

FACILITY RELOCATION AGREEMENT

This Agreement, dated as of _____, 2020, is made and entered into by and between Puget Sound Energy, Inc., a Washington corporation (“PSE”), and the City of Redmond, (“Government Entity”). PSE and the Government Entity are sometimes referred to herein individually as a "Party" and collectively as the “Parties.”

RECITALS

A. PSE owns and operates certain utility systems and facilities necessary and convenient to the transmission and distribution of electricity ("Facilities") that are located on or in relation to certain operating rights ("Existing Operating Rights"). The Facilities and Existing Operating Rights are more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

B. The Government Entity plans to construct improvements to the SR520 west bound on ramp at NE 40th St (“Improvements”).

C. In connection with the Improvements, the Government Entity has requested that PSE perform certain engineering design work and certain construction work relating to modification or relocation of its Facilities ("Relocation Work"), all in accordance with and subject to the terms and conditions of this Agreement, and any applicable tariff on file with the Washington Utilities and Transportation Commission (“WUTC”).

D. The Government Entity has provided to PSE a written plan for the Improvements (“Improvement Plan”) which includes, among other things, (a) plans and specifications sufficient in detail, as reasonably determined by PSE, for PSE to design and perform the Relocation Work, including reasonably detailed drawings showing the planned Improvements, (b) a list of the key milestone dates for the Improvements, and (c) information concerning possible conflicts between PSE's Facilities and other utilities or facilities.

The Parties, therefore, agree as follows:

AGREEMENT

Section 1. Relocation Work

1.1 Relocation Work. The Relocation Work is described in Exhibit B attached to this Agreement.

1.2 Performance of Relocation Work. Subject to the terms and conditions of this Agreement and any applicable tariffs on file with the WUTC, PSE shall use reasonable efforts to perform the Relocation Work. PSE shall perform the Relocation Work in accordance with the schedule provided in Exhibit B (the “Relocation Schedule”) with

reasonable diligence in the ordinary course of its business and in light of any operational issues as to the remainder of its utility systems that may be influenced by the Relocation Work. PSE shall have no liability to the Government Entity or any third party, nor shall the Government Entity be relieved or released from its obligations hereunder, in the event of any delay in the performance of the Relocation Work due to any (a) repair, maintenance, improvement, renewal or replacement work on PSE's utility systems, which work is necessary or prudent as determined by PSE in its sole discretion; or (b) actions taken by PSE which are necessary or consistent with prudent utility practices to protect the performance, integrity, reliability or stability of PSE's utility systems or any systems to which such systems are connected.

1.3 Adjustments to the Relocation Work. PSE shall notify the Government Entity in writing of any reasonably anticipated adjustments to the Relocation Work (including the Relocation Schedule and/or Relocation Cost Estimate) that result from (a) the revision or modification of any Improvements in a manner that requires PSE to revise its plans and specifications for the Relocation Work; (b) delays in PSE's performance of the Relocation Work caused by the Government Entity (or its agents, servants, employees, contractors, subcontractors, or representatives); or (c) conditions or circumstances otherwise beyond the control of PSE. The Parties acknowledge that additional requirements not contemplated by the Parties may arise during the performance of the Relocation Work. In the event such additional requirements arise, the Parties shall provide written notice thereof and shall use good faith reasonable efforts to appropriately respond to such requirements in a prompt and efficient manner, including appropriate adjustments to the Relocation Schedule and/or the Relocation Cost Estimate.

1.4 Performance by Government Entity. In the event the Government Entity is unable to perform its obligations under Sections 2 and 3 below to PSE's reasonable satisfaction, and absent written waiver by PSE of such obligations, the Parties shall use reasonable efforts to adjust the Relocation Schedule to allow additional time for the Government Entity to perform such obligations; provided, that if the Parties cannot reasonably agree upon such schedule adjustment, PSE may, at its option, thereafter terminate this Agreement by giving written notice to the Government Entity, and the Government Entity shall promptly pay PSE the amounts payable to PSE in connection with such termination under Section 6.5. PSE's determination as to the satisfaction or waiver of any such condition under this Agreement shall not be deemed to be a determination of satisfaction or waiver of any other condition arising under this Agreement.

1.5 Notice to Proceed with Construction Work. At least 15 days prior to the date specified in the Relocation Schedule for commencement of construction for the Relocation Work, the Government Entity shall either (a) provide to PSE a written notice to proceed with such construction work, or (b) terminate this Agreement by written notice to PSE. In the event of such termination, the Government Entity shall promptly pay PSE the amounts payable to PSE in connection with termination under Section 5.5.

Section 2. Operating Rights.

Unless otherwise provided for in Exhibit B, the Government Entity shall be solely responsible for any costs related to acquisition of any and all operating rights for the Facilities that are necessary or appropriate, in addition to or as replacement for the Existing Operating Rights, for completion of the Relocation Work ("New Operating Rights"). Such New Operating Rights shall be in PSE's name, shall be of equivalent quality and kind as the Existing Operating Rights and shall be provided in a form acceptable to PSE, all as determined by PSE in its sole discretion. The New Operating Rights shall be provided with sufficient title information demonstrating to PSE's satisfaction that PSE shall obtain clear, good and sufficient title to such rights, if applicable. PSE shall not be obligated to commence the Relocation Work, or otherwise in any way change, limit, curtail, impair or otherwise affect the normal and reliable operation of the Facilities as located upon or relative to the Existing Operating Rights, unless and until PSE is in possession of the New Operating Rights.

Section 3. Permits.

The Government Entity shall be solely responsible for any costs related to acquisition of any and all permits, licenses, certificates, inspections, reviews, impact statements, determinations, authorizations, exemptions or any other form of review or approval given, made, done, issued or provided by any one or more governmental authorities with jurisdiction necessary or convenient for the Relocation Work (collectively, "Permits"). The Permits shall be on such terms and conditions as PSE shall, in its sole discretion, determine to be appropriate to its needs. PSE shall not be obligated to commence construction for the Relocation Work, or otherwise in any way change, limit, curtail, impair or otherwise affect the normal and reliable operation of the Facilities, unless and until PSE is in possession of all Permits necessary for the Relocation Work and all rights of appeal with respect to the Permits shall have been exhausted. The Government Entity shall be responsible for performance of and any costs associated with any mitigation required by the Permits.

Section 4. Materials and Ownership

Unless otherwise specifically agreed in writing by the Parties, PSE shall provide all necessary materials, equipment and labor to perform the Relocation Work. All materials, information, property and other items provided for, used or incorporated into the Relocation Work (including but not limited to the Facilities) shall be and remain the property of PSE.

Section 5. Relocation Costs

5.1 Estimate. PSE's good faith estimate of the costs to perform the Relocation Work (the "Relocation Cost Estimate") is \$394,155.06. The Parties agree that the Relocation Cost Estimate is an estimate only and PSE shall be entitled to reimbursement of all actual costs incurred in or allocable to the performance of the Relocation Work.

5.2 Costs in Excess of Estimate. PSE shall use reasonable efforts to monitor its actual costs incurred during the performance of the Relocation Work, and in the event PSE determines that such costs are likely to exceed the Relocation Cost Estimate by more than twenty percent (20%), PSE shall so notify the Government Entity in writing. In such event PSE may, at its discretion, suspend performance the Relocation Work and PSE shall not be obligated to continue with performance of any Relocation Work unless and until PSE receives the Government Entity's written acceptance of PSE's revised Relocation Cost Estimate and written notice to proceed with the Relocation Work. In the event PSE does not receive such written acceptance and notice from the Government Entity within ten (10) working days from the date of PSE's notice, then PSE may, at its discretion, terminate this Agreement. In the event of such termination, the Government Entity shall promptly pay PSE the amounts payable to PSE in connection with termination under Section 5.5.

5.3 Relocation Costs. The Government Entity shall be responsible for, and shall reimburse PSE for, all costs and expenses incurred by PSE in connection with the performance the Relocation Work (the "Relocation Costs"). For purposes of this Agreement, the Relocation Costs shall include, without limitation, any and all direct and indirect costs incurred by PSE in connection with the performance of the Relocation Work, including, but not limited to, labor, personnel, supplies, materials, overheads, contractors, consultants, attorneys and other professionals, administration and general expenses and taxes.

5.4 Statement of Costs - Invoice. Within sixty (60) days of the completion of the Relocation Work, PSE shall provide the Government Entity with a statement and invoice of the actual Relocation Costs incurred by PSE. PSE shall provide, within a reasonable period after receipt of any written request from the Government Entity, such documentation and information as the Government Entity may reasonably request to verify any such invoice.

5.5 Costs Upon Termination of Agreement. In the event either Party terminates this Agreement, the Government Entity shall promptly pay PSE, the following:

(a) all costs and expenses incurred by PSE in connection with the Relocation Work (including, without limitation, all Relocation Costs incurred through the date of termination and such additional costs as PSE may incur in connection with its suspension or curtailment of the Relocation Work and the orderly termination of the Relocation Work); and

(b) all costs and expenses incurred by PSE in returning and restoring the Facilities to normal and reliable commercial operations.

5.6 Payment. The Government Entity shall, within thirty (30) days after the receipt of an invoice for costs payable under this Agreement, remit to PSE payment for the full amount of the invoice.

Section 6. Indemnification

6.1 Indemnification. The Government Entity releases and shall defend, indemnify and hold harmless PSE from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by or arising out of any negligent act or omission or willful misconduct of the Government Entity in its performance under this Agreement. PSE releases and shall defend, indemnify and hold harmless the Government Entity from all claims, losses, harm, liabilities, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees) caused by or arising out of any negligent act or omission or willful misconduct of PSE in its performance under this Agreement. During the performance of such activities employees or contractors of each Party shall at all times remain employees or contractors, respectively, that Party and shall not be, or be construed to be, employees or contractors, respectively, of the other Party.

6.2 Title 51 Waiver. Solely for purposes of enforcing the indemnification obligations of a Party under this Section 8, each Party expressly waives its immunity under Title 51 of the Revised Code of Washington, the Industrial Insurance Act, and agrees that the obligation to indemnify, defend and hold harmless provided for in this Section 8 extends to any such claim brought against the indemnified Party by or on behalf of any employee of the indemnifying Party. The foregoing waiver shall not in any way preclude the indemnifying Party from raising such immunity as a defense against any claim brought against the indemnifying Party by any of its employees.

Section 7. Disclaimers and Limitation of Liability

7.1 Disclaimer. PSE makes no representations or warranties of any kind, express or implied, with respect to the Relocation Work or other items or services provided under this Agreement including, but not limited to, any implied warranty of merchantability or fitness for a particular purpose or implied warranty arising out of course of performance, course of dealing or usage of trade.

7.2 Limitation of Liability. In no event shall PSE be liable, whether in contract, warranty, tort or otherwise, to any other party or to any other person for any indirect, incidental, special or consequential damages arising out of the performance or nonperformance of the Relocation Work or this Agreement.

Section 8. Miscellaneous

8.1 Tariffs Control. This Agreement is in all respects subject to all applicable tariffs of PSE now or hereafter in effect and on file with the WUTC. In the event of any conflict or inconsistency between any provision of this Agreement and any such tariff, the terms of the tariff shall govern and control.

8.2 Survival. Sections 2, and 4 through 8 shall survive any termination of this Agreement. Subject to the foregoing, and except as otherwise provided herein, upon and

following termination of this Agreement neither Party shall have any further obligations arising under this Agreement and this Agreement shall be of no further force or effect.

8.3 Waiver. The failure of any Party to enforce or insist upon strict performance of any provision of this Agreement shall not be construed to be a waiver or relinquishment of any such provision or any other provision in that or any other instance; rather, the same shall be and remain in full force and effect.

8.4 Entire Agreement. This Agreement, including any exhibits hereto, sets forth the complete and integrated agreement of the Parties. This Agreement cannot be amended or changed except by written instrument signed by the Party to be bound thereby.

8.5 Force Majeure. In the event that either Party is prevented or delayed in the performance of any of its obligations under this Agreement by reason beyond its reasonable control (a "Force Majeure Event"), then that Party's performance shall be excused during the Force Majeure Event. Force Majeure Events shall include, without limitation, war; civil disturbance; storm, flood, earthquake or other Act of God; storm, earthquake or other condition which necessitates the mobilization of the personnel of a Party or its contractors to restore utility service to customers; laws, regulations, rules or orders of any governmental agency; sabotage; strikes or similar labor disputes involving personnel of a Party, its contractors or a third party; or any failure or delay in the performance by the other Party, or a third party who is not an employee, agent or contractor of the Party claiming a force Majeure Event, in connection with the the Relocation Work or this Agreement. Upon removal or termination of the Force Majeure Event, the Party claiming a Force Majeure Event shall promptly perform the affected obligation in an orderly and expedited manner under this Agreement or procure a substitute for such obligation. The Parties shall use all commercially reasonable efforts to eliminate or minimize any delay cause by a Force Majeure Event.

8.6 Enforceability. The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

8.7 Notice. Any notice, request, approval, consent, order, instruction, direction or other communication under this Agreement given by either Party to the other Party shall be in writing and shall be delivered in person to an authorized representative or mailed, properly addressed and stamped with the required postage, to the intended recipient at the address and to the attention of the person specified below the Parties' respective signatures on this Agreement. Either Party may from time to time change such address by giving the other Party notice of such change in accordance with this section.

8.8 Governing Law. This Agreement shall be interpreted, construed and enforced in all respects in accordance with the laws of the State of Washington. This Agreement shall be fully binding upon the Parties and their respective successors, assigns and legal representatives.

In witness whereof, the Parties have executed this Agreement as of the date set forth above.

PSE:

Government Entity:

Puget Sound Energy, Inc.

By _____

By _____

Its _____

Its _____

Address: _____

Address: _____

Attn: _____

Attn: _____

EXHIBIT A

FACILITIES AND EXISTING OPERATING RIGHTS

The following PSE facilities located along west side of the SR520 West Bound On-Ramp at the intersection of NE 40th Street by right of 15' electric easement #8202230767 have been identified as needing to be relocated to accommodate construction of the city improvements.

1. Vaults and Equipment

- A. Switch 223823-167934
- B. Switch 223821-167934
- C. Junction box vault 223823-167935
- D. Junction box vault 223822-167935
- E. Feeder pull vault 223829-167929

2. Underground cables

- A. Distribution cables 26294, 26295, 26296
- B. Distribution cables ABM312, ABM313, ABM314
- C. Distribution cables ABM382, ABM383, ABM384
- D. Distribution cables ABM397, ABM398, ABM399
- E. Distribution cable ABR808
- F. Distribution cables: ABM388, ABM389, ABM390, ABM391, ABM392, ABM393
- G. Distribution cables: ABM400, ABM401, ABM402, ABM403, ABM404, ABM405
- H. Distribution cables: TER753, TER754, TER755
- I. Distribution cables: AER765, AER766, AER767, AER768, AER769, AER770, AER771, AER772, AER773, AER774, AER775, AER776

EXHIBIT B
RELOCATION WORK
(PSE FINAL DESIGN ATTACHED)