for condemnation, appropriation and use of the property interests, providing the mode of payment for cost of acquisition of the property interests, and directing the District's legal counsel and its designees to prosecute an action in Okanogan Superior Court in the event that efforts to acquire the property interests are not successful.

**WHEREAS**, there exists within the District certain properties and certain property interests identified in Exhibit 1 attached hereto, which are necessary for construction of a transmission, distribution and fiber-optic line; and

**WHEREAS**, the owner has been previously notified by certified mail and by publication as required by law; and

**WHEREAS**; the Board of Commissioners finds that acquisition and use of easements over said properties is critical to the District's public purposes and it is in the public interest to acquire such easements in order to fulfill the District's mission of providing safe, reliable and cost-effective electrical power and telecommunications for its customers; and

**WHEREAS**, the District prefers to acquire property interests through negotiations with the owners of the property over which those easements must run, and while the District and its employees and agents have undertaken negotiations to acquire all necessary easements, time is of the essence and the District may be unable to acquire those easements through negotiation; and

**WHEREAS**, the District derives its condemnation authority pursuant to RCW 54.16.020, which provides that the District's condemnation authority shall be exercised in the same manner and by the same procedure as is provided for the exercise of that power by cities and towns of the state in the acquisition of property and property rights; and

**WHEREAS**, based on the foregoing, the Board of Commissioners of Public Utility District No. 1 of Okanogan County finds that it is necessary to acquire the subject property interests by eminent domain, now therefore,

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF PUBLIC UTILITY DISTRICT NO. 1 OF OKANOGAN COUNTY as follows:**

Section 1. Description. The real property interests (easements) that are the subject of this resolution are to run over and across the real property described in Exhibit 1, and that description is incorporated herein by this reference.

Section 2. Public Use and Necessity. The public's use and necessity requires the acquisition of the real property interests described in Section 1 for possession, ownership, development, construction and maintenance of structures and infrastructure necessary to construct and maintain distribution, transmission, and fiber-optic lines and support structures and other infrastructure in order to allow for the safe and reliable transmission and distribution of electrical power and communications to the District's customers.

Section 3. Condemnation of Property. The real property interests (easements) over and across the real property described in Section 1 herein are hereby condemned and appropriated and taken for the purposes described in Section 2 herein, only after just compensation has been made, or paid into the Court for the owner thereof in a manner provided by law; provided, however, that the District may seek "early possession" as provided by statute.

Section 4. Costs of Acquisition. The costs of the acquisition provided for by this resolution shall be paid by the general fund of Okanogan County Public Utility District No.1, or such other funds of the District as may be provided by law.

Section 5. Direction to and Authority of the District's Legal Counsel and Designees. The District's staff is hereby directed to continue negotiations with the owner to acquire the property interests described in Section 1 above. Pursuant to its authority, the District elects to opt out of the provisions of RCW 8.26.035 through 8.26.115. The District's legal counsel and/or its designee is hereby authorized and directed to begin and to prosecute actions and proceedings in a manner provided by law to condemn, take, damage and appropriate the real property interests necessary to carry out the provisions of this resolution. In conducting such condemnation proceedings, the District's legal counsel is hereby authorized to enter into stipulations for the purpose of minimizing damages and/or providing for "early possession" of such property interests.

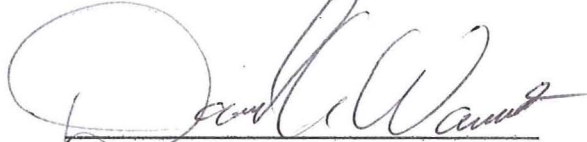
**Section 6. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this resolution is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution.

(2) If the provisions of this resolution are found to be inconsistent with other provisions of the District's adopted procedures and policies, this resolution is deemed to control.

Section 7. Effective Date. This resolution shall take effect and be in full force and effect upon passage.

Passed by the Board of Commissioners this 23<sup>rd</sup> day of April, 2013.

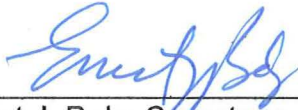


David A. Womack, President



Steve Houston, Vice President

ATTEST:



Ernest J. Bolz, Secretary

APPROVED AS TO FORM:



Michael D. Howe, Legal Counsel  
Okanogan County PUD

EXHIBIT 1

OKANOGAN COUNTY  
T37 R27 S25

PARCEL  
3727250020

PARCEL  
3727250021

PARCEL  
3727250022

PARCEL  
3727251009

EXISTING DISTRIBUTION

MOON DUST RD

100 ft.  
WIDE ROW

ROW

ROW

