

FRANCHISE AGREEMENT BETWEEN THE CITY AND COUNTY OF DENVER AND
PUBLIC SERVICE COMPANY OF COLORADO

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ARTICLE 1 DEFINITIONS

For the purpose of this Franchise, the following words and phrases shall have the meaning given in this Article. When not inconsistent with context, words used in the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. The word “shall” is mandatory and “may” is permissive. Words not defined in this Article or elsewhere in this Franchise shall be given their common and ordinary meaning.

§ 1.1 “Applicable Authority” or “Applicable Authorities” refers to any governmental entity, vested by law with authority to do the act or to make the order, law, rule or regulation involved, including the Public Utilities Commission (“PUC”).

§ 1.2 “Applicable Law” refers to orders, laws, rules or regulations adopted or enacted by any Applicable Authority.

§ 1.3 “As-Built Drawings” refers to hard or electronic copies or drawings of Company Facilities as maintained in the Company’s business records.

§ 1.4 “Aviation Property” refers to all land comprising the Denver International Airport as described and depicted in Exhibit A attached hereto (the “Site Plan”).

§ 1.5 “City” refers to the City and County of Denver, a municipal corporation of the State of Colorado, organized and existing under Article XX of the Constitution of the State of Colorado and the Home Rule Charter of the City.

§ 1.6 “City Council” or “Council” refers to the legislative body of the City.

§ 1.7 “CORA” refers to the Colorado Open Records Act (C.R.S. § 24-72-201 *et seq.*).

§ 1.8 “Company” refers to Public Service Company of Colorado, a Colorado corporation, and an Xcel Energy company, and its successors and assigns consistent with Article 14 hereinafter, and including affiliates or subsidiaries that undertake to perform any of the obligations under this Franchise.

§ 1.9 “Company Facilities” refer to all facilities owned by the Company reasonably necessary or desirable to provide Utility Service, as defined in this Franchise, into, within and through the City, including but not limited to plants, works, systems, substations, transmission and distribution structures and systems, lines, equipment, vehicle charging stations and equipment, energy storage devices, distributed generation, pipes, mains, conduit, transformers, underground lines, gas compressors, meters, meter reading devices, valve sets, communication and data transfer equipment, control equipment, gas regulator stations, street lights, wire, cables and poles and associated appurtenances.

§ 1.10 “Denver Water Property” refers to any property of the Water Board (including, without limitation any easement, right-of-way, street, avenue, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, viaduct, or other property owned by the Water Board or hereafter held by the Water Board).

§ 1.11 “Electric Gross Revenue” refers to those amounts of money that the Company receives from the sale and/or delivery of electricity in the City, after adjusting for refunds, net write-offs of uncollectable accounts, corrections, or regulatory adjustments. Regulatory adjustments include, but are not limited to, credits, surcharges, refunds, and pro-forma adjustments pursuant to federal or state regulation. Electric Gross Revenue shall exclude any revenue for the sale or delivery of electricity to the City as a customer of the Company.

§ 1.12 “Force Majeure Event” refers to a cause, condition or event that could not be reasonably anticipated by a party or is beyond a party’s reasonable control after exercise of best efforts to perform. Such cause, condition or event might include but is not limited to fire, strike, war, riots, terrorist acts, acts of governmental authority, acts of God, floods, extreme weather events, epidemics, quarantines, discovery of unforeseen conditions, labor disputes, unavailability or shortages of materials or equipment or failures or delays in the delivery of materials.

§ 1.13 “Franchise” or “Franchise Agreement” refers to this franchise agreement between the City and the Company.

§ 1.14 “Gross Revenue” refers to those amounts of money which the Company receives from (1) the sale and/or delivery of Utility Service to Residents; and (2) use of poles and other Company Facilities in Public Ways and Places or Other City Property. Such revenues shall be adjusted for refunds, net write-offs of uncollectable accounts, corrections, expense reimbursements or regulatory adjustments. Regulatory adjustments include, but are not limited to, credits, surcharges, refunds, and pro-forma adjustments pursuant to federal or state regulation. Gross Revenue shall exclude any revenues for the sale or delivery of Utility Service to the City.

§ 1.15 “Industry Standards” refers to requirements adopted by government agencies that direct the materials, specifications, testing, construction, repair, maintenance, manufacturing, and other facets of the operation of Company Facilities. Such agencies include, but are not limited to the U.S. Department of Transportation, the Federal Energy Regulatory Commission (“FERC”), the North American Electric Reliability Corporation (“NERC”), the Pipeline and Hazardous Materials Safety Administration (“PHMSA”), the Colorado Public Utilities Commission and the National Electric Safety Code (“NESC”).

§ 1.16 “Manager of Aviation” refers to the Manager of Aviation for the City or its successor as designated in the Charter of the City, or such Manager’s designee.

§ 1.17 “Manager of DOTI” refers to the Manager of the Department of Transportation and Infrastructure for the City or its successor as designated in the Charter of the City, or such Manager’s designee.

§ 1.18 “Manager of Finance” refers to the Manager of Finance for the City or its successor as designated in the Charter of the City, or such Manager’s designee.

§ 1.19 “New Development Area” refers to any real estate or property upon which an owner or developer intends to construct or reconstruct a structure or develop a subdivision (residential, commercial, industrial, mixed use, etc.), including previously undeveloped land, infill, and redevelopment exceeding five (5) acres.

§ 1.20 “Other City Property” refers to the surface, the air space above the surface and the area below the surface of any real property owned or controlled by the City, including, but not limited to, Parks, open space, or City buildings. Other City Property shall not include Public Ways and Places, Public Utility Easements, or Denver Water Property.

§ 1.21 “Parks” refers to designated parks as provided for in Denver Charter Section 2.4.5.

§ 1.22 “Private Project” refers to any project which is not covered by the definition of Public Project.

§ 1.23 “Public Project” refers to any public work or improvement project located within the Territorial Boundaries of the City, including Aviation Property that (1) is wholly owned by the City for the benefit of the public or (2) where fifty percent (50%) or more of the funding is provided by any combination of: the City, the federal government, the State of Colorado, any adjacent county, Regional Transportation District, Metro Water Recovery, and Urban Drainage and Flood Control District (d/b/a Mile High Flood District), a Local Improvement District, a General Improvement District or a Tourism Improvement District or other entities that are equivalent in purpose and use, but excluding other entities established under Title 32 of the Colorado Revised Statutes, other entities that are equivalent in terms of purpose and use, and governmental entities outside of the Territorial Boundaries of the City not otherwise listed above.

§ 1.24 “Public Utilities Commission” or “PUC” refers to the Public Utilities Commission of the State of Colorado or other state agency succeeding to the regulatory powers of the Public Utilities Commission.

§ 1.25 “Public Utility Easement” refers to an easement over, under, across, upon, or above public or private property, platted or otherwise dedicated that allows the right to use and access such property for constructing, reconstructing, operating, maintaining, inspecting, and repairing utilities or utility facilities, including but not limited to Company Facilities.

§ 1.26 “Public Ways and Places” refer to the surface, the air space above the surface and the area below the surface of any City dedicated public right-of-way or Aviation Property. Public Ways and Places shall not include Other City Property or Denver Water Property.

§ 1.27 “Relocate” and “Relocation,” and any variation thereof, means a temporary or permanent change or alteration by the Company in the position of any Company Facilities.

§ 1.28 “Residents” refers to all persons, businesses, industries, governmental agencies, and any other entity whatsoever, presently located or to be hereinafter located, in whole or in part, within the Territorial Boundaries of the City.

§ 1.29 “Supporting Documentation” refers to all information reasonably necessary for the Company to design, construct, or assess cost allocation for any work performed under the provisions of this Franchise in the City’s possession or control, including design, engineering documents and other information prepared by the City for its project in accordance with Applicable Law.

§ 1.30 “Tariffs” refer to those tariffs of the Company on file and in effect with the PUC or other governing jurisdiction, as amended from time to time.

§ 1.31 “Territorial Boundaries of the City” refers to the territorial boundaries of the City as it is now or hereafter constituted and, for purposes of this Franchise includes Aviation Property.

§ 1.32 “Traffic Facilities” refer to traffic signal facility, as such term is defined in the Tariffs, located in any Public Ways and Places or Other City Property.

§ 1.33 “Utility Easements” refer to (1) easements or irrevocable licenses granted to the Company for the fair market value consideration of the easement property over, on or under Public Ways and Places or Other City Property (2) easements or irrevocable licenses granted prior to the effective date of this franchise to the Company by a party other than the City over, on or under Public Ways or Places or Other City Property or (3) easements or irrevocable licenses granted after the effective date of this franchise to the Company by a party other than the City over, on or under Other City Property.

§ 1.34 “Utility Emergency” means downed, damaged or hazardous power and/or transmission lines, poles or other overhead and below grade services power equipment or facilities; gas pipeline breaks, failures or hazards; other Company Facility system breaks, collapse or failures, or other mishaps occurring in connection with the activities of public utilities involving an imminent threat to public safety and welfare, which includes a significant impact to Utility Service to Residents, requiring immediate action by the Company but does not require a declaration of emergency by Applicable Authority.

§ 1.35 “Utility Service” refers to and includes, but is not limited to, the furnishing, supplying, selling, delivering, generating, producing, manufacturing, storing, purchasing, exchanging, transmitting, transporting, and distributing gas, gaseous fuels, electricity, steam, chilled water, and any other services offered by the Company within the Territorial Boundaries of the City for lighting, heating, cooling, power, or similar utility purposes.

§ 1.36 “Water Board” refers to the City acting by and through its Board of Water Commissioners.

ARTICLE 2 GRANT OF FRANCHISE

§ 2.1 Grant of Franchise.

A. Grant. The City hereby grants to the Company, subject to all conditions and limitations, terms, and provisions contained in this Franchise, the non-exclusive right to make reasonable use of Public Ways and Places:

- (1) to provide Utility Service to the City and to its Residents; and
- (2) to acquire, purchase, construct, install, locate, maintain, operate, upgrade, and extend into, within and through the Territorial Boundaries of the City all Company Facilities reasonably necessary for the

generation, production, manufacture, sale, storage, purchase, exchange, transportation, transmission and distribution of Utility Service within and through the Territorial Boundaries of the City.

- B. Street Lighting and Traffic Facility Service. The rights granted by this Franchise encompass the nonexclusive right to provide street lighting service and Traffic Facility services as directed by the City and, where applicable, the provisions of this Franchise shall apply with full and equal force to street lighting service Traffic Facility service provided by the Company pursuant to its Tariffs. Wherever reference is made in this Franchise to the sale of Utility Service or to the provision of Utility Service, these references shall be deemed to include the provision of street lighting service and Traffic Facility service.

§ 2.2 Conditions and Limitations.

- A. Scope of Franchise. The grant of this Franchise shall extend to all areas within the Territorial Boundaries of the City; however, nothing contained in this Franchise shall be construed to authorize the Company to engage in activities other than provision of Utility Service.
- B. Subject to City Usage. The Company's right to make reasonable use of Public Ways and Places to provide Utility Service to the City and its Residents is subject to and subordinate to any City usage of said Public Ways and Places, including any limitations on Aviation Property imposed by any Applicable Authority, including but not limited to, the Manager of Aviation, such as security requirements, bond ordinance limitations, and operational requirements as well as Federal Aviation Administration requirements.
- C. Prior Grants Not Revoked. This grant is not intended to revoke any prior license, grant, or right to use Other City Property and such licenses, grants or rights of use are hereby affirmed.
- D. Franchise Not Exclusive. The rights granted by this Franchise are not, and shall not be deemed to be, granted exclusively to the Company, and the City reserves the right to make or grant a Franchise to any other person, firm, or corporation.
- E. Police Powers. The Company expressly acknowledges the City's right to adopt, from time to time, in addition to the provisions contained here in such laws as it may deem necessary in the exercise of its governmental powers. If the Manager of DOTI or the Manager of Aviation considers making any substantive changes to local codes or regulations that in their reasonable opinion will significantly impact the Company's operations in the Public Ways and Places, they will make a good faith effort to advise the Company of such consideration; provided, however, that lack of notice will not be justification for the Company's non-compliance with any applicable local requirements.

§ 2.3 Regulation of Public Ways and Places or Other City Property. The Company expressly acknowledges the City's right to enforce reasonable regulations concerning the Company's access to or use of the Public Ways and Places or Other City Property, including requirements for permits.

§ 2.4 Compliance with Laws. The Company and the City shall each promptly and fully comply with all Applicable Laws.

§ 2.5 Effective Date, Term. This Franchise shall take effect on January 1, 2027 (the "Effective Date"), and shall supersede any prior franchise grants to the Company by the City. The term of this Franchise shall be for twenty (20) years.

ARTICLE 3 FRANCHISE FEE

§ 3.1 Franchise Fee.

- A. Franchise Fee. In partial consideration for this Franchise, which provides for the Company's use of Public Ways and Places, which are valuable public properties acquired and maintained by the City at great expense to its Residents, and in recognition that the grant to the Company of the use of Public Ways and Places is a valuable right, the Company shall pay the City a sum equal to three percent (3%) of all Gross Revenue (the "Franchise Fee").
- B. Obligation in Lieu of Franchise Fee. In the event that the Franchise Fee specified herein is declared void for any reason by a court of competent jurisdiction, or unless prohibited by law, the Company shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount which the Company would have paid as a Franchise Fee as partial consideration for use of the Public Ways and Places. Such payments will be made in accordance with applicable provisions of law. Further, to the extent allowed by law, the Company will collect the amounts agreed upon through a surcharge upon Utility Service provided to City Residents who are customers of the Company.
- C. Changes in Utility Service Industries. The City and the Company recognize that utility service industries are the subject of restructuring initiatives by legislative and regulatory authorities and are also experiencing other changes as a result of mergers, acquisitions, and reorganizations. Some of such initiatives and changes have or may have an adverse impact upon the Franchise Fee revenues provided for herein. In recognition of the length of the term of this Franchise, the Company agrees that in the event of any such initiatives or changes and upon receiving a written request from the City, and to the extent permitted by Applicable Law, the Company will cooperate with and assist the City in modifying this Franchise to assure that the City receives an amount in Franchise Fees or some other form of compensation that is at least the same amount of Franchise Fees paid to the City as of the date that such initiatives and changes adversely impact Franchise Fee revenues provided for herein,

irrespective of what entity in the future is involved in supplying Utility Service to the City and its Residents.

- D. Utility Service Provided to the City. No Franchise Fee shall be charged to the City for Utility Service provided to the City for its own consumption, street lighting service or traffic signal service or other City service.

§ 3.2 Remittance of Franchise Fee.

- A. Remittance Schedule. Franchise Fee revenues shall be remitted by the Company to the Manager of Finance as directed by the Manager of Finance in monthly installments not more than thirty (30) days following the close of each calendar month.
- B. Correction of Franchise Fee Payments. In the event that either the Manager of Finance or the Company discovers that there has been an error in the calculation of the Franchise Fee payment to the City, it shall provide written notice of the error to the other party. If the party receiving written notice of error does not agree with the written notice of error, that party may challenge the written notice of error pursuant to Section 3.2.D of this Franchise, otherwise, the error shall be corrected in the next monthly payment. However, if the error results in an overpayment of the Franchise Fee to the City, and said overpayment is in excess of Five Thousand Dollars (\$5,000.00), correction of the credit for the overpayment shall take the form of a credit against future Franchise Fees and will be spread over the same period the error was undiscovered. If such period would extend beyond the term of this Franchise, the Company may elect to require the City to provide it with a refund instead of a credit, with such refund to be spread over the same period the error was undiscovered, even if the refund will be paid after the termination date of this Franchise. All underpayments shall be corrected in the next monthly payment, together with interest computed at the rate paid for customer security deposits held by the Company, from the date when due until the date paid.
- C. Audit of Franchise Fee Payments. Every three (3) years commencing at the end of the third year of this Franchise, the Company shall cause an independent auditor to investigate and determine the correctness of the Franchise Fees paid to the City. Such audit shall be limited to the previous three (3) calendar years. The independent auditor shall provide a written report to the Manager of Finance and the Company containing its findings regarding the Franchise Fees paid to the City for the previous three (3) calendar years. The Company shall pay the costs of the audit and investigation.
- D. Fee Disputes. Either party may challenge any written notification of error as provided for in Section 3.2.B of this Franchise or the findings contained in the independent auditor's written report as provided for in Section 3.2.C of this Franchise by filing a written petition with the City's County Board of Equalization within thirty (30) days of receipt of either the written notification

of error or the independent auditor's written report. The written petition shall contain a summary of the facts and reasons for the party's petition. The City's County Board of Equalization shall, upon thirty (30) days' written notice to both parties, conduct a public hearing to determine the validity of the petition. The City's County Board of Equalization shall issue a written decision which will be subject to judicial review pursuant to Rule 106(a)(4), of the Colorado Rules of Civil Procedure, in the District Court of Denver County, Colorado.

- E. Estimated Gross Revenue. On or before August 15 of each year, the Company shall provide the City with an estimate of Gross Revenue and resultant Franchise Fee for the following calendar year, together with the estimated Franchise Fee for each month, which will be determined by applying to the estimated annual Franchise Fee the percentage (based on a five year rolling average) which each month's Gross Revenue is estimated to be of the annual Gross Revenue.
- F. Reports. Upon written request by the City, but not more than once per year, the Company shall supply the City with reports, providing such details as reasonably requested by the City, of all suppliers of Utility Service that utilize Company Facilities to sell or distribute Utility Service to Residents and the names and addresses of each such supplier.
- G. Franchise Fee Payment Not in Lieu of Permit or Other Fees. Payment of the Franchise Fee does not exempt the Company from any other lawful tax or fee, including, without limitation, any fee for a street closure permit, an excavation permit, a street cut permit, or other lawful permits or fees hereafter promulgated and imposed generally upon persons doing business in the City, except that the Franchise Fee provided for herein shall be in lieu of any occupancy tax for the use of Public Ways and Places. In the event the City requires a contractor, business, or similar license from the Company to operate in the City, the City waives the fees and any bond, cash deposit, letter in lieu or similar financial assurance associated with the same.

ARTICLE 4

ADMINISTRATION OF FRANCHISE

§ 4.1 Manager of DOTI. The Manager of DOTI is hereby designated the City official having full power and authority to administer this Franchise, including the power to take appropriate action to require the enforcement of the provisions of this Franchise and to investigate any alleged violations or failures of the Company to comply with the provisions of this Franchise, or to adequately and fully discharge its responsibilities and obligations under this Franchise. The failure or omission of the Manager of DOTI to so act shall not constitute any waiver or estoppel, nor limit independent action by other City officials. The Manager of DOTI shall designate a City representative to act as the primary liaison with the Company and provide the Company with the name and telephone number of said City representative (the "City Representative"). The Manager of DOTI may change its designation of the City Representative by providing written notice to the

Company. The Company shall use the City Representative to communicate with the City regarding any matter covered by the Franchise.

§ 4.2 Administration of Franchise. In order to facilitate the administration of this Franchise, the Company agrees as follows:

- A. The Manager of DOTI shall have the right to inspect, at all reasonable times, any Company Facilities in Public Ways and Places or Other City Property.
- B. The Manager of DOTI may investigate and convey to the Company and to the PUC any complaint of any Resident regarding Utility Service.
- C. The Company shall designate a local representative to act as the primary liaison with the City and shall provide the Manager of DOTI with the name, location of the local office, and the local telephone number for the Company's local representative (the "Company Representative"). The Company may change its designation of the Company Representative by providing written notice to the Manager of DOTI. The City will use the Company Representative to communicate with the Company regarding any matter covered by this Franchise.
- D. The Company shall provide to the Manager of DOTI daytime and nighttime telephone numbers of a designated Company representative from whom the Manager of DOTI may obtain status information from the Company on a twenty-four (24) hour per day, seven (7) days per week, basis concerning interruptions of Utility Service.
- E. The Company agrees to meet with the Manager of DOTI at least annually for the purpose of reviewing, implementing, and/or modifying mutually beneficial procedures and methods for the efficient rendering and processing of Company bills, invoices, other requests for payment, and other matters arising under this Franchise. City contractors or other third parties not specifically contracted to manage a City Project cannot act as the designee on behalf of the Manager of DOTI.

§ 4.3 Coordination of Work. The City and the Company will meet on a regular basis (not less than annually and at a time and place mutually agreed upon) to exchange their respective short-term and long-term forecasts and/or work plans for construction and other similar work which may affect Public Ways and Places or Other City Property. The City and Company shall hold such meetings as either deems necessary to exchange additional information with a view towards coordinating their respective activities in those areas where such coordination may prove beneficial to both parties and so that the City will be assured that all applicable provisions of this Franchise and Applicable Laws are complied with, and that aesthetic and other relevant planning principles have been given due consideration.

- A. CORA Requests. If a CORA request is made by any third-party for any information that the Company has provided to the City pursuant to this Franchise, the Manager of DOTI and Manager of Aviation will use reasonable efforts to promptly notify the Company of the request and will allow the Company to reasonably identify any information that it considers proprietary or confidential or may otherwise be withheld under CORA and/or any information that implicates disclosure of critical infrastructure. If the requesting party challenges the response with regards to the Company data, the Company shall appear and defend such request at its sole expense, including filing a legal action in any court of competent jurisdiction to prevent disclosure of such information. In any such legal action the City will name the Company as an indispensable party and support any Company requests for protection of records. The Company shall be responsible for any monetary amounts awarded against the City in connection with such action.

- B. Critical Infrastructure Information. The parties agree that certain written materials concerning the nature and location of Company Facilities that may be provided by the Company to the City (including As-Built Drawings) may contain information reflecting physical assets of critical infrastructure and potential vulnerabilities for which disclosure to a third-party would be contrary to the public interest under CORA Section 24-72-204(2)(a)(VIII)(A). The Manager of DOTI and Manager of Aviation will consult with the Company to identify any such materials and the City will otherwise use reasonable efforts to deny disclosure of such materials to third parties under the foregoing provision of CORA.

- C. Information Not Provided. Unless otherwise agreed between the parties, the following information will not be provided by the Company: confidential employment matters, specific information regarding any of the Company's customers, information related to the compromise and settlement of disputed claims including but not limited to PUC dockets, information provided to the Company which is declared by the provider to be confidential and which would be considered confidential to the provider under applicable law and anything prohibited from disclosure under the statute

- D. Coordination. To the extent that either party believes in good faith that it is necessary in order to monitor compliance with the terms of this Franchise to examine confidential books, documents, papers, and records of the other party, the parties agree to meet and discuss providing confidential materials. The parties agree that any duly authorized representative of the City and the Company will have access to and the right to examine any directly pertinent non-confidential books, documents, papers, and records of the other party involving any activities related to this Franchise.

§ 4.5 Examination of Records and Audits. The Manager of DOTI or any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine, copy and retain copies, at City's election in paper or electronic form, any pertinent books, documents, papers and records related to Company's performance pursuant to this Franchise, provision of any goods or services to the City, and any other transactions related to this Franchise. The Company shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the end of any calendar year during the term of this Franchise or expiration of the applicable statute of limitations. When conducting an audit of this Franchise, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audit pursuant to this paragraph shall require parties to make disclosures in violation of state or federal privacy laws. parties shall at all times comply with D.R.M.C. 20-276.

§ 4.6 Emergencies and Disasters.

- A. Emergency Action Plan. Upon written request, the Company shall assist the City in developing an emergency and disaster operations plan. The City and the Company will work cooperatively with each other in any emergency or disaster situation to address the emergency or disaster. The City and the Company shall work prospectively to generate emergency action plans and similar response protocols.
- B. Utility Emergency Work. In the event of Utility Emergency, the Company and its agents may enter the Public Ways and Places and Other City Property without advanced notice to the City as long as such entry is for the sole purpose of addressing the Utility Emergency. Provided, however, that if such entry would require the issuance of a permit, the Company will promptly notify the Manager of DOTI (verbally and in writing) and such notice will include pertinent information on where, how and when the Company intends to address the emergency prior to its entry or as soon as reasonably practical thereafter. Upon notification pursuant to this subsection, the Manager of DOTI will waive any permitting or other requirements and immediately authorize, in writing, the Company to undertake such action as may be required, in the Company's discretion, to address the Utility Emergency, including but not limited to traffic control, excavation, and street cutting. The Company will commence and complete the work necessary to resolve the Utility Emergency and remove all equipment from the Public Ways and Places and Other City Property as soon as possible. After the Utility Emergency has been resolved, the Company will promptly obtain any and all required permits, complete restoration, and allow inspection in accordance with this Franchise.

ARTICLE 5

SUPPLY, CONSTRUCTION AND DESIGN

§ 5.1 Supply. Subject to and in compliance with the jurisdiction of the PUC, the Company shall take all reasonable and necessary steps to provide a sufficient supply of Utility Services to Residents at the lowest reasonable cost consistent with reliable supplies. In so doing the Company agrees to and shall at all times comply with all Applicable Laws.

§ 5.2 Service to City Facilities.

A. Transport Gas. The Company shall transport natural gas purchased by the City for use in City facilities pursuant to separate contracts with the City.

B. Charges to the City.

(1) No charges to the City by the Company for Utility Service (other than gas transportation or chilled water which shall be subject to negotiated contracts) shall exceed the lowest charge for similar service or supplies provided by the Company to any other similarly situated customer or consumer of the Company. The parties acknowledge the jurisdiction of the PUC over the Company's regulated intrastate electric, gas, and steam rates.

(2) When the City is receiving or requesting Utility Service from the Company, the City, as the customer of the Company, will comply with the terms, conditions, and requirements of the Tariffs, or applicable gas transportation or chilled water service contracts.

§ 5.3 Restoration of Service.

In the event any Utility Service, or part thereof, now or hereafter provided by the Company is partially or wholly destroyed or incapacitated, the Company shall use due diligence to restore such Utility Service to satisfactory service within the shortest practicable period of time or provide a reasonable alternative to such system if the Company elects not to restore such system.

§ 5.4 Obligations Regarding Company Facilities.

A. Company Facilities. All Company Facilities shall be maintained in good repair and condition.

B. Work. All work performed or caused to be performed by the Company shall be done:

(1) in a timely and expeditious manner;

(2) in a manner which reasonably minimizes inconvenience to the public;

- (3) in a cost-effective manner, which may include the use of qualified contractors; and
 - (4) in a high-quality manner in accordance with all Applicable Laws and Industry Standards.
- C. No Interference with City Facilities. Company Facilities shall not interfere with any City facilities, including, without limitation, water facilities, sanitary or storm sewer facilities, communications facilities, or other City uses of the Public Ways and Places or Other City Property. Company Facilities shall be installed and maintained within Public Ways and Places and Other City Property so as to minimize interference with other property, trees, and other improvements and natural features.
- D. Permit and Inspection. The installation, repair, maintenance, operation, renovation, and replacement of any Company Facilities in the Public Ways and Places or Other City Property by or on behalf of the Company shall be subject to permit, inspection and approval by the City in accordance with Applicable Laws. Such permitting, inspection and approval may include, but not be limited to, the following matters: location of Company Facilities; cutting and trimming of trees and shrubs; and opening of pavement, sidewalks, and surfaces of Public Ways and Places or Other City Property. Provided, however, the Company will have the right to cut, prune, and/or remove vegetation in accordance with its standard vegetation management requirements and procedures. The Company agrees to cooperate with the City in conducting inspections and shall promptly perform any remedial action lawfully required by the City pursuant to any such inspection. The City will process and approve or reject all permits for Company work within 60 days of the City's receipt of a completed application. The City shall inspect work completed by the Company within fourteen (14) days after receipt of a written request for inspection.
- E. Compliance. The Company shall assure that its contractors working in Public Ways and Places or Other City Property hold the necessary licenses and permits required by Applicable Laws.
- F. As-Built Drawings. After completion of on-site work in Public Ways or Places or other City Property, the Company shall provide the Manager of DOTI, on a project-by-project basis, As-Built Drawings of any Company Facilities installed. The City acknowledges that the Company considers As-Built Drawings to constitute confidential information of the Company subject to the protections of CORA and the Company asserts that disclosure to members of the public would be contrary to the public interest. Any As-Built Drawings or information concerning the location of Company Facilities provided by the Company shall be used by the City solely for management of the Public Ways and Places or Other City Property. Notwithstanding anything to the contrary, nothing in this subsection is intended to relieve either party of its respective obligations arising under applicable law with respect to determining the

location of utility facilities. The Company will not be required to create drawings or data that do not exist.

- G. Street Lighting Poles. The Company shall make available to the City information it has regarding Company-owned street lighting poles located within the Territorial Boundaries of the City which shall clearly specify the location and type (including wattage where required by Tariff).

§ 5.5 Excavation and Construction. The Company shall be responsible for obtaining, paying for, and complying with all applicable permits and approvals including, but not limited to, excavation, street closure and street cut permits, and building and zoning permits, in the manner required by Applicable Laws. Although the Company shall be responsible for obtaining and complying with the terms of all such permits, the Company shall not be required to pay the fees for such permits when performing relocations requested by the City under Section 5.7 of this Franchise, undergrounding requested by the City under Sections 8.2 and 8.3 of this Franchise or any project undertaken by the Company where the City is the customer for Utility Service.

§ 5.6 Restoration. When the Company does any work in or affecting the Public Ways and Places or Other City Property, it shall, at no expense to the City, promptly remove any obstructions therefrom and restore such Public Ways and Places or Other City Property to a condition that meets applicable City standards. If weather or other conditions do not permit the complete restoration required by this Section 5.6, the Company, may with the approval of the City, temporarily restore the affected Public Ways and Places or Other City Property, provided that such temporary restoration is at the Company's sole expense and provided further that the Company promptly undertakes and completes the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Upon the request of the City, the Company shall restore the Public Ways and Places or Other City Property to a better condition than existed before the work was undertaken, provided that the City shall be responsible for any incremental costs of such restoration. If the Company fails to promptly restore the Public Ways and Places or Other City Property as required by this Section 5.6, the City may, upon giving fourteen (14) days' written notice to the Company, restore such Public Ways and Places or Other City Property or remove the obstruction therefrom; provided however, City actions do not unreasonably interfere with Company Facilities. The Company shall be responsible for the actual cost incurred by the City to restore such Public Ways and Places or Other City Property or to remove any obstructions therefrom.

§ 5.7 Relocation of Company Facilities.

- A. Relocation Obligation. The Company shall at the Company's sole cost and expense, Relocate any Company Facilities in Public Ways and Places or in Other City Property whenever the Manager of DOTI, determines such Relocation is necessary for the completion of any Public Project. In the case of Relocation that is necessary for the completion of any Public Project in a Public Utility Easement, the Company shall not be responsible for any Relocation costs. The Company and the City agree to cooperate on the location and Relocation of the Company Facilities in the Public Ways and Places or Other City Property, in order to achieve relocation in the most efficient and cost-

effective manner possible. If there is insufficient space to Relocate the Company Facilities in the Public Ways and Places or Other City Property, the Company will not be responsible for procuring real estate interests on private property for the Company Facilities.

- B. Private Project. The Company will not be responsible for the expenses of any Relocation required for Private Projects and the Company has the right to require the payment of estimated Relocation expenses from a private party causing, requesting, or responsible for the Relocation before undertaking such Relocation.
- C. Relocation Performance. Relocations for Public Projects shall be requested in writing by the Manager of DOTI, such request to be accompanied by all Supporting Documentation, and will be completed by the City's targeted in-service date which may be readjusted by the City and the Company upon mutual agreement or otherwise in accordance with this Section 5.7. The Company will receive an extension of time to complete a Relocation where the Company's performance was delayed due to Force Majeure. The Company will receive an extension of time if the City requests a material change to the Public Project with a direct and material impact to the Company's relocation work and will provide updated Supporting Documentation. Upon written request of the Company, the City may also grant the Company reasonable extensions of time for good cause shown and the City will not unreasonably withhold consent to any such extension.
- D. One-Year Limit. Once the Company has completed, and the City has inspected and approved the Relocation work in accordance with Section 5.4.D., a permanent Relocation of any Company Facilities for a Public Project, if the City requests a permanent Relocation of the same Company Facilities within one (1) year of the completion of the initial Relocation, the subsequent Relocation will not be at the Company's expense; provided that the Company will be responsible for the cost of the subsequent Relocation if such subsequent Relocation is required due to circumstances that could not be reasonably anticipated, such as an emergency.
- E. Project Management. Relocations for Public Projects may only be requested by the City. The Manager of DOTI will be the project manager of all Relocations and they shall coordinate and provide direction to the Company for such Relocations.
- F. Completion. Each such Relocation shall be complete only when the Company actually Relocates the Company Facilities, receives inspection and approval pursuant to Section 5.4.D, restores the Relocation site in accordance with Section 5.6 of this Franchise and removes from the site on site all unused Company Facilities, equipment, material and other impediments located above ground and third-party attachments have been removed from the Company Facilities. If requested by the City, and coordinated by the parties, the Company

will remove unused Company Facilities located below ground at the time that such facilities are accessible due to scheduled excavation. The term “Unused” for the purposes of this Franchise means: (a) the Company Facilities are no longer needed due to the Public Project or (b) the Company is no longer using the Company Facilities in question and has no plans to use the Company Facilities in the foreseeable future.

- G. Utility Easements. The Relocation payment obligation set forth this Section 5.7.A will not apply to any Company Facilities located in a Utility Easement, but will apply to any Company Facilities located under any other utility right-of-way, license or permit. Where a Utility Easement is involved, the Company shall be paid for such Relocation unless otherwise provided in the applicable terms of the Utility Easement.
- H. Flood Plain. The Company will not be required to Relocate Company Facilities in the flood plain if such Relocation is contrary to Applicable Laws and Industry Standards.
- I. Underground Relocation. The Company will Relocate underground Company Facilities underground. The Company will Relocate aboveground Company Facilities aboveground. If the City would like aboveground Company Facilities undergrounded or if existing conditions make aboveground Relocation unfeasible, the Company will treat the same as a request to underground under the Underground Program. If the City requires Relocation of overhead electric lines and the Company determines, as to the location requested by the Manager of DOTI, that there is not sufficient space in the Public Ways or Places or Other City Property to Relocate the lines overhead, the Company may Relocate the overhead electric lines underground and may charge the difference, if any, between the costs of the overhead and underground Relocation to the Underground Program in accordance with Article 8.
- J. Coordination.
 - (1) When requested in writing by the Manager of DOTI the Company shall meet and the parties will share information regarding anticipated projects, including street repaving, which will require Relocation of Company Facilities in Public Ways and Places or Other City Property. Such meetings shall be for the purpose of minimizing conflicts where possible and to facilitate coordination with reasonable timetables established by the City and the Company for the applicable Public Project.
 - (2) The City will make reasonable efforts to provide the Company with two (2) years advance notice of any planned street repaving which will include a map of the locations of the planned work.

- K. Proposed Alternatives or Modifications. Upon receipt of written notice of a required Relocation, the Company may propose an alternative to or modification of the Public Project requiring the Relocation in an effort to mitigate or avoid the impact of the required Relocation of Company Facilities, particularly transmission, steam or chilled water facilities. The City shall in good faith review the proposed alternative or modification. The City's acceptance of the proposed alternative or modification shall be at the sole discretion of the City. In the event the City accepts the proposed alternative or modification, the Company agrees to promptly compensate the City for all additional costs, expenses or delay that the City reasonably determines resulted from the implementation of the proposed alternative.

§ 5.8 New or Modified Service Requested by City. The conditions under which the Company shall install new or modified Utility Service to the City as a customer shall be governed by this Franchise and any applicable PUC regulations and Tariffs, or pursuant to a contract for chilled water service or transport gas.

§ 5.9 Service to New Areas. If the Territorial Boundaries of the City are expanded during the term of this Franchise the Company shall, to the extent permitted by law and subject to PUC approval if required, extend service to Residents in the expanded area at the earliest practicable time. Service to the expanded area shall be in accordance with the terms of this Franchise, including payment of Franchise Fees.

§ 5.10 Billing Procedures.

- A. Time. Unless otherwise provided in the Tariffs, the rules and regulations of the PUC, or the Public Utilities Law, the Company shall render bills monthly to the offices of the City for Utility Service and other related services for which the Company is entitled to payment and for which the City has authorized payment.
- B. Place. Billings for service rendered during the preceding month, shall be sent to the person(s) designated by the Manager of DOTI and payment for same shall be made as prescribed in the applicable Tariff on file and in effect from time to time with the PUC or applicable contract for chilled water service.
- C. Manner. The Company shall provide all billings and underlying non-confidential support documentation reasonably requested by the City and in an electronic format.
- D. City Not Required to Advance Funds. Upon receipt of the City's authorization for billing and construction, the Company shall install Company Facilities to provide Utility Service to the City as a customer, without requiring the City to advance funds prior to construction, unless such is prohibited by PUC rules or Tariffs. The City shall pay for the installation of Company Facilities once completed in accordance with the Tariffs or applicable contract for chilled water service. Notwithstanding anything to the contrary, the provisions of this Section to allow the City to not advance funds prior to construction shall apply

unless prohibited by PUC rules or the Tariffs or applicable contract for chilled water service.

§ 5.11 Technological Improvements. The Company shall use its best efforts to incorporate, as soon as practicable, technological advances in its equipment and service within the City when such advances are technically and economically feasible and are safe and beneficial to the City and its Residents. Nothing in this Article will be deemed to require the Company to invest in technological advances or to incur costs without PUC approval.

§ 5.12 Cooperation with Other Utilities. When undertaking an undergrounding project, the City and the Company will use reasonable efforts to coordinate with other utilities or companies that have their facilities above ground to attempt to have all facilities undergrounded as part of the same project. When other utilities or companies are placing their facilities underground, to the extent the Company has received prior written notification from such utility provider, the Company will cooperate with these utilities and companies and undertake to underground Company Facilities as part of the same project where financially, technically and operationally feasible. The Company will not be required to pay for any costs of undergrounding the facilities of the City or other companies.

§ 5.13 Third Party Damage Recovery.

- A. Damage to Company Interests. If any individual or entity damages any Company Facilities, to the extent permitted by law, the City will notify the Company of any such incident of which it has knowledge and will provide to the Company within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.
- B. Damage to City Interests. If any individual or entity damages any City Facilities, to the extent permitted by law, the Company will notify the City of any such incident of which it has knowledge and will provide to the City within a reasonable time all pertinent information within its possession regarding the incident and the damage, including the identity of the responsible individual or entity.
- C. Meeting. The Company agrees to meet with representatives of the City periodically, but no less than annually, for the purpose of developing, implementing, reviewing, improving and/or modifying mutually beneficial procedures and methods for the efficient gathering and transmittal of information useful in recovery efforts against third parties that damage Company Facilities.

§ 5.14 Mapping. Upon request, the Company shall provide the Manager of DOTI with maps or schematics indicating the location of specific Company Facilities, including gas or electric lines, located within the Public Ways and Places or Other City Property, to the extent those maps or schematics are in existence at the time of the request and the request is related to a planned or

ongoing City project. The Company does not represent or warrant the accuracy of any such maps or schematics.

ARTICLE 6 RELIABILITY

§ 6.1 Reliability. The Company shall operate and maintain Company Facilities efficiently and economically and in accordance with the high standards and best systems, methods, and skills then commercially reasonable and available for the provision of Utility Service.

§ 6.2 Franchise Performance Obligations. The Company recognizes that, as part of its obligations and commitments under this Franchise, the Company shall carry out each of its performance obligations in a timely, expeditious, efficient, economical and workmanlike manner.

§ 6.3 Reliability Reports. The Company shall, when the Company generates the same, provide the City with a report regarding the reliability of Company Facilities and Utility Service.

ARTICLE 7 USE OF COMPANY PROPERTY

§ 7.1 City Use of Company Electric Distribution Poles. The City shall be permitted to make use of Company electric distribution poles in Public Ways and Places or Other City Property at no cost to the City for any police, fire, emergency, public safety or traffic control equipment purpose, subject to the Tariffs. The City shall notify the Company in advance and in writing of its intent to use Company's electric distribution poles, and the nature of such use. The City shall be responsible for all costs, including but not limited to reviews, inspections and modifications to Company electric distribution poles to accommodate the City's use of such Company electric distribution poles and for any electricity used. The City will not install any equipment or facilities without the express written consent and approval of the Company. No such use shall be required if it would constitute a safety hazard or would unreasonably interfere with the Company's use or use by any other authorized entity of Company Facilities. Any such use must comply with Company policies, specifications, the Industry Standards and all other Applicable Laws.

§ 7.2 Others' Use of Company Facilities. The Company may allow other companies that have obtained consent from the City to use the Public Ways and Places, to utilize Company electric distribution poles in Public Ways and Places for the placement of their facilities. Any third-party use of the Company's electric distribution poles shall be done in accordance with and subject to (i) the Tariffs, (ii) approval by the Company, and (iii) execution of a pole attachment agreement containing the terms and conditions of attachment, including payment of fees, required by the Company. The Company shall not be required to permit use of Company Facilities for Utility Service. No such use shall be required if it would constitute a safety hazard or would interfere with the Company's use of Company Facilities. The City shall be solely responsible for enforcement of its permitting requirements as a result of a third party's use of the Company's electric distribution poles.

§ 7.3 City Use of Company's Transmission Rights-of-Way. The Company shall offer to grant use of transmission rights-of-way which it now, or in the future, owns or has an interest in within the City to the City for Parks and open space on terms consistent with Applicable Laws

provided that the Company shall not be required to make such an offer in any circumstance where such offer would constitute a safety hazard or would unreasonably interfere with the Company's use of the transmission right-of-way. In order to exercise this right, the City must make specific, advance written request to the Company for any such use and must enter such written agreements as the Company may reasonably require.

ARTICLE 8

UNDERGROUNDING OF OVERHEAD FACILITIES

§ 8.1 Underground Electrical Lines in New Areas. Upon payment to the Company of the charges provided in its Tariffs or their equivalent and receipt of all land rights from the customer required by the Company, the Company shall place all newly constructed electrical distribution lines in New Development Areas of the City underground in accordance with Applicable Laws and Industry Standards.

§ 8.2 Above Ground Conversion at Expense of Company.

- A. Underground Program. The Company shall budget and allocate an annual amount, equivalent to one percent (1%) of the preceding year's Electric Gross Revenues, for the purpose of undergrounding existing overhead electric distribution lines in Public Ways and Places and Other City Property as may be requested by the Manager of DOTI (the "Underground Program"), so long as: (i) the Company determines, as to the location requested by the Manager of DOTI, that there is sufficient space in the Public Ways and Places or Other City Property to support the undergrounding of Company Facilities; (ii) will not require placing ground-mounted equipment in a flood plain/zone; (iii) the underground conversion does not result in end use customers of the Company incurring any costs related to the conversion; and (iv) the project is otherwise constructable.
- B. Unexpended Portion and Advances. Any unexpended portion of the Underground Program shall be carried over to succeeding years and, in addition, upon request by the Manager of DOTI, the Company agrees to advance and expend amounts anticipated to be available in the Underground Program for up to three (3) years in advance provided there are at least three (3) years remaining before the expiration or termination of this Franchise. Any amounts so advanced shall be credited against amounts to be expended in succeeding years. Any funds left accumulated under any prior franchise shall be carried over to this Franchise. Notwithstanding the foregoing, the City will have no vested interest in monies allocated to the Underground Program and any monies in the Underground Program not expended at the expiration or termination of this Franchise will remain the property of the Company. No Relocation expenses which the Company would be required to expend pursuant to Article 5, Article 12, or Article 13 of this Franchise shall be charged to this allocation. At the expiration or termination of this Franchise, the Company will complete any undergrounding projects for which a request to begin and cost estimates have been provided and approved in accordance with the terms of this

Franchise, but will not be required to underground any new existing overhead electric distribution lines projects pursuant to this Article but may do so in its sole discretion.

- C. Systemwide Undergrounding. If, during the term of this Franchise, the Company should receive authority from the PUC to undertake a systemwide program or programs of undergrounding its electric distribution facilities, the Company will budget and allocate to the program of undergrounding in the City such amount as may be determined and approved by the PUC, but in no case shall such amount be less than the one percent (1%) of annual Electric Gross Revenue provided above.

§ 8.3 City Requirement to Underground. In addition to the provisions of this Article, the City may require any above ground Company Facilities in Public Ways and Places, or Other City Property to be moved underground at the City's expense so long as: (i) the Company determines, as to the location requested by the Manager of DOTI, that there is sufficient space in the Public Ways and Places, and Other City Property to support the undergrounding of Company Facilities and will not require the Company to obtain any additional land use rights; (ii) will not require placing ground-mounted equipment in a flood plain/zone; (iii) the underground conversion does not result in end use customers of the Company incurring any costs related to the conversion; (iv) the City issues all permits required for the Company to complete the work; and (v) the project is otherwise constructable.

§ 8.4 Undergrounding Performance. Upon receipt of a written request from the City, the Company shall, to the extent of monies available in the Undergrounding Program, underground Company Facilities in accordance with the procedures set forth in this Section 8.3.

- A. Initial Project Evaluation. Upon receipt of an undergrounding request from the City and the Supporting Documentation, the Company will evaluate the request for compliance with the Underground Program. The Company will notify the City within twenty (20) days of receipt of the request if the Supporting Documentation is insufficient to prepare the Estimate and design for the project.
- B. Estimate. After confirmation by the Company that the project meets the requirements described in Section 8.2 above, the Company will prepare the design for the undergrounding project. Based upon the Company's design, the Company will prepare a detailed, good faith, cost estimate of the anticipated actual cost of the requested project (the "Estimate").
 - (1) The Company will have one hundred and twenty (120) days after confirming the City's written request to design the project meets the criteria to prepare the Estimate and transmit same to the Manager of DOTI for review. At the City's request, the Company will provide all documentation that forms the basis of the Estimate that is not proprietary.

- (2) The City will have sixty (60) days from receipt of the design plans and Estimate to review and accept or reject the same. If the City does not approve the design plans and Estimate within said sixty (60) day period, the Company's Estimate will be void and the project will be deemed canceled by the Company. If a project is canceled in accordance with this paragraph but the City still wants to move forward with the project, the City will transmit a new undergrounding request to the Company.

If the design and Estimate are acceptable, the City will deliver written acceptance and project authorization. The Company will not proceed with any requested project until the City has provided a written acceptance of the Company's Estimate and project authorization. The City and the Company agree to meet upon the request of either party during the period when the Company is preparing the Estimate to discuss all aspects of the project toward the goal of enabling the Company to prepare an accurate Estimate; such discussion will automatically trigger an extension of the time described in subparagraph (1) above.

- C. Performance. The Company shall complete each undergrounding project requested by the City within a reasonable time considering the size and scope of each project, not to exceed two hundred and forty (240) days from the date the City approves the design, accepts the Estimate, authorizes the project, and the site is ready for Company to commence construction.
 - (1) The Company shall be entitled to an extension of time to complete each undergrounding project where the Company's performance was delayed due to a Force Majeure Event.
 - (2) Upon request of the Company, the Manager of DOTI will also grant the Company reasonable extensions of time for good cause shown and the Manager of DOTI shall not unreasonably withhold any such extension. Any revision by the City of Supporting Documentation provided to the Company that causes the Company to substantially redesign and/or change its plans regarding an undergrounding project will be deemed good cause for a reasonable extension of time to complete the undergrounding project under this Franchise.
- D. Completion/Restoration. Each such undergrounding project undertaken pursuant to this Article shall be complete only when the Company actually undergrounds the designated Company Facilities, restores the undergrounding site in accordance with Section 5.6 of this Franchise or as otherwise agreed with the City. The Company will remove unused distribution poles subject to the considerations listed in Section 5.7.F.
- E. Report of Actual Costs. Upon completion of each undergrounding project, the Company shall submit to the City a detailed report of the Company's actual cost

to complete the project and the Company shall reconcile this total actual cost with the accepted cost estimate.

§ 8.5 Audit of Underground Program. Every three (3) years commencing at the end of the third year of this Franchise, the Company shall cause an independent auditor to investigate and determine the correctness of the charges to the Underground Program. Such audits shall be limited to the previous three (3) calendar years. The independent auditor shall provide a written report containing its findings to the Manager of DOTI and the Company. The Company shall reconcile the Undergrounding Program consistent with the findings contained in the independent auditor's written report. The Company shall pay the costs of the audit and investigation.

§ 8.6 Cooperation with Other Utilities. When undertaking an undergrounding project pursuant to this Article the City and the Company shall coordinate with other utilities or companies that have their facilities above ground to attempt to have all facilities undergrounded as part of the same project. The Company will make reasonable efforts consistent with its contractual obligations to persuade joint users of Company distribution poles to remove their facilities from such poles within the time allowed by this Article, but the City shall be ultimately responsible for ensuring third party facilities are removed to allow completion of the undergrounding project. When other utilities or companies are placing their facilities underground, the Company shall cooperate with these utilities and companies and undertake to underground Company facilities as part of the same project where financially, technically and operationally feasible.

§ 8.7 Planning and Coordination of Undergrounding Projects. The City and the Company shall mutually plan in advance the scheduling of undergrounding projects to be undertaken according to this Article 8 as a part of the review and planning for other City and Company construction projects. The City and the Company agree to meet, as required, to review the progress of the current undergrounding projects and to review planned future undergrounding projects. Such meetings shall be to further cooperation between the City and the Company to achieve the orderly undergrounding of Company Facilities. Representatives of both the City and the Company shall meet periodically to review the Company's undergrounding of Company Facilities and at such meetings shall review:

- A. Undergrounding, including conversions, Public Projects and replacements which have been accomplished or are underway, together with the Company's plans for additional undergrounding; and
- B. Public Projects anticipated by the City.

ARTICLE 9 PURCHASE OR CONDEMNATION

§ 9.1 Municipal Right to Purchase or Condemn.

- A. Right and Privilege of City. The right and privilege of the City to construct, purchase or condemn any Company Facilities located within the Territorial Boundaries of the City, and the Company's rights in connection therewith, as set forth in applicable provisions of the constitution and statutes of the State of Colorado and the City Charter relating to acquisition of public utilities, are

expressly recognized. The City shall have the right, consistent with such provisions, to purchase Company Facilities, land, rights of way and easements now or to be owned by the Company located within the Territorial Boundaries of the City. In the event of any such purchase, no value shall be ascribed or given to the rights granted by the people of the City under this Franchise in the valuation of the property thus taken.

- B. Notice of Intent to Purchase. The City shall provide the Company no less than one (1) year's prior written notice of its intent to purchase Company Facilities located within the City. Nothing in this Section 9.1 shall be deemed or construed to constitute a consent by the Company to the City's purchase or condemnation of Company Facilities, nor a waiver by the Company of any available defenses or challenges related thereto.

ARTICLE 10

MUNICIPALLY PRODUCED UTILITY SERVICE

§ 10.1 Municipally Produced Utility Service.

- A. City Reservation. The City expressly reserves the right to engage in the production of Utility Service to the extent permitted by law. The Company agrees to negotiate in good faith long term contracts to purchase City-generated power made available for sale, consistent with all Applicable Laws. The Company further agrees to offer transmission and delivery services to the City that are required by Applicable Law, comparable to the services offered to any other customer with similar generation facilities.
- B. Franchise Not to Limit City's or Company's Rights. Nothing in this Franchise prohibits the City from becoming an aggregator of Utility Service or from selling Utility Service to customers should it be permissible under Applicable Law.

ARTICLE 11

NEXT GENERATION CITY.

§ 11.1 Future Utility Service. The City and Company anticipate, during the term of this Franchise, that additional Utility Service might be offered by the Company. The terms of this Franchise shall extend to such service and the definitions of "Company Facilities" and "Utility Service" will automatically adjust to include facilities and equipment associated therewith, if (i) the Company offers such additional service and (ii) the City is within the Company's service territory for such service.

§ 11.2 Utility Technologies. Over the term of this Franchise, the City and the Company expect significant investment and technological improvements associated with energy innovation and other advances in providing light, power and heat. The City and the Company will form a working group to discuss planning for capital investment, load growth, and energy innovation in the City and to streamline implementation and execution of projects supporting the development of the City.

§ 11.3 PUC Approval. Nothing in this Article will be deemed to require the Company to invest in technologies or to incur costs, including without PUC approval, if such approval is required.

§ 11.4 Sustainability Committee. To the extent the City has a sustainability committee, it will provide the Company an opportunity to have a Company representative on such committee. Any Company representative may participate in regular committee meetings for the purpose of providing information on Company programs and offerings and will be a meaningful participant as it relates to Company programs and offerings.

ARTICLE 12 DENVER WATER BOARD

§ 12.1 Relocation of Company Facilities. Any Relocation of the Company's Facilities required, caused or occasioned by a Water Board project shall be at the cost of the Company in accordance with Section 5.7, provided that any Relocation of any substation, regulator station, or Company Facilities of 115 KV or higher voltage or operating above 150 psig or that are part of the Company's steam or chilled water system caused or occasioned by the Water Board shall be at the expense of the Water Board. Such Relocation of the Company's Facilities shall be implemented in accordance with the procedures set forth in Section 5.7

ARTICLE 13 DENVER INTERNATIONAL AIRPORT

§ 13.1 Aviation Property. As shown on Site Plan, a portion of Airport property is located in Adams County. With respect to that portion of the Airport in Adams County, the Company shall not be required to act on any directive from the City that contravenes Adams County Development Standards and Regulations, the Adams County Ordinances, or any other applicable order, rule or regulation promulgated by Adams County.

§ 13.2 Manager of Aviation. The Manager of Aviation shall have the same power and authority as the Manager of DOTI to administer this Franchise with respect to any matter involving Aviation Property, including the power to take appropriate action to require the enforcement of the provisions of this Franchise. The failure or omission of the Manager of Aviation to so act shall not constitute any waiver or estoppel, nor limit independent action by other City officials. The Manager of Aviation shall designate a representative to act as the primary liaison with the Company and shall provide the Company with the name and telephone number of said Aviation representative (the "Aviation Representative"). The Manager of Aviation may change its designation of the Aviation Representative by providing written notice to the Company. The Company shall use the Aviation Representative to communicate with the City regarding any matter covered by this Franchise on Aviation Property.

§ 13.3 Restoration of Service. The Company shall provide to the Manager of Aviation daytime and nighttime telephone numbers of a designated representative from whom the Manager of Aviation may obtain status information from the Company on a twenty-four (24) hour, seven (7) day per week basis concerning interruptions of Utility Service in any part of Aviation Property.

§ 13.4 DEN Operating Agreement. The City and Company have agreed to a Denver International Airport Operating Agreement, effective as of the Effective Date of this Franchise, attached hereto and incorporated herein as Exhibit B. Upon approval of this Franchise, the City and the Company shall execute the Denver International Airport Operating Agreement.

ARTICLE 14 TRANSFER OF FRANCHISE

§ 14.1 Consent of City Required. The Company shall not transfer or assign any rights under this Franchise to another entity (except by merger with such third party, or, except when the transfer is required by legal or regulatory requirements) unless the Mayor of the City gives prior written approval, which shall not be unreasonably withheld, conditioned or delayed.

§ 14.2 Transfer Fee. In order that the City may share in the value this Franchise adds to the Company's operations, any such transfer or assignment by the Company of any rights granted under this Franchise requiring City approval, as set forth herein, shall be subject to the condition that the Company shall promptly pay to the City a transfer fee of one million dollars (\$1,000,000.00). Except as required by Applicable Law, such transfer fee shall not be recovered from a surcharge placed only on the rates of Residents.

ARTICLE 15 SYSTEM TO REMAIN IN PLACE

§ 15.1 Continuation of Service. In the event this Franchise is not renewed at the expiration of its term or the Company terminates any Utility Service provided herein for any reason whatsoever, and the City has not purchased or condemned the Utility Service, the Company shall have no right to remove any Company Facilities and will continue to provide Utility Service within the City until the City arranges for utility service from another provider or otherwise, unless otherwise ordered by the PUC. The City acknowledges and agrees that the Company has the right to continue to use Public Ways and Places and Other City Property during any such period for the Utility Services then in place. The Company further agrees it will not withhold any temporary Utility Services necessary to protect the public.

§ 15.2 Compensation. The City agrees that in the circumstances described this Article, the Company shall be entitled to monetary compensation as provided in the Tariffs or applicable contract for chilled water service and the Company will be entitled to collect from Residents and, the Company shall be obligated to pay the City, at the same times and in the same manner as provided in this Franchise, an aggregate amount equal to the amount which the Company would have paid as a Franchise Fee as partial consideration for use of the Public Ways and Places. Only upon receipt of written notice from the City stating that the City has adequate alternative utility service for Residents shall upon order from the PUC will the Company be allowed to discontinue the provision of such Utility Service to the City and its Residents.

ARTICLE 16 INDEMNIFICATION

§ 16.1 City Held Harmless. The Company shall indemnify, defend and hold the City harmless from and against claims, demands, liens and all liability or damage of whatsoever kind on account

of or arising from the grant of this Franchise, the exercise by the Company of the related rights, or from the operations of the Company within the City, and shall pay the costs of defense plus reasonable attorneys' fees. The City shall (a) give prompt written notice to the Company of any claim, demand or lien with respect to which the City seeks indemnification hereunder, and, (b) unless in the City's judgment a conflict of interest may exist between the City and the Company with respect to such claim, demand or lien, shall permit the Company to assume the defense of such claim, demand, or lien with counsel reasonably satisfactory to the City. If such defense is assumed by the Company, the Company shall not be subject to any liability for any settlement made by the City without the Company's prior written consent. If such defense is not assumed by the Company or if the City determines that a conflict of interest exists, the parties reserve all rights to seek all remedies available in this Franchise against each other. Notwithstanding any provision hereof to the contrary, the Company shall not be obligated to indemnify, defend or hold the City harmless to the extent any claim, demand or lien arises out of or in connection with any negligent or intentional act or failure to act of the City or any of its officers, agents or employees.

§ 16.2 Governmental Immunity Act. Nothing contained in this Article, or any other provision of this Franchise will be construed as a waiver of the notice requirements, defenses, immunities and limitations the City may have under the Colorado Governmental Immunity Act (C.R.S. § 24-10-101, *et. seq.*) or of any other defenses, immunities, or limitations of liability available to the City by Applicable Law.

ARTICLE 17

BREACH

§ 17.1 Non-Contestability. The City and the Company agree to take all reasonable and necessary actions to assure that the terms of this Franchise are performed, and neither will take any action to secure modification of this Franchise before any Applicable Authority.

§ 17.2 Breach.

- A. Notice/Cure/Remedies. If a party (the "Breaching Party") to this Franchise fails or refuses to perform any of the terms or conditions set forth in this Franchise (a "Breach"), the other party (the "Non-Breaching Party") will provide written notice to the Breaching Party of such Breach. Failure to provide notice does not waive the non-breaching parties claim for breach. Upon receipt of such notice, the Breaching Party shall be given a reasonable time, not to exceed thirty (30) days, in which to remedy the Breach; provided that, if such Breach cannot be remedied in thirty (30) days, such additional time as reasonably needed to remedy the Breach but not exceeding an additional thirty (30) day period, or such other time as the parties may agree in writing. If the Breaching Party does not remedy the Breach within the time allowed in under this Section 17.2(A), the Non-Breaching Party may exercise the following remedies for such Breach:

- (1) specific performance of the applicable term or condition; and

- (2) recovery of actual damages from the date of such Breach incurred by the Non-Breaching Party in connection with the Breach, but excluding any, or consequential damages.
- B. Termination of Franchise by City. In addition to the foregoing remedies, if the Company fails or refuses to perform any material term or condition of this franchise (a “Material Breach”), the City may provide written notice to the Company of such Material Breach. Upon receipt of such notice, the Company shall be given a reasonable time, not to exceed ninety (90) days (or such additional time as the parties may agree in writing), in which to remedy the Material Breach. If the Company does not remedy the Material Breach within the time allowed under this Section 17.2(B), the City may, at its sole option, terminate this Franchise. This remedy shall be in addition to the City’s right to exercise any of the remedies provided for in Section 17.2(A). Upon such termination, the Company shall continue to provide Utility Service to the City and its Residents in accordance with the terms set forth in Article 15 above.
- C. Company Shall Not Terminate Franchise. In no event does the Company have the right to terminate this Franchise.
- D. No Limitation. Except as provided in this Article 17, nothing in this Franchise shall limit or restrict any legal rights or remedies that either party may possess arising from any alleged Breach of this Franchise.

ARTICLE 18 AMENDMENTS

§ 18.1 Proposed Amendments. At any time during the term of this Franchise, the City or the Company may propose amendments to this Franchise by giving thirty (30) days written notice to the other of the proposed amendment(s) desired, and both parties thereafter, through their designated representatives, will, within a reasonable time, negotiate in good faith in an effort to agree upon mutually satisfactory amendment(s). However, nothing contained in this Section 18.1 will be deemed to require either party to consent to any amendment proposed by the other party.

§ 18.2 Effective Amendments. No alterations, amendments or modifications to this Franchise will be valid unless executed in writing by the parties, which alterations, amendments or modifications will be adopted with the same formality used in adopting this Franchise, to the extent required by Applicable Law. Neither this Franchise, nor any term herein, may be changed, modified or abandoned, in whole or in part, except by an instrument in writing signed by both parties, and no subsequent oral agreement will have any validity whatsoever.

§ 18.3 Coordination. The City and Company acknowledge that separate side letter agreements or memorandum of understanding may, from time to time, be desired to address matters outside the scope of this Franchise, to more effectively implement the intentions of this Franchise, or to document coordination between the parties for discrete projects. Such side letter agreements or memorandum of understanding may be implemented in writing by the parties through their designated representatives but shall not be considered amendments of this Franchise. The parties

acknowledge one such example is the Memorandum of Understanding Regarding Utility Work on City Property adopted on June 1, 2025 or as revised.

ARTICLE 19 EQUAL OPPORTUNITY

§ 19.1 Economic Development. The Company is committed to the principle of stimulating, cultivating and strengthening the participation and representation of persons of color, women and members of other under-represented groups within the Company and in the local business community. The Company believes that increased participation and representation of under-represented groups will lead to mutual and sustainable benefits for the local economy. The Company is committed also to the principle that the success and economic well-being of the Company is closely tied to the economic strength and vitality of the diverse communities and people it serves. The Company believes that contributing to the development of a viable and sustainable economic base among all Company customers is in the best interests of the Company and its shareholders.

§ 19.2 Employment.

- A. Programs. The Company is committed to undertaking programs that identify, consider and develop persons of color, women and members of other under-represented groups for positions at all skill and management levels within the Company.
- B. Businesses. The Company recognizes that the City and the business community in the City, including women and minority owned businesses, provide a valuable resource in assisting the Company to develop programs to promote persons of color, women and members of under-represented communities into management positions, and agrees to keep the City regularly advised of the Company's progress by providing the City a copy of the Company's annual affirmative action report upon the City's written request.
- C. Recruitment. In order to enhance the diversity of the employees of the Company, the Company is committed to recruiting diverse employees by strategies such as partnering with colleges, universities and technical schools with diverse student populations, utilizing diversity-specific media to advertise employment opportunities, internships, and engaging recruiting firms with diversity-specific expertise.
- D. Advancement. The Company is committed to developing a world-class workforce through the advancement of its employees, including persons of color, women and members of under-represented groups. In order to enhance opportunities for advancement, the Company will offer training and development opportunities for its employees. Such programs may include mentoring programs, training programs, classroom training, and leadership programs.

- E. Non-Discrimination. The Company is committed to a workplace free of discrimination based on race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability or any other protected status in accordance with all federal, state or local laws. The Company shall not refuse to hire, discharge, promote or demote or discriminate in matters of compensation against any person otherwise qualified, solely because of race, creed, color, religion, national origin, ethnicity, citizenship, immigration status, gender, age, sexual orientation, gender identity, gender expression, marital status, source of income, military status, protective hairstyle, or disability.
- F. Board of Directors. The Company shall identify and consider women, persons of color and other under-represented groups to recommend for its Board of Directors, consistent with the responsibility of boards to represent the interests of the Shareholders, customers and employees of the Company.

§ 19.3 Contracting.

- A. Contracts. It is the Company's policy to make available to minority and women owned business enterprises and other small and/or disadvantaged business enterprises the maximum practical opportunity to compete with other service providers, contractors, vendors and suppliers in the marketplace. The Company is committed to increasing the proportion of Company contracts awarded to minority and women owned business enterprises and other small and/or disadvantaged business enterprises for services, construction, equipment and supplies to the maximum extent consistent with the efficient and economical operation of the Company.
- B. Community Outreach. The Company agrees to maintain and continuously develop contracting and community outreach programs calculated to enhance opportunity and increase the participation of minority and women owned business enterprises and other small and/or disadvantaged business enterprises to encourage economic vitality. The Company agrees to keep the City regularly advised of the Company's programs.
- C. Community Development. The Company shall maintain and support partnerships with local chambers of commerce and business organizations, including those representing predominately minority owned, women owned and disadvantaged businesses, to preserve and strengthen open communication channels and enhance opportunities for minority owned, women owned and disadvantaged businesses to contract with the Company.

§ 19.4 Coordination. City agencies provide collaborative leadership and mutual opportunities on programs relating to City based initiatives on economic development, employment and contracting opportunity. The Company agrees to review Company programs and mutual opportunities responsive to this Article 19 with these agencies, upon their request, and to

collaborate on best practices regarding such programs and coordinate and cooperate with the agencies in program implementation.

§ 19.5 Compliance with Wage Laws. To the extent applicable to the Company's provision of services hereunder, the Company shall comply with, and agrees to be bound by, all rules, regulations, requirements, conditions, and City determinations regarding the City's Minimum Wage and Civil Wage Theft Ordinances, Sections 58-1 through 58-26 of the Denver Revised Municipal Code ("DRMC"), including, but not limited to, the requirement that every covered worker shall be paid all earned wages under applicable state, federal, and city law in accordance with the foregoing DRMC Sections. By executing this Franchise, the Company expressly acknowledges that the Company is aware of the requirements of the City's Minimum Wage and Civil Wage Theft Ordinances and that any failure by the Company, or any other individual or entity acting subject to this Franchise, to strictly comply with the foregoing DRMC Sections shall result in the penalties and other remedies authorized therein.

ARTICLE 20 MISCELLANEOUS

§ 20.1 Change in Tariffs. The Company reserves the right to seek a change in its Tariffs, including but not limited to the rates, charges, terms and conditions of providing Utility Service to the City and its Residents, and the City retains all rights that it may have to intervene and participate in any such proceedings.

§ 20.2 No Waiver. Neither the City nor the Company shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other, or any of its officers, employees, or agents, upon any one or more occasions, to insist upon or to seek compliance with any such terms and conditions.

§ 20.3 Successors and Assigns. The rights, privileges, and obligations, in whole or in part, granted and contained in this Franchise shall inure to the benefit of and be binding upon the Company, its successors and assigns, to the extent that such successors or assigns have succeeded to or been assigned the rights of the Company pursuant to Article 14 of this Franchise. Upon a transfer or assignment pursuant to Article 18, the Company will be relieved from all liability from and after the date of such transfer, except as otherwise provided in the conditions imposed by the City in authorizing the transfer or assignment and under state and federal law; and provided that the assignee accepts and assumes all of the Company's obligations and liabilities in writing under this Franchise

§ 20.4 Third Parties. Nothing contained in this Franchise shall be construed to provide rights to third parties.

§ 20.5 Notice. Both parties shall designate from time to time in writing representatives for the Company and the City who will be the persons to whom notices shall be sent regarding any action to be taken under this Franchise. Notice shall be in writing and forwarded by certified mail, reputable overnight courier, or hand delivery to the persons and addresses as hereinafter stated, unless the persons and addresses are changed at the written request of either party, delivered in

person or by certified mail. Until any such change shall hereafter be made, notices shall be sent as follows:

To the City:	Mayor of Denver 1437 Bannock Street, Suite 350 Denver, Colorado 80202
with a copy to:	Manager of the Department of Transportation and Infrastructure 201 W. Colfax Avenue, Department 608 Denver, CO 80202
	Manager of Aviation 8500 Pena Blvd Denver, Colorado 80249
and to:	City Attorney City and County of Denver 1437 Bannock Street, Room 353 Denver, CO 80202
To the Company:	Public Service Company of Colorado Attn: Director, Customer and Community Relations 3500 Blake Street Denver, Colorado 80205
with a copy to:	Public Service Company of Colorado Attn: Legal Department – Real Estate 3500 Blake Street Denver, Colorado 80205
and to:	Public Service Company of Colorado Attn: Audit Services P.O. Box 840 Denver, Colorado 80201

§ 20.6 Certificate of Public Convenience and Necessity. The City agrees to support the Company's application to the PUC to obtain a Certificate of Public Convenience and Necessity to exercise the rights and obligations under this Franchise.

§ 20.7 Severability. Should any one or more provisions of this Franchise be determined to be unconstitutional, illegal, unenforceable or otherwise void, all other provisions nevertheless shall remain effective; provided, however, to the extent permitted by law, the parties shall forthwith enter into good faith negotiations and proceed with due diligence to draft one or more substitute provisions that will achieve the original intent of the parties hereunder.

§ 20.8 Earlier Franchises Superseded. This Franchise shall constitute the only franchise between the City and the Company for the furnishing of Utility Service and it supersedes and cancels all former franchises between the parties hereto.

§ 20.9 Governing Law. Colorado law shall apply to the construction and enforcement of this Franchise. The parties agree that venue for any litigation arising out of this Franchise shall be in the District Court for the City and County of Denver, State of Colorado.

§ 20.10 Payment of Expenses Incurred by City in Relation to Franchise Agreement. The Company shall pay for expenses incurred for the franchise election, including the publication of notices, publication of ordinances, and photocopying of documents.

§ 20.11 Costs of Compliance with Franchise. The parties acknowledge that PUC rules, regulations and final decisions may require that costs of complying with certain provisions of this Franchise be borne by customers of the Company who are located within the City.

§ 20.12 Authority. The City and the Company shall promptly execute this Franchise following approval of the same by vote of the registered electors of the City. Each party represents and warrants that except as set forth below, it has taken all actions that are necessary or that are required by its ordinances, regulations, procedures, bylaws, or applicable law, to legally authorize the undersigned signatories to execute this Franchise on behalf of the parties and to bind the parties to its terms. The persons executing this Franchise on behalf of each of the parties warrant that they have full authorization to execute this Franchise. The City acknowledges that notwithstanding the foregoing, the Company requires a Certificate of Public Convenience and Necessity from the PUC, if applicable, in order to operate under the terms of this Franchise.

§ 20.13 Contract Execution. The parties' consent to the use of electronic signatures by the parties. This Franchise, and any other documents requiring a signature hereunder, may be signed electronically by either party. The parties agree not to deny the legal effect or enforceability of this Franchise solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of this Franchise in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.