CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL 118132

AN ORDINANCE relating to the City Light Department, approving a fifteen-year franchise to construct, operate, maintain, replace and repair an electrical light and power system in, across, over, along, under, through and below certain designated public rights-of-way in the City of Shoreline.

WHEREAS Seattle City Light is authorized to construct, operate, maintain, replace and repair its electrical light and power system in, across, over, along, under, through and below certain designated public rights-of-way in the City of Shoreline under a franchise granted by the City of Shoreline Ordinance 187 and accepted by the City of Seattle by Ordinance 119312, through January 31, 2014; and

WHEREAS this franchise was extended through July 31, 2014 by City of Shoreline Ordinance 667 and City of Seattle Ordinance 124356 to allow time for continued negotiations; and

WHEREAS, representatives of Seattle City Light and the City of Shoreline have been meeting on a regular basis to come to agreement on the terms of a new long-term franchise; and

WHEREAS, comprehensive terms of such a long-term franchise have been agreed upon which are acceptable to both the City of Seattle and the City of Shoreline; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City of Seattle hereby approves a franchise for the operation of an electric light and power system by Seattle City Light in the City of Shoreline substantially in the form of Ordinance No. 686 of the City of Shoreline, a copy of which is attached to this ordinance. The General Manager of the City Light Department is authorized to accept the franchise on Seattle's behalf.

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2014, and signed by me in open session in authentication of its passage this _____ day of _____, 2014.

_____

President _____of the City Council

Approved by me this ____ day of _____, 2014.

_____

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2014.

_____

Monica Martinez Simmons, City Clerk

(Seal)

Attachment 1: CITY OF SHORELINE ORDINANCE NO. 686

Exhibit A: SCL standard number D9-80 TREE CLEARANCES

ORDINANCE NO. 686

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ("CITY") GRANTING THE CITY OF SEATTLE, BY AND THROUGH ITS CITY LIGHT DEPARTMENT ("SEATTLE CITY LIGHT"), A MUNICIPAL CORPORATION, A NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR AN ELECTRIC UTILITY SYSTEM, OVER, ALONG, UNDER, AND THROUGH DESIGNATED PUBLIC RIGHTS-OF-WAY IN THE CITY OF SHORELINE, WASHINGTON

WHEREAS, RCW 35A.11.020 grants the City broad authority to regulate the use of the public Right-of-way; and

WHEREAS, RCW 35A.47.040 authorizes the City "to grant nonexclusive franchises for the use of public streets, bridges or other public ways, structures or places above or below the surface of the ground for ... poles, conduits, tunnels, towers and structures, pipes and wires and appurtenances thereof for transmission and distribution of electrical energy ..."; and

WHEREAS, RCW 43.09.210, the Local Government Accounting Act, requires payment for services rendered to be paid at its true and full value to avoid any perception that a financial benefit has been conferred; and

WHEREAS, the Washington State Constitution prohibits municipal corporations from gifting money or property, or to loan its money or credit with the exception of support for the poor and infirm, and residential energy conservation; and

WHEREAS, Seattle City Light and the City of Shoreline entered into a Franchise Agreement on January 1, 1999 with a term of 15 years with an extension effective through July 31, 2014; and

WHEREAS, Seattle City Light endeavors to achieve generally consistent terms and conditions with all jurisdictions within the Seattle City Light service territory; and

WHEREAS, the City Council finds that it is in the best interests of the health, safety and welfare of the residents of the Shoreline community to continue to grant a non-exclusive franchise to Seattle City Light for the operation of an electric utility system within the City Right-of-way;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

1. **Definitions.** The following terms contained herein, unless otherwise indicated, shall be defined as follows:

   1.1. Abandoned Facilities: Facilities in the City's Right-of-way that SCL has designated as abandoned or have not been used by SCL or other third party utility service provider for more than 180 Days.

1.2. City: The City of Shoreline, a municipal corporation of the State of Washington, specifically including all areas incorporated therein as of the effective date of this Ordinance and any other areas later added thereto by annexation or other means.

1.3. Days: Calendar days.

1.4. Director: The head of the City Public Works Department or his or her designee.

1.5. Facilities: All wires, lines, cables, conduits, equipment, and supporting structures, including utility poles, located in the City's Right-of-way, utilized, owned or co-owned by SCL associated with activities authorized by this Agreement.

1.6. Major Relocation Project: A Public Project greater than 500 linear feet in distance.

1.7. Minor Relocation Project: A Public Project 500 linear feet or less in distance.

1.8. Permitting Authority: The head of the City department authorized to process and grant permits required to perform work in the City's Right-of-way, or the head of any agency authorized to perform this function on the City's behalf. Unless otherwise indicated, all references to Permitting Authority shall include the designee of the department or agency head.

1.9. Person: An entity or natural person.

1.10. Power Distribution Infrastructure: Facilities owned and operated by Seattle City Light, up to and including 26,000 volt distribution lines.

1.11 Primary Project Costs: All costs associated with a Public Project for providing the path for the utility infrastructure, including, but not limited to design, project management and construction management, trench and vault excavation, and repaving, resurfacing, installation and restoration of hard surfaces.

1.12. Private Property Infrastructure: The underground infrastructure, including the service lines to be located on private property, that is necessary for SCL to complete an underground service connection to the private property. Private Property Infrastructure is not the responsibility of SCL.

1.13. Public Project: City-initiated capital improvement project in the City Right-of-way as listed in the City's Capital Improvement Plan, including but not limited to, roadway improvement, multi-modal transportation, and pedestrian improvement projects.

1.14. Rate Differential: The difference in the rate charged by SCL to customers within the City of Seattle and the rate charged by SCL to customers in the City, not including any utility tax that may be permitted by state law and levied by the City.

1.15. Relocation: Moving above grade facilities to another above grade location (overhead to overhead relocation) and below grade facilities to another below grade location (underground to underground relocation).

1.16. Revenue: This term as used herein shall have the same meaning as utilized by the City of Seattle in calculating the amount of utility tax payable by SCL to the City of Seattle for revenue derived from SCL customers in the City of Shoreline.

1.17. Right-of-way: As used herein shall refer to the surface of and the space along, above, and below any street, road, highway, freeway, lane, sidewalk, alley, court, boulevard,

parkway, drive, utility easement, and/or road Right-of-way now or hereafter held or administered by the City of Shoreline.

1.18. SCL: Seattle City Light, an electric utility owned and operated by the City of Seattle and its respective successors and assigns.

1.19. SCL Civil Infrastructure Engineering Standards: The most current engineering guidelines, construction guidelines, materials standards, and engineering operations and practices adopted by SCL that govern the design, location, alignment, depth, materials, and engineering specifications determined by SCL in its sole discretion that apply to above- or underground Civil Infrastructure associated with SCL Facilities.

1.20. SCL Service Area: The geographic area where SCL provides electric service.

1.21. Underground Civil Infrastructure: SCL's underground infrastructure necessary to contain, facilitate, and operate SCL's Underground Electrical System, including but not limited to conduit, ducts, duct banks, vaults, handholes, casing, and other non-energized electrical facilities, and does not include excavation and restoration for Public Projects.

1.22. Underground Electrical System: SCL's underground electrical distribution system and underground service lines, including but not limited to cables, connections, terminations, transformers, switches, and associated components.

1.23. Undergrounding: The process of placing SCL's electrical power distribution circuitry and support structures below finished grade (lot, sidewalk, or street, as appropriate), including constructing the Underground Civil Infrastructure and installing and energizing of the Underground Electrical System, for a Public Project.

2. Franchise Granted.

2.1. Pursuant to RCW 35A.47.040, the City hereby grants to SCL, its heirs, successors, and assigns, subject to the terms and conditions hereinafter set forth, a franchise beginning on the effective date of this Ordinance.

2.2. This Agreement shall grant SCL the right, privilege and authority, subject to the terms and conditions hereinafter set forth, to construct, operate, maintain, replace, and use all necessary equipment and facilities for an electric utility system, in, under, on, across, over, through, along or below the public Right-of-way located in the City of Shoreline, as approved under City permits issued by the Permitting Authority pursuant to this Agreement and City ordinances.

2.3. This Agreement shall not abridge, terminate or supersede any real property rights, including but not limited to fee ownership, easements, or rights or privileges for use of real property pursuant to any existing license or permit that SCL may hold for use or occupancy of the City Right-of-way or other City property.

2.4. This Agreement is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any Right-of-way. Such franchise shall in no way prevent or prohibit the City from using any Right-of-way or other City property or affect its jurisdiction over them or any part of them, and the City shall retain the authority to

make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of the same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new Rights-of-way or other public properties of every type and description.

3. Franchise Term. The term of this Agreement granted hereunder shall be for the period of fifteen (15) years counted from the last day of the calendar month in which this Ordinance became effective.

4. Consideration. The City and SCL recognize that the City has the authority under state law to establish its own municipal electric utility, and the authority to acquire SCL electric distribution properties in the City for that purpose.

4.1. In consideration for the City agreeing not to exercise such authority during the term of this franchise, the City and SCL agree to the following:

4.1.1. Subject to the City's right to change the Rate Differential, SCL shall pay the City six percent (6%) of the total amount of Revenue derived from SCL service to customers in the City.

4.1.2. SCL shall add an eight percent (8%) Rate Differential to the base rates established for SCL customers within the City compared to the base rates charged to SCL customers within the City of Seattle. The Rate Differential applied to customer charges in the City shall be subject to the rate review process by the Seattle City Council, and subject to approval by Council ordinance.

4.1.3. During the term of this franchise, and upon one (1) year advance written notice to SCL, the City may elect to change the Rate Differential established in Subsection 4.1.2 from eight percent (8%) to six percent (6%). In that event, and beginning upon the effective date of the Rate Differential change, SCL shall decrease its payments to the City as defined in Subsection 4.1.1 to four percent (4%) of the amount of Revenue derived from SCL service to customers in the City.

4.1.4. Within a reasonable time of the City's written request, SCL shall provide the City with a good faith estimate and supporting information of the likely impact to SCL customer rates in the City, should the City consider changing the Rate Differential from the one currently in place, as provided by Subsection 4.1.3.

4.1.5. The Mayor of Seattle shall appoint a member nominated by the City and other suburban cities to the Seattle City Light Review Panel who will represent the interests of suburban cities served in whole or in part by SCL.

4.2. Should the City of Seattle be prevented by judicial or legislative action from collecting a utility tax on all or a part of the Revenues derived by SCL from customers in the City, SCL shall reduce the payments to the City provided in Subsection 4.1.1 by an equivalent amount.

4.3. Should a court of competent jurisdiction declare the consideration to be paid to the City in Subsection 4.1.1 invalid, in whole or in part, or should a change in law make the consideration to be paid to the City in Subsection 4.1.1 invalid, in whole or in part, this entire Agreement may be terminated by the City at any time thereafter upon

180 Days written notice. During such notice period, however, SCL and the City shall attempt to agree upon acceptable, substitute provisions.

4.4. Payments by SCL to the City provided for under Section 4.1 shall be paid monthly within 30 Days following the end of each calendar month.

4.5 Should the City levy a utility tax on SCL that is permitted by and complies with state law, SCL may, in its sole discretion, add said utility tax to the monthly bills of its customers within the City as a separate line item. Any utility tax levied by the City on SCL shall not be part of the Rate Differential as defined in this Agreement.

5. City Ordinances and Regulations.

5.1. Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this franchise, including any reasonable ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control, by appropriate regulations, the location, elevation, and manner of construction and maintenance of any facilities of SCL located within the City Right-of-way. SCL shall promptly conform with all such regulations, unless compliance would cause SCL to violate other requirements of local, state or federal law, or industry codes or standards for the safe installation, maintenance and operation of its Facilities, including but not limited to regulations specified by the American National Standards Institute (ANSI), the North American Electrical Reliability Corporation (NERC), the National Electrical Code (NEC), the National Electrical Safety Code (NESC), and SCL policies and procedures.

5.2. The City is obligated to inform SCL of any changes to codes or ordinances that may impact any terms or conditions of this Agreement within a reasonable time prior to adoption.

6. Right-of-Way Management.

6.1. Excavation, Permits and Notice of Entry.

6.1.1. During any period of relocation or maintenance, all surface structures, if any, shall be erected and used in such places and positions within the Right-of-way so as to interfere as little as possible with the safe and unobstructed passage of traffic and the unobstructed use of property adjoining the Right-of-way. SCL shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or state law, including RCW 39.04.180, for the construction of trench safety systems.

6.1.2. Public Right-of-way Permits. Prior to performing any work in the City's Right-of-way for the purpose of installation, construction, repair, testing, maintenance or relocation of its facilities, SCL shall apply for and obtain from the City appropriate permit(s) in accordance with the City's ordinances and regulations requiring permits to perform work or operate in the Right-of-way. Upon reasonable request by the City, SCL shall provide the City with plans, maps, and

information showing the proposed and final location(s) of any facilities in accordance with Section 6.8 of this Agreement.

The City shall grant SCL all permits, rights of entry, and rights and permissions necessary to perform the work, in a timely, expeditious and consistent manner, but in no event more than 30 Days from the date SCL submits its application for such permit or right-of-entry.

6.1.3. During the progress of the work, SCL shall not unnecessarily obstruct the passage or use of the Right-of-way.

6.1.4. Minor, Blanket and Major Activities.

6.1.4.1. Minor Activities Defined. A Minor Activity is routine work performed by SCL that requires no excavation of the Right-of-way and can be performed while maintaining the following traffic passage requirements: no lane restrictions on arterials, street closures or traffic detours at any time. Typical examples include but are not limited to: street light lamp replacement; overhead and underground electrical distribution system maintenance in existing facilities; disconnection of service for non-payment; installation, replacement or repair of metering equipment; operation of switches; replacement of fuses or sectionalizers; and repair or maintenance of crossarms, insulators, overheard primary and secondary wires or other equipment on poles.

6.1.4.2. Requirements for Minor Activities. Minor activities do not require a City permit, City notification, or payment of fees. Minor activities require traffic control measures consistent with the Manual on Uniform Traffic Control Devices (MUTCD) and Americans with Disabilities Act (ADA) requirements.

6.1.4.3. Blanket Activities Defined. Blanket Activities are routine work performed by SCL that require less than 35 square feet of excavation in the Right-of-way on non-arterial streets. The following traffic passage requirements must be met for Blanket Activities: no street closures or traffic detours at any time; continuous two-way traffic on arterial streets or alternating two-way traffic on non-arterial streets; no lane restrictions between 7:00 a.m. and 10:00 a.m. and between 3:00 p.m. and 7:00 p.m., weekdays on arterials. Typical examples include but are not limited to: repair of damaged poles, removal of old poles, Vegetation Management in the Right-of-way and repair of underground power cables and/or conduit.

6.1.4.4. Requirements for Blanket Activities. SCL must obtain a Blanket Permit from the City for each Blanket Activity performed in the City's Right-of-way. Each Blanket Permit will be charged at a Right-of-way Use permit rate equal to two (2) hours of time as identified in the City's Fee Schedule and shall be paid on a monthly basis within 30 Days following the end of each month. Blanket Activities require traffic control measures consistent with the MUTCD. For certain activities where facilities are co-owned, a Blanket Permit may be issued by the City that would allow both the primary permit holder and the primary permit holder's sub-contractors or co-owners to

perform Blanket Activities, as identified in the conditions of the Blanket Permit.

6.1.4.5. Notification of Blanket Activities. SCL shall notify the City in writing, at least twenty-four (24) hours in advance of entering the Right-of-way, and submit a City Inspection Request Form, which shall include at a minimum the following information: franchise ordinance number, street address nearest to the proposed work site, and description of work to be performed. SCL shall provide written notice of completion within twenty-four (24) hours after completing work.

6.1.4.6. Major Activities. All other activities not deemed Minor or Blanket Activities are Major Activities and require a complete Right-of-way Use permit application, review and approval. Fees will be assessed individually according to the City's Fee Schedule and paid on a monthly basis within 30 Days following the end of each month.

6.1.4.7. In the event SCL fails to comply with any of the conditions set forth in this Subsection, the City is authorized to suspend SCL's authority to operate under this Subsection by providing SCL ten (10) Days advance written notice of such suspension and the basis therefore. SCL shall then have fifteen (15) Days to correct its non-compliance and submit written notification thereof to the City. The City shall then either: 1) reinstate SCL's authority to operate under this Subsection, or 2) notify SCL that its authority to operate under this Subsection has been suspended. If suspended, after thirty (30) Days SCL shall have the right to request that the City reinstate its authority to operate under this Subsection, which shall not be unreasonably withheld.

6.1.5. Emergency Work, Permit Waiver. In the event of any emergency where any facilities located in the Right-of-way are broken or damaged, or if SCL's construction area for their facilities is in such a condition as to place the health or safety of any person or property in imminent danger, SCL shall immediately take any necessary emergency measures to repair or remove its facilities without first applying for and obtaining a permit as required by this Agreement. During normal work hours, SCL however, shall verbally notify the Director as soon as possible after the event of the need to perform emergency repairs. This emergency provision shall not relieve SCL from later obtaining any necessary permits for the emergency work, with the exception of Blanket Permits, as described in Subsection 6.1.4 of this Agreement. SCL shall apply for the required permits the next business day following the emergency work or as soon as practical.

6.1.6. Private Property Rights of Entry. On behalf of SCL, the City shall be responsible for obtaining all rights of entry, including permits, construction easements or temporary construction easements for any work SCL is required to perform on private property in connection with any City-initiated Right-of-way, street improvement, or Public Project.

6.1.6.1. SCL shall make a good faith effort to comply with the property owner/resident's preferences, if any, regarding the location or placement of underground facilities consistent with sound engineering practices.

6.1.7. Notice of Entry. At least ten (10) Days prior to its intended construction of facilities, SCL shall inform all residents in the immediately affected area, that a construction project will commence, the dates and nature of the project, and provide a toll-free or local number which the resident may call for further information. Said notice shall be in the form of a doorknob hanger or other communications method as approved by the City.

6.1.8. At least twenty-four (24) hours prior to entering Right-of-way adjacent to or on private property to perform the installation, maintenance, repair, reconstruction, or removal of facilities, except those activities exempted from permit requirements in accord with Subsection 6.1.4 of this Agreement, a written notice describing the nature and location of the work to be performed shall be physically posted upon the affected private property by SCL.

6.2. Abandonment of SCL's Facilities.

6.2.1. SCL shall not have any Abandoned Facilities in the Right-of-way without the prior written consent of the Director. As needed, but no more than twice annually, SCL shall provide the City with written notice identifying Facilities that SCL will designate as abandoned or will likely become Abandoned Facilities due to non-use, prior to the Facilities being Abandoned, along with a reasonable plan for removal of such Facilities. The removal plan shall also include the removal of utility improvements, equipment, or lines attached to SCL's Facilities. All necessary permits must be obtained prior to such removal work, which will be granted in an expeditious manner by the City.

6.2.2. The City may request in writing that SCL provide a determination as to whether certain Facilities are Abandoned Facilities. Such determination shall be made in SCL's sole discretion, and SCL shall provide written notice to the City of its determination within thirty (30) Days of the City's request.

6.2.3. SCL will use its rights available under existing written facilities use and ownership agreements with third parties to obtain timely removal of Abandoned Facilities.

6.3. Restoration After Construction.

6.3.1. Except as may be provided for in a separate project relocation or undergrounding agreement between the City and SCL, SCL shall, after any installation, construction, relocation, maintenance, or repair of facilities within the franchise area, restore the Right-of-way to at least the same condition it was in immediately prior to any such abandonment, installation, construction, relocation, maintenance or repair. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. SCL agrees to promptly complete all restoration work and to promptly repair any damage caused by such work at its sole cost and expense.

6.3.2. If it is determined that SCL has failed to restore the Right-of-way in accordance with this Section, the City shall provide SCL with written notice including a description of actions the City believes necessary to restore the Right-of-way. If the Right-of-way is not restored in accordance with the City's notice within thirty (30) Days of that notice, the City, or its authorized agent, may restore the Right-of-way. SCL is responsible for all costs and expenses incurred by the City in restoring the Right-of-way in accordance with this Section.

6.4. Bonding Requirements. SCL, as a public agency, is not required to comply with the City's standard bonding requirement for working in the City's Right-of-way.

6.5. Safety.

6.5.1. SCL, in accordance with applicable federal, state, and local safety rules and regulations shall, at all times, employ ordinary care in the installation, maintenance, and repair utilizing methods and devices commonly accepted in its industry of operation to prevent failures and accidents that are likely to cause damage, injury, or nuisance to persons or property.

6.5.2. All of SCL's facilities in the Right-of-way shall be constructed and maintained in a safe and operational condition.

6.6. Dangerous Conditions, Authority for City to Abate.

6.6.1. Whenever Facilities or the operations of SCL cause or contribute to a condition that appears to endanger any person or substantially impair the lateral support of the adjoining Right-of-way, public or private property, the Director may direct SCL, at no charge or expense to the City, to take actions to resolve the condition or remove the endangerment, with all necessary permits and authority granted by the City in an expeditious manner. Such directive may include compliance within a prescribed time period.

6.6.2. In the event SCL fails or refuses to promptly take the directed action, or fails to fully comply with such direction, or if emergency conditions exist which require immediate action to prevent imminent injury or damages to persons or property, the City may take such actions as it believes are necessary to protect persons or property and SCL shall be responsible to reimburse the City for its costs.

6.7. SCL and City Maps and Records. Upon request, SCL and the City mutually agree to provide each other with as-built plans, maps, and records without charge whenever possible within thirty (30) Days of the request so long as the City's request sets forth a legitimate business or governmental justification, pursuant to federal requirements. Upon approval, such records will be provided to the City in a format maintained by SCL. SCL reserves the right to withhold records or require the City to sign a Non-Disclosure Agreement for the release of records which are deemed Critical Energy Infrastructure Information (CEII). CEII is defined as information that relates to the production, generation, transportation, transmission, or distribution of energy in which the release may cause incapacity or destruction that would negatively affect security, economic security, public health or safety, or any combination thereto.

6.8. Poles and Pole Attachments. SCL, subject to the applicable permit issued by the City as outlined in Subsection 6.8.4 of this Agreement, has the right to install, maintain, and remove poles in the Right-of-way. SCL will work with the City to ensure poles are removed and replaced safely and maintained properly in the City's Right-of-way to protect the welfare of the general public. The City acknowledges that SCL has existing agreements with third parties regarding the use and sharing of poles. Existing agreements with third parties for co-ownership of poles govern the use of such poles and attachments by pole co-owners. SCL may require, and the City shall allow, that SCL and SCL pole co-owners be jointly named on necessary City Right-of-way Blanket Activities permits, as referenced in Subsections 6.1.4.3 and 6.1.4.4 of this Agreement. The City also acknowledges that SCL has separate written agreements that govern pole attachments to such poles by third party renters.

6.8.1. SCL and SCL pole co-owners through their existing agreements with SCL shall remove all utility attachments and shall remove all poles prior to the poles becoming Abandoned Facilities, unless otherwise agreed to in writing with the City as outlined in Section 6.2 of this Agreement.

6.8.2. SCL and SCL pole co-owners through their existing agreements with SCL shall not stage new or replacement poles in the City's Right-of-way more than thirty (30) Days in advance of the pole installation or replacement.

6.8.3. If the City wishes to attach to a SCL owned or co-owned pole, the City must complete a pole attachment application and have a valid agreement with SCL.

6.8.4. Removal and installation of poles for which SCL is the responsible party must comply with the permitting requirements of Subsection 6.1.4.

6.8.5. SCL will provide the City with a listing of all authorized SCL pole co-owners and third party renters who have attached to SCL poles or SCL co-owned poles within the City. The list of SCL pole co-owners and third party renters will be updated annually by SCL.

6.9. Vegetation Management. In accordance with City ordinances, SCL recorded easements, SCL policies and guidelines, all applicable laws, NERC requirements, WAC 296-24-960, RCW 64.12.035 and International Society of Arboriculture (ISA) Utility Pruning Best Management Practices, SCL has the authority to perform Vegetation Management (VM) activities, which will be coordinated by an ISA certified arborist under the direction of SCL's Powerline Clearance Coordinator, under a Blanket Permit in accordance with Subsections 6.1.4.3, 6.1.4.4, and 6.9.2 of this Agreement. VM activities include trimming and removing trees and other plant life, including shrubs and vines to allow maintenance and safe, unimpeded operation of SCL's Facilities.

6.9.1. Annual City Vegetation Management Plan. SCL shall provide the Director and the City's Designated Tree Manager an Annual City Vegetation Management Plan by December 1 each year that identifies the general location of SCL's VM regularly scheduled maintenance plans for the coming year based on SCL's four (4) year transmission and feeder trimming plan. These plans will be conducted consistent with SCL's standards and practices.

6.9.2. VM Activity Notice and Blanket Permits. For scheduled maintenance, SCL shall provide the City with at least fourteen (14) Days advance written notice to the Director and the City's Designated Tree Manager prior to commencing VM activities in the City. The VM Activity Notice should be consistent with VM activities identified in the Annual City Vegetation Management Plan. The notice shall provide: 1) the locations of the VM activities and type of property (private property, City Right-of-way, or SCL property); 2) description of the VM activities, including tree topping or removal, if any; 3) required traffic control measures consistent with the Manual on Uniform Traffic Control Devices (MUTCD), if needed, including measures to maintain pedestrian access on City Right-of-way; 4) name and contact information of the firm performing the VM activities; and 5) the general timeline and duration of VM activities.

Along with providing the City a VM Activity Notice for scheduled maintenance, for each VM activity conducted in the City's Right-of-way, SCL or its contractors shall apply for and obtain a Blanket Permit from the City as described in Subsections 6.1.4.3 and 6.1.4.4 of this Agreement. The Blanket Permit application will include the information provided in the VM Activity Notice and other pertinent information that either SCL or the City deems useful for the issuance of the Blanket Permit.

6.9.3. Property Owner Notification. SCL shall provide advance written notice to the owner of private property where SCL desires to perform VM activities, or to the nearest adjacent property owner where SCL is performing VM activities in the City Right-of-way or on the Interurban Trail. Said notice shall be in the form of a doorknob hanger or other communications method as approved by the City and shall contain a contact name, address, and telephone number where the property owner can obtain information regarding the SCL VM activities. This notice may range from several months to no less than seven (7) Days prior to commencement of work.

6.9.4. VM Clearance Distances. Clearance Distances for VM between SCL's electrical facilities and the surrounding vegetation, including currently established trees and replacement trees, shall align with SCL's Distribution and Transmission Tree Trimming Construction Guidelines (standard number D9-80) and shall be in accordance with clearance criteria found in WAC 296-24-960 and RCW 64.12.035. Clearance distances for distribution (lines rated 50kV or below) and transmission (lines rated 51kV or above) power lines shall conform with utility, ISA and SCL best practices. SCL standard number D9-80 is attached to this Agreement as Exhibit A, but may be subject to change with SCL's regular review of standards and practices.

6.9.5. VM on Private Property. To the extent possible, SCL shall take into consideration property owners' requests regarding the trimming of trees or plant life on their property without jeopardizing the safety or the operational reliability of the Facilities. SCL reserves the right to remove trees that are an imminent hazard, a safety hazard or by following the notification requirements of RCW 64.12.035 when the property owner does not respond if the trees are identified as dangerous or hazardous trees.

6.9.6. VM in City Right-of-way. Only Small Street Trees as identified in the City's Engineering Development Manual Recommended Street Tree List will be planted under SCL Facilities on the City Right-of-way. The City shall consult with SCL in the development, modification or revision of the City's Engineering Development Manual Recommended Street Tree List, which shall comply with all applicable laws, NERC requirements, WAC 296-24-960, RCW 64.12.035 and International Society of Arboriculture (ISA) Utility Pruning Best Management Practices.

SCL shall be exempt from the Right-of-way tree pruning, removal and replacement requirements in City of Shoreline Municipal Code Chapter 12.30.040. On City Right-of-way, when SCL removes a tree, SCL will either (i) replace a minimum of two trees for any one tree removed or (ii) pay the City a fee in lieu of for each removed tree, according to a replacement formula of two payments for each one tree removed, according to the current City fee schedule. Replacement trees shall be a City-approved variety of Street Tree, per the City's Engineering Development Manual Recommended Street Tree List, and shall be replaced in the area of removal. Tree replacement will take into consideration the replacement tree's future growth and impacts to SCL's critical infrastructure and access to such infrastructure.

6.9.7. VM on SCL Property Along the Interurban Trail. SCL will leave dead standing trees for wildlife habitat on SCL property along the Interurban Trail that are unlikely to pose a hazard to life or impact SCL Facilities. SCL shall not remove trees on the Interurban Trail unless the tree is a hazard or an abutting property owner makes a request.

When hazardous trees must be removed from SCL property along the Interurban Trail, SCL shall replace a minimum of two trees for any one removed tree. Tree replacement on SCL property along the Interurban Trail shall take into consideration the tree's future growth and impacts to SCL Facilities and access to those Facilities. Whenever possible, the replacement trees on the Interurban Trail will be selected from the same grouping of trees that was removed (i.e., conifer for conifer; deciduous for deciduous.) Every effort shall be made by SCL to provide an equivalent replacement tree for the tree it is replacing. When SCL determines that it is impractical to replace two trees for the one removed at the location where the original tree was removed, SCL will either (i) provide the City with replacement trees to be planted at an appropriate site of the City's choosing, or (ii) provide for replacement trees in a more practical location in the City where the tree's future growth will not impact SCL Facilities.

6.9.8. Notice for Tree Removal. Except for abatement of hazards as provided in Subsection 6.9.10 of this Agreement, for trees in the City Right-of-way or on SCL property along the Interurban Trail that are identified for removal, SCL shall place signage with notice of the planned removal on the tree at least ten (10) Days in advance of the removal. Said signage shall explain that the tree is being removed, provide an explanation for why removal is occurring, and also provide a contact name, address, and telephone number where the interested person can obtain information regarding the removal.

6.9.9. VM Debris Removal. The Right-of-way shall be restored to a similar condition prior to VM activities taking place after VM activities have occurred. SCL will remove all debris generated by SCL VM activities according to SCL's current standards and practices. On City Right-of-way, the City may, at its sole discretion, remove and dispose of any such debris generated by SCL or its contractors that is not removed within twenty-four (24) hours of the SCL VM activity occurring and charge SCL for the reasonable cost of said removal and disposal.

6.9.10. Hazard Abatement. The forgoing notwithstanding, SCL shall at all times have the right to perform VM activities in the Right-of-way on vegetation that poses an imminent safety concern or has caused a system failure, or is in imminent risk of doing so, including storm and emergency events, without delay or prior notice.

7. Relocation and Undergrounding of System Facilities.

7.1. Except as may be provided for in a separate Relocation or Undergrounding agreement between the City and SCL, SCL agrees and covenants to protect, support, temporarily disconnect, Relocate or remove from any Right-of-way its facilities without cost to the City to the extent permitted by law when so required by the City for a Public Project. SCL shall in all such cases have the privilege to temporarily bypass, in the authorized portion of the same Right-of-way and upon approval by the City, any facilities required to be temporarily disconnected or removed for a Public Project. It is understood that conditions including, but not limited to, scope and complexity of a project, and the ability to gain necessary easements and permits, will impact these projects and will be taken into consideration when establishing timelines for such projects.

7.2. If the City determines that a Public Project necessitates the Relocation or Undergrounding of SCL's existing facilities, the City shall:

7.2.1. As soon as possible prior to the notice to proceed is given for a Public Project, but not less than ninety (90) Days for Minor Relocation Projects and one (1) year for Major Relocation and Undergrounding Projects but no later than March 1st of each year (to allow for inclusion in the City of Seattle's budget cycle), provide SCL with written notice of such determination; and

7.2.2. Provide SCL with copies of any plans and specifications pertinent to the Public Project and a proposed temporary or permanent placement for SCL's facilities.

7.2.3. Ensure that all necessary permits and easements are issued to SCL in an expeditious manner so SCL may maintain the timeline of a Public Project established under this Agreement or a separate agreement.

7.3. After receipt of notice by the City as specified in Subsection 7.2.1, SCL may submit to the City written alternatives to such Relocation or Undergrounding that in SCL's judgment offer the least amount of interference to SCL's customers and operations, provide a more cost-effective alternative, or provide a more efficient or appropriate design or method for the Relocation or Undergrounding for the Public Project. The City shall evaluate such alternatives and advise SCL in writing if any of the alternatives are suitable to accommodate the work that necessitates the Relocation or

Undergrounding of the Facilities. If so requested by the City, SCL shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by SCL full and fair consideration. In the event the City ultimately determines that the alternatives submitted by SCL are not amenable to the City, SCL shall locate its Facilities as provided in this Section.

7.4. SCL will work cooperatively with the City on Public Projects to explore the most cost-effective means of coordinating the Undergrounding or Relocation of Facilities for Public Projects that have been identified for Undergrounding or Relocation in the City's most recent Capital Improvement Plan. After receipt of such notice and such plans and specifications provided to SCL by the City as specified in Subsections 7.2.1 and 7.2.2 of this Agreement, SCL shall complete overhead to overhead relocation of its Facilities at least ten (10) Days prior to commencement of a Public Project, unless a different date is provided in a separate Public Project coordination agreement between the City and SCL.

7.5. The provisions of this Section shall in no manner preclude or restrict SCL from making any arrangements it may deem appropriate when responding to a request for Relocation or Undergrounding of its facilities by any person other than the City, where the improvements to be constructed by said person are not part of a Public Project, provided that such arrangements do not violate the City's code or unduly delay or increase the cost of a related Public Project.

7.6. Whenever any person shall have obtained permission from the City to use any Right-of-way for the purpose of moving any building or other oversized structure, and upon twenty-one (21) Days advance written notice from the City that the use of the Right-of-way is permitted, SCL shall raise or remove, at the expense of the person or entity desiring to move the building or structure, any of SCL's facilities that may obstruct the movement thereof; provided, that the moving of such building or structure shall be done in accordance with regulations and general ordinances of the City. Where more than one path is available for the moving of such building or structure, the path of least interference, as determined by the City in consultation with SCL, shall be utilized.

7.7. If the City requires the subsequent Relocation or Undergrounding of Facilities within five (5) years from the date of relocation of such Facilities pursuant to this Section, then the City shall bear the entire cost of such subsequent relocation.

7.8. SCL will work cooperatively with the City in design, estimating, scheduling and construction of Public Projects that require Undergrounding, to bring such Projects to completion in the most efficient manner, and in compliance with SCL Civil Infrastructure Engineering Standards. The specific Project scope of work, applicable terms and conditions, schedule and obligations of the parties will be agreed upon and memorialized in a separate written Public Project coordination agreement executed by the City and SCL, which may be subject to approval by both the Shoreline and Seattle City Councils.

7.9. Except as may be provided for in a separate Undergrounding agreement between the City and SCL, the full actual costs of the Undergrounding design and construction shall be borne by SCL's customers in the City and recovered through an increment to

SCL's electric service rates to its customers within the City's boundaries as a separate line item on the City's ratepayers bills, less the estimated SCL costs if the Public Project were to be Relocated overhead. This increment will be sufficient to reimburse SCL for all costs SCL incurs to complete construction of the underground project including but not limited to the costs for the Underground Civil Infrastructure, the Underground Electrical System, and Primary Project Costs solely attributable to the Undergrounding of the electric utility, plus interest to SCL in accordance with SCL's debt service and term for financing these costs, and may be adjusted periodically as necessary to maintain the amortization schedule required by financial policies if the Shoreline customer base is reduced. Should costs for the Underground Civil Infrastructure, the Underground Electrical System, and/or Primary Project costs solely attributable to the Undergrounding of the electric utility for City Public Projects be included in the base rates for SCL customers within the City, they will not be included in the increment added to the monthly bills of SCL's customers within City. Should other jurisdictions' costs for the Underground Civil Infrastructure, the Underground Electrical System, and/or Primary Project costs solely attributable to the undergrounding of the electric utility for their city-initiated undergrounding projects be included in the base rates for all SCL customers, SCL will notify the City that these projects are planning to occur.

7.9.1. If the City terminates this Agreement prior to the collection of revenues sufficient to repay SCL electrical conversion project costs, the City shall reimburse SCL through a lump sum payment for any outstanding balance and interest owed at time of such termination or reduction in customers.

7.9.2. The City or private property owners shall be responsible for providing the underground Private Property Infrastructure, subject to review and approval by SCL, that is needed to provide electrical service from the public Right-of-way to the designated service point on the private property as specified in Shoreline Municipal Code 13.20.140 as amended.

8. Street Lighting. Provided public streetlights are funded as a local general government function, installation, ownership, maintenance, and operations of streetlights will be addressed under a separate agreement between the City and SCL. Subject to the approval by SCL, which approval shall not be unreasonably withheld, the City' obligations under such an agreement may be assigned to a non-City water or sewer utility district following a rate setting process authorized by and in compliance with state law.

9. Implementation of Service Requirements.

9.1. Rate Information. SCL shall make available all studies, reports, memoranda, or other documents provided to the legislative branches of the City of Seattle regarding the establishment of the rates, or any portion thereof, to be charged to its customers. The City shall be provided a reasonable opportunity to review said documents and to comment or otherwise participate in Seattle's rate setting process. Opportunities for public hearings or public comment during Seattle's rate setting process will be made known through the Franchise City designated representative on the SCL Review Panel or online at www.seattle.gov.

9.2. Communication with City Customers. SCL will notify the City in advance of any planned communication to its customers in the City regarding the services and rates affected by this Agreement.

10. Planning Coordination.

10.1. Coordination of Projects and Activities.

10.1.1. SCL and the City will meet in February of each year to review planned capital improvements by SCL and any planned projects or activities by the City, which may affect the Right-of-way for that year. Additional meetings for planning and coordination may be held as deemed necessary by both parties.

10.1.2. SCL shall meet with the City, other franchisees and users of the Right-of-way, according to a schedule to be determined by the City and SCL, to schedule and coordinate construction on specific projects.

10.1.3. All construction locations, activities, and schedules shall be coordinated, as required by the Director or his or her designee, to minimize public inconvenience, disruption, or damages.

10.2. Growth Management. SCL agrees, as follows, to participate in the development of, and reasonable updates to, the utilities element of the City's comprehensive plan:

10.2.1. For SCL's service within the City limits, SCL will participate in a cooperative effort with the City to develop a Comprehensive Plan Utilities Element which meets the requirements described in RCW 36.70A.070(4).

10.2.2. SCL will participate in a cooperative effort with the City to ensure that the Utilities Element of the City's Comprehensive plan is accurate as it relates to SCL's operations and is updated to ensure it continued relevance at reasonable intervals.

10.2.3. Upon reasonable written request, SCL shall make available to the extent possible information that is not deemed confidential, sensitive, or exempt from disclosure under state or federal law related to the general location, proposed location, and capacity of existing and proposed electrical lines as requested by the Director within a reasonable time.

10.2.4. SCL will update information provided to the City under this Section 10 whenever there are major changes in SCL's electrical system plans for the City.

10.3. Development of Right-of-Way Standards. SCL herein agrees to provide the staff-support necessary to enable SCL to meaningfully participate in the City's revision of Right-of-way Standards. By way of illustration and not limitation, this participation shall include attendance at City planning meetings, review and comment of documents proposed for adoption, and any other activities that may be required in the formulation of Right-of-way Standards, as agreed by SCL and the City.

10.4. Emergency Operations. The City and SCL agree to cooperate in the planning and implementation of emergency operations response procedures. SCL will be engaged in City emergency planning process at the request of the City, including participation

in the City's Emergency Management Council. The City will provide current emergency contact information to SCL's Emergency Manager.

11. Service Quality. SCL is dedicated to exceeding customer expectations in producing and delivering environmentally responsible, safe, low-cost, and reliable power. SCL shall exercise the same degree of technical, professional and administrative quality in serving its customers in the City that is provided to all other customers within SCL's service territory. SCL shall at all times comply with the minimum regulatory standards including but not limited to ANSI Voltage Standard C84.1 presently in effect or as may be amended by the Seattle Municipal Code.

12. City Use of SCL Property. SCL owns real properties and holds various property interests and facilities in the City which are essential to SCL's electrical utility operations. SCL will cooperate with the City in the same manner as it does with the City of Seattle in aligning the operation and management of its property and facilities to serve the goals and objectives of the City's Comprehensive Plan, while meeting the requirements of all applicable state laws, and pursuant to SCL's applicable Department Policy and Procedures.

12.1. Favorable Consideration of City Requests. SCL shall give every favorable consideration to a request by the City for use of SCL property in return for compensation for such use at fair market value, including requests by the City to use SCL property for such public uses as public parks, public open space, public trails for non-motorized transportation, surface water management, or other specifically identified public uses. Fair market value compensation for use of SCL property may include in-kind or non-monetary consideration jointly determined by SCL and the City, to the extent that SCL and the City agree to do so.

12.2. Prior Approval of Specific Plans by SCL. Prior to any installation, modification or extension of any improvement on SCL property, property interest or facilities proposed by the City, the City shall supply SCL with detailed drawings and specifications relating to such proposed development. No construction, installation or modification shall be performed until the plans have been approved in writing by SCL and SCL has granted the City appropriate permission or consent to proceed with the City's work on, or use of SCL property.

12.3. Permit for City Use of SCL Real Property. SCL may permit the City to use SCL real property for payment by the City of fair market value for such use by separate written Permit Agreement, which shall detail the terms of such property use including provisions to assure the continued safe and efficient operation of the electric utility.

13. Finance.

13.1. Annual Reconciliation. Unless otherwise provided herein, all charges between the parties, except for charges for electrical service, penalties, reimbursements for breach or other forms of cure, and payments pursuant to Subsections 4.1.1 and 6.1.4 of this Agreement, shall be accrued and reconciled annually in accord with the following process:

13.1.1. Within thirty (30) Days of the anniversary of the execution of this Agreement, or upon such other date as the parties may agree, the parties shall exchange itemized invoices of charges that have been incurred over the previous twelve (12) month

period. Said invoice shall include all information reasonably necessary to allow each party to evaluate the validity and magnitude of each charge.

13.1.2. Each party shall have forty five (45) Days to provide the other with written notice disputing any specific charge on the other's invoice. If an invoice is not disputed within this period, then the invoice will be deemed accurate.

13.1.3. Undisputed charges shall be set off against each other. The party with a remaining balance due after the set off shall provide a reconciled invoice to the other party. Said invoice shall be satisfied within forty five (45) Days of its receipt.

13.2. Other Charges. Unless otherwise provided herein, charges between the parties shall be paid within forty five (45) Days of the receipt of a written invoice for said charge.

14. Indemnification.

14.1. SCL shall indemnify, defend and hold the City, its agents, officers or employees harmless from and against any and all claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorneys' fees, made against the City, its agents, officers or employees on account of injury, harm, death to persons or damages to property which is caused by, in whole or in part, and then only to the extent of, the negligent acts or omissions of SCL or its agents, servants, employees, contractors, or subcontractors in the exercise of the rights granted to SCL by this Agreement. Provided, however, such indemnification shall not extend to that portion of any claims, demands, liability, loss, cost, damage or expense of any nature whatsoever including all costs and attorneys' fees caused by the negligence of the City, its agents, employees, officers, contractors or subcontractors.

14.2. SCL's indemnification obligations pursuant to this Section shall include assuming potential liability for actions brought by SCL's own employees and the employees of SCL's agents, representatives, contractors, and subcontractors even though SCL might be immune under Title 51 RCW from direct suit brought by such employees. It is expressly agreed and understood that this assumption of potential liability for actions brought by the aforementioned employees is limited solely to claims against the City arising by virtue of SCL's exercise of the rights set forth in this Agreement. The obligations of SCL under this Section have been mutually negotiated by the Parties hereto, and SCL acknowledges that the City would not enter into this Agreement without SCL's waiver thereof. To the extent required to provide this indemnification and this indemnification only, SCL waives its immunity under Title 51 RCW as provided in RCW 4.24.115.

14.3. Inspection and written acceptance by the City of any work performed by SCL at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification.

15. Enforcement.

15.1. In addition to all other rights and powers retained by the City under this Agreement, the City reserves the right to revoke and terminate this Agreement and all rights and privileges of SCL in the event of a substantial violation or breach of its terms and

conditions. Likewise, SCL may terminate this Agreement in the event of a substantial violation or breach of its terms and conditions by the City.

15.2. A substantial violation or breach by a SCL shall include, but shall not be limited to, the following:

15.2.1. An uncured violation of any material provision of this Agreement, or any material rule, order or regulation of the City made pursuant to its power to protect the public health, safety and welfare;

15.2.2. An intentional evasion or knowing attempt to evade any material provision of this Agreement or practice of any fraud or deceit upon the system customers or upon the City;

15.2.3. Failure to begin or substantially complete any system construction or system extension as set forth in a franchise or Right-of-way use agreement;

15.2.4. Failure to provide the services specified in this Agreement;

15.2.5. Misrepresentation of material fact during negotiations relating to this Agreement or the implementation thereof;

15.2.6. A continuous and willful pattern of grossly inadequate service and failure to respond to legitimate customer complaints;

15.2.7. An uncured failure to pay fees associated with this Agreement.

15.3. No violation or breach shall occur which is without fault of SCL or the City, or which is as a result of circumstances beyond SCL's or the City's reasonable control. Neither SCL, nor the City, shall be excused by economic hardship nor by nonfeasance or malfeasance of its directors, officers, agents or employees; provided, however, that damage to equipment causing service interruption shall be deemed to be the result of circumstances beyond SCL's or the City's control if it is caused by any negligent act or unintended omission of its employees (assuming proper training) or agents (assuming reasonable diligence in their selection), or sabotage or vandalism or malicious mischief by its employees or agents. SCL, or the City, shall bear the burden of proof in establishing the existence of such conditions.

15.4. Except in the case of termination pursuant to Subsection 15.2.5 of this Agreement, prior to any termination or revocation, the City, or SCL, shall provide the other with detailed written notice of any substantial violation or material breach upon which it proposes to take action. The party who is allegedly in breach shall have a period of sixty (60) Days following such written notice to cure the alleged violation or breach, demonstrate to the other's satisfaction that a violation or breach does not exist, or submit a plan satisfactory to the other to correct the violation or breach. If, at the end of said sixty (60) Day period, the City or SCL reasonably believes that a substantial violation or material breach is continuing and the party in breach is not taking satisfactory corrective action, the other may declare that the party in breach in default, which declaration must be in writing. Within twenty (20) Days after receipt of a written declaration of default from, the party that is alleged to be in default may request, in writing, either a hearing before a "hearing examiner" as provided by the City's development regulations or Alternative Dispute Resolution as set forth in

Section 21 of this Agreement. The hearing examiner's decision may be appealed to any court of competent jurisdiction.

15.5. The City may, in its discretion, provide an additional opportunity for SCL to remedy any violation or breach and come into compliance with this Agreement so as to avoid the termination or revocation.

15.6. In addition to any other remedy provided for herein for violation of any provision, or failure to comply with any of the requirements of this Agreement, the City may levy liquidated damages of up to $500.00 for each of the first five (5) Days that a violation exists and up to $1,000.00 for each subsequent Day that a violation exists. Payment of such liquidated damages shall not relieve any person of the duty to correct the violation.

15.7. Any violation existing for a period greater than thirty (30) days may be remedied by the City at SCL's expense.

16. Survival. All of the provisions, conditions and requirements of Sections 6.1 Excavation, Permits, and Notice of Entry, 6.2 Abandonment of SCL's Facilities, 6.3 Restoration After Construction, 6.6 Dangerous Conditions, Authority for City to Abate, 6.8 Poles and Pole Attachments, 7 Relocation and Undergrounding of System Facilities and 14 Indemnification, of this Agreement shall be in addition to any and all other obligations and liabilities SCL may have to the City at common law, by statute, or by contract, and shall survive the City's franchise to SCL for the use of the areas mentioned in Section 2 of this Agreement, and any renewals or extensions thereof. All of the provisions, conditions, regulations and requirements contained in this Agreement shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of SCL and all privileges, as well as all obligations and liabilities of SCL shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever SCL is named herein.

17. Severability. If any Section, Subsection, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other Section, sentence, clause or phrase of this franchise Ordinance. The Parties may amend, repeal, add, replace, or modify any provision of this Agreement to preserve the intent of the parties as expressed herein prior to any finding of invalidity or unconstitutionality.

18. Assignment. This franchise shall not be sold, transferred, assigned, or disposed of in whole or in part either by sale, voluntary or involuntary merger, consolidation or otherwise, without the written approval of the City. Any costs associated with the City's review of any transfer proposed by SCL shall be reimbursed to the City by SCL.

18.1. An assignment of this Agreement shall be deemed to occur if there is an actual change in control or where ownership of fifty percent (50%) or more of the beneficial interests, singly or collectively, are obtained by other parties. The word "control" as used herein is not limited to majority stock ownership only, but includes actual working control in whatever manner exercised.

18.2. Except as otherwise provided herein, SCL shall promptly notify the City prior to any proposed change in, or transfer of, or acquisition by any other party of control of SCL's company. Every change, transfer, or acquisition of control of SCL's company

shall cause a review of the proposed transfer. In the event that the City denies its consent and such change, transfer or acquisition of control has been affected, this Agreement is terminated.

19. Notice. Any notice or information required or permitted to be given to the parties under this Agreement may be sent to the following addresses unless otherwise specified:

CEO and General Manager Seattle City Light 700 Fifth Avenue, Suite 3100 Seattle, WA 98104-5031 Phone: (206) 684-3200 Fax: (206) 684-3158	City Manager City of Shoreline 17500 Midvale Avenue N Shoreline, WA 98133 Phone: (206) 801-2700 Fax: (206) 524-2200

20. Non-Waiver. The failure of either party to enforce any breach or violation by the other party of any provision of this Agreement shall not be deemed to be a waiver or a continuing waiver by the non-breaching party of any subsequent breach or violation of the same or any other provision of this Agreement.

21. Alternate Dispute Resolution. If the parties are unable to resolve disputes arising from the terms of this Agreement, prior to resorting to a court of competent jurisdiction, the parties shall submit the dispute to a non-binding alternate dispute resolution process agreed to by the parties or requested by the party alleged to be in default as set forth in Section 15 of this Agreement. Unless otherwise agreed between the parties or determined herein, the cost of that process shall be shared equally.

22. Most Favored Franchise. The City reserves the right to request SCL to consider amending this Agreement to include terms or provisions in other SCL franchises that the City deems more favorable than the current terms of this Agreement. Any such amendment shall be subject to approval by the legislative authorities of the City and SCL.

23. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties as to the subject matter herein and no other agreements or understandings, written or otherwise, shall be binding upon the parties upon execution and acceptance hereof.

24. Supremacy. This Agreement represents the dominant agreement between the parties for a franchise for an electric power system within the City. In the event of any conflict between this Franchise and any City ordinance or permit, or between this Agreement and any subsequent agreement between the parties for construction or relocation of SCL's facilities, the provisions of this Franchise shall control.

25. Directions to City Clerk. The City Clerk is hereby authorized and directed to forward certified copies of this Ordinance to SCL set forth in this Ordinance. SCL shall have one hundred twenty (120) Days from receipt of the certified copy of this Ordinance to obtain authorization by ordinance of the Seattle City Council to accept in writing the terms of this Agreement granted to SCL in this Ordinance.

26. Publication Costs. In accord with state law, this Ordinance shall be published in full. The costs of said publication shall be borne by SCL.

27. Effective Date. If accepted by SCL, this Ordinance shall take effect and be in full force as of _____. The City Clerk is hereby directed to publish this Ordinance in full.

ADOPTED BY THE CITY COUNCIL ON MAY 19, 2014

_____
Mayor Shari Winstead

ATTEST:

_____
Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

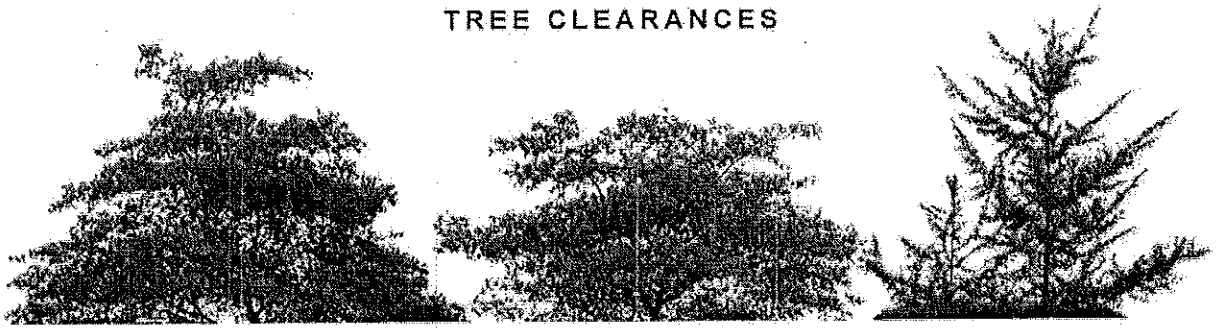
_____
Ian Sievers
City Attorney

Date of Publication: _____
Effective Date: _____

Seattle City Light

CONSTRUCTION GUIDELINE

TREE CLEARANCES



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2. Scope

This Guideline covers tree clearances to Seattle City Light's (SCL) secondary, distribution, and transmission overhead power lines. Vegetation clearance criteria are based on WAC-296-24-960, RCW 64.12.035 and SCL best practice.

3. Requirements

Trees shall be trimmed according to Table 1 and Figures 5.1 through 5.7.

Table 1

Conductor Type	Other	Minimum Clearance, ft
primary distribution conductors, 4 kV to 26 kV	transformers, switches and electrical equipment	10
secondary conductors	system neutrals and bridle service wire	3 – conifers 5 – deciduous
sub-transmission conductors (35 to 69 kV)	-	12.4
115 kV transmission conductors	-	12.4
230 kV transmission conductors	-	16.5

standards coordinator	standards supervisor	unit director
Uzma Siddiqi	John Shipek	Pam S. Johnson

4. Notes

4.1 Primary Distribution Conductors

Primary distribution conductors, 4 kV to 26 kV, and transformers, switches and electrical equipment requires minimum clearance from vegetation of 10 feet.

4.2 Secondary Conductors

Secondary conductors, system neutrals, and bridle service wires require minimum clearance from vegetation of 3 to 5 feet.

4.3 Pole Height

Illustrations in this Guideline are shown for a typical 47-foot utility pole. The same clearance criteria apply to poles of other heights and to all conductors (wire).

4.4 Non-City Light Services

Fiber optic, cable TV and telephone cables are not trimmed out by City Light unless they are incidentally within 3 to 5 feet of the secondary zone. Streetlights are not trimmed out for illumination by SCL.

4.5 Vertical Clearance

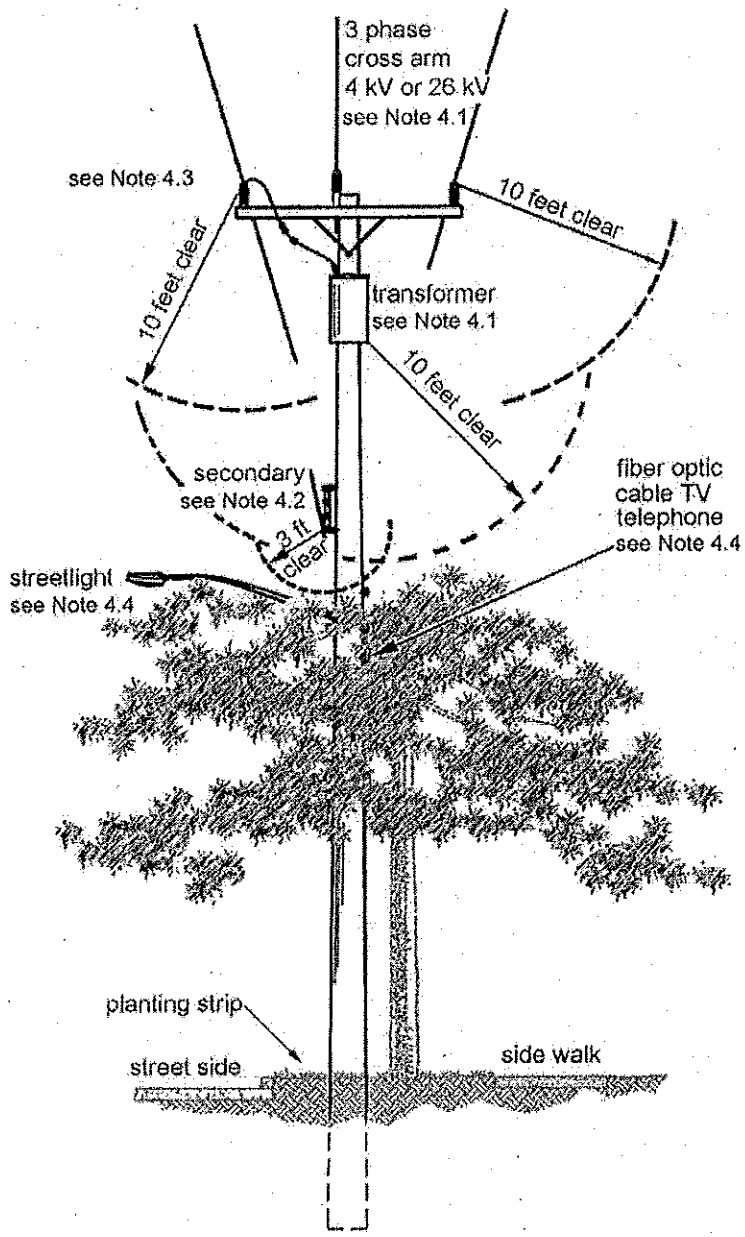
Branches overhanging primary conductors from above are removed to a minimum of 15 feet above the primary conductors. See figures 5.5 and 5.7.

4.6 Transmission Conductors

Take special note that transmission conductor clearances are not shown in the figures. See Table 1 for clearance requirements.

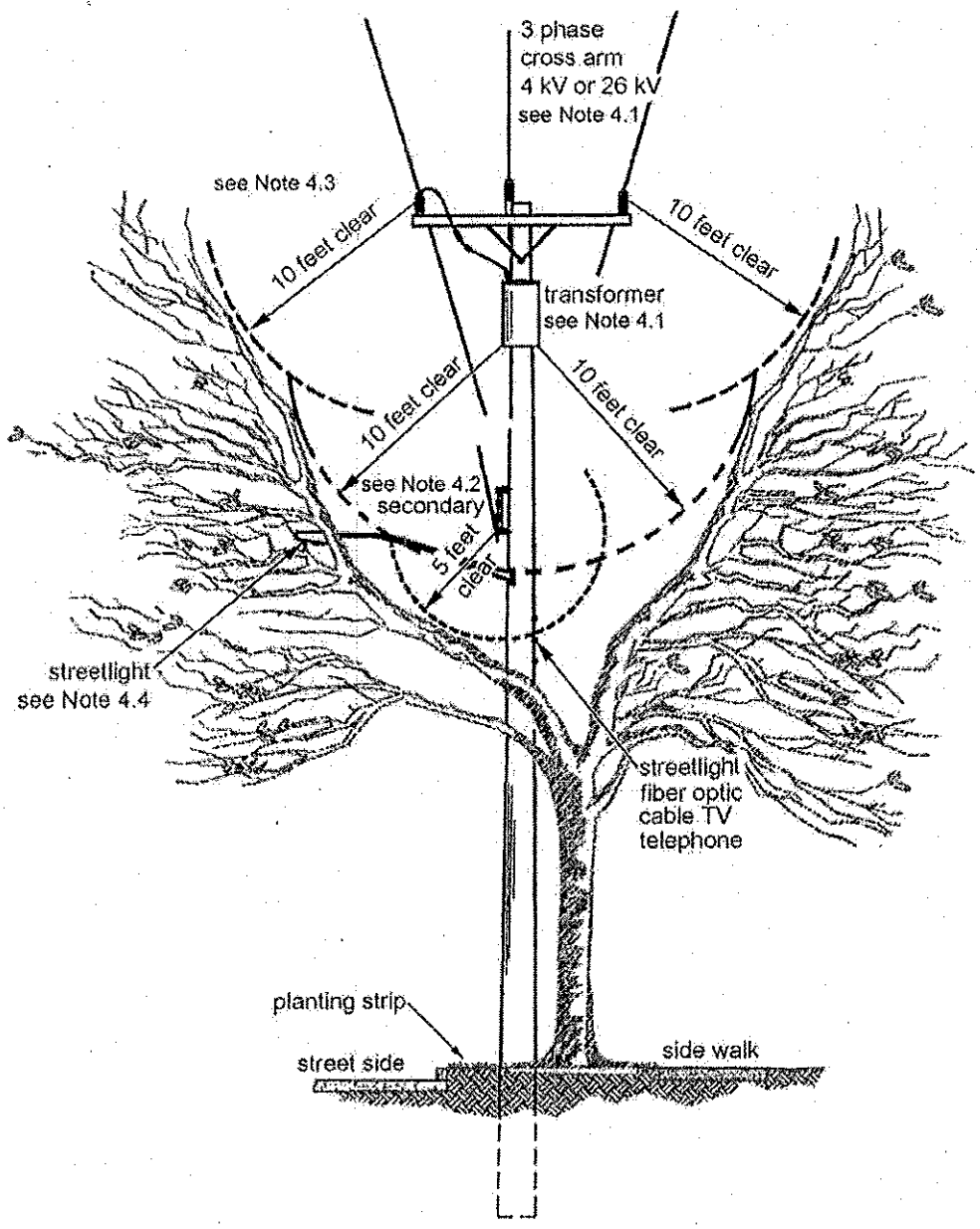
5. Pruning Figures

5.1 Three Phase Distribution Powerline, Top Pruning, Conifer (formerly TA-2000)



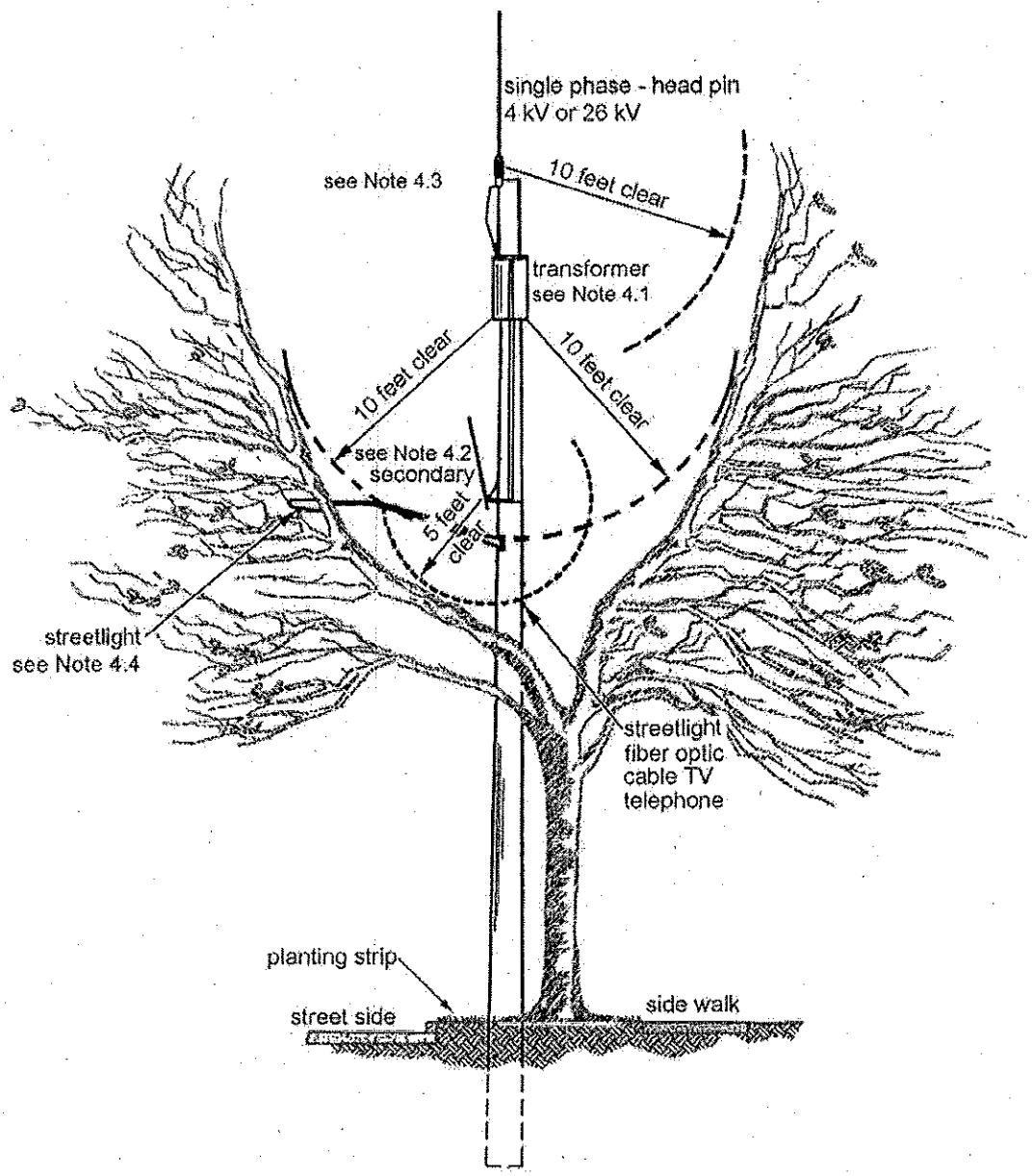
5. Pruning Figures, continued

5.2 Three Phase Distribution Powerline, Directional Pruning, Deciduous (formerly TA-2001)



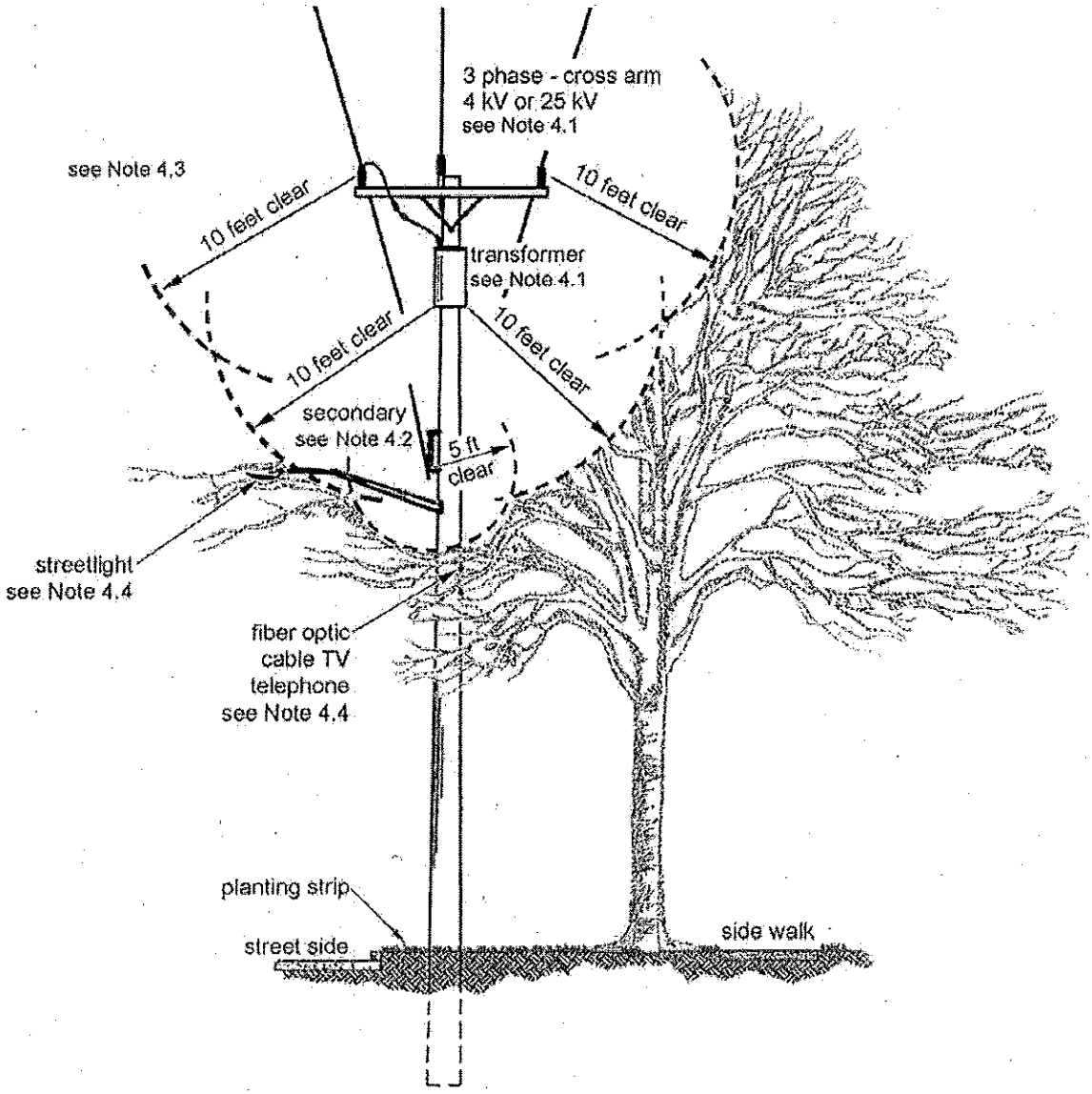
5. Pruning Figures, continued

5.3 Single Phase Distribution Powerline, Directional Pruning, Deciduous (formerly TA-2002)



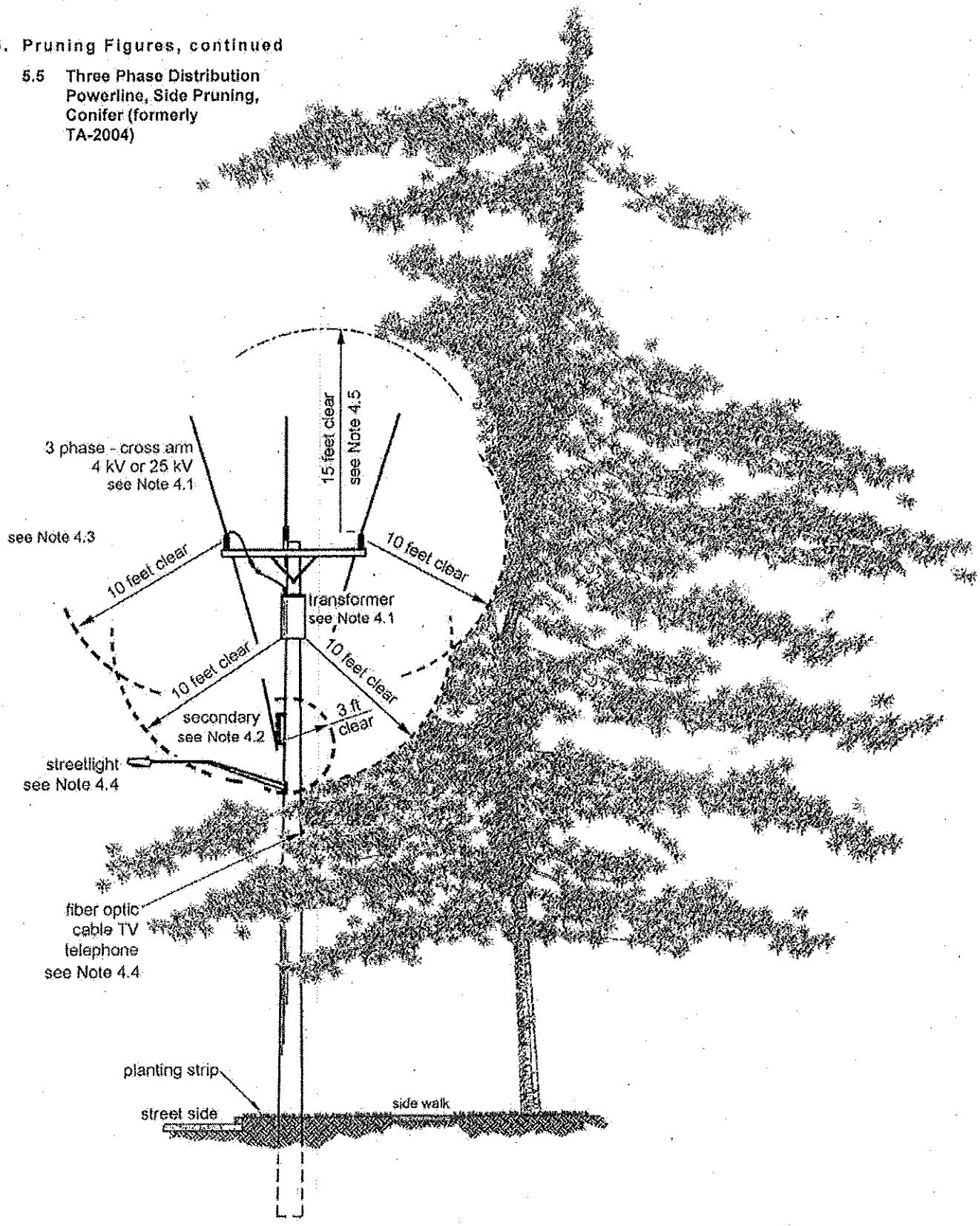
5. Pruning Figures, continued

5.4 Three Phase Distribution Powerline, Side Pruning, Deciduous (formerly TA-2003)



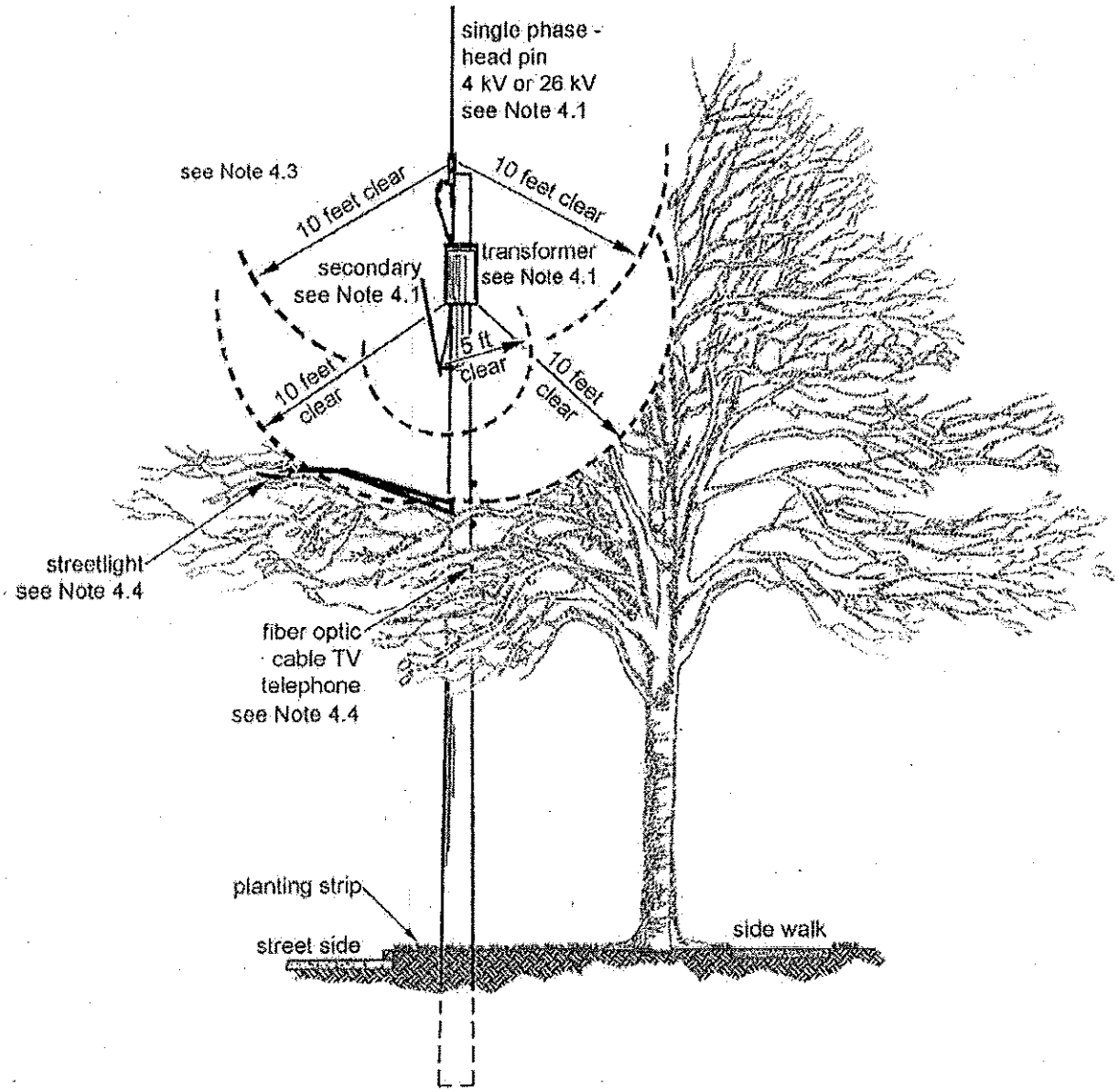
5. Pruning Figures, continued

5.5 Three Phase Distribution Powerline, Side Pruning, Conifer (formerly TA-2004)



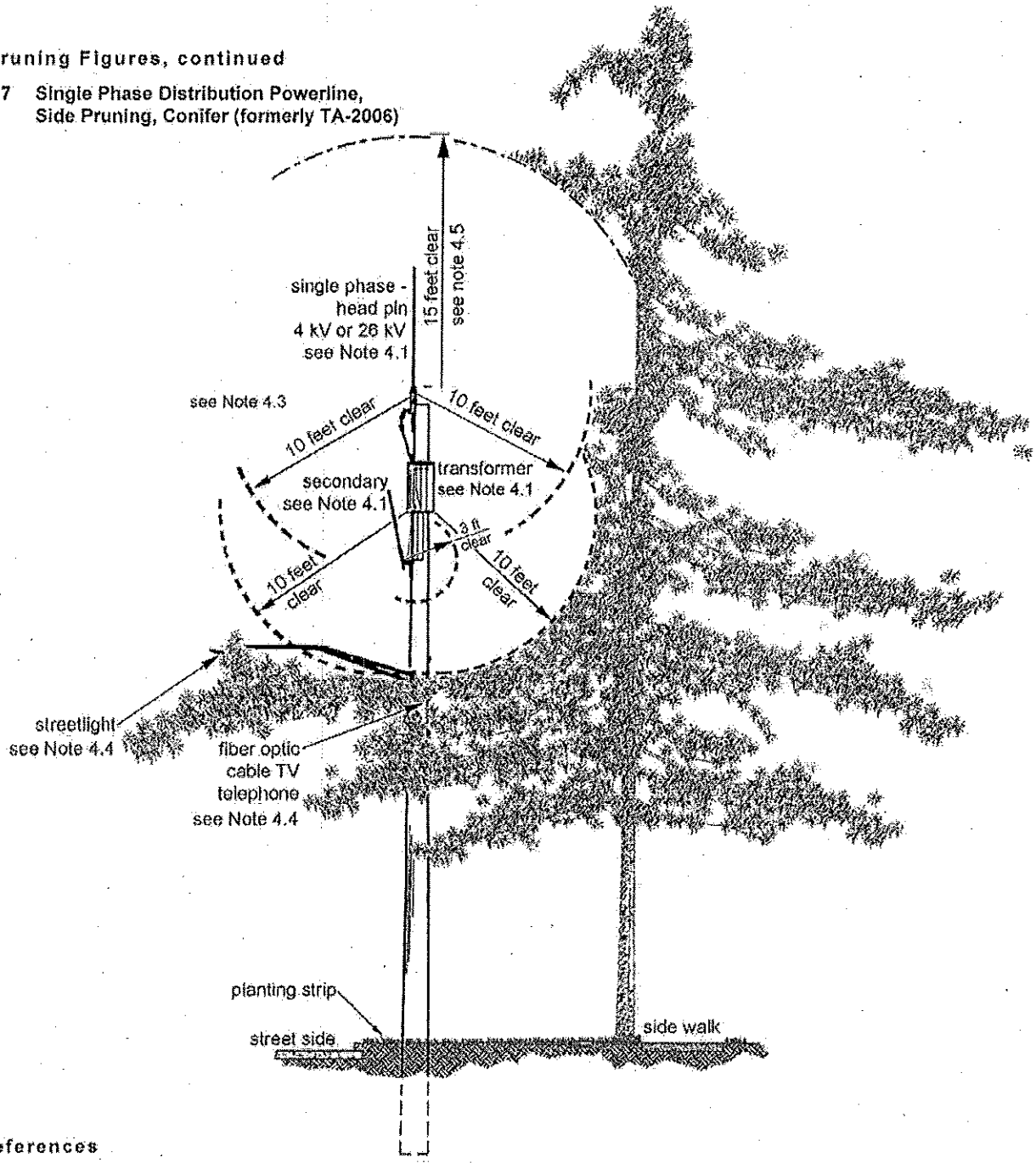
5. Pruning Figures, continued

5.6 Single Phase Distribution Powerline, Side Pruning, Deciduous (formerly TA-2005)



5. Pruning Figures, continued

5.7 Single Phase Distribution Powerline, Side Pruning, Conifer (formerly TA-2006)



6. References

Ingham, Dave; SCL Powerline Clearance Coordinator, subject matter expert

RCW 64.12.035, Revised Code of Washington, Cutting or Removing Vegetation - Electric Utility - Liability - Definitions.

Siddiqi, Uzma; SCL Standards Engineer, subject matter expert and originator of D9-80 (uzma.siddiqi@seattle.gov)

TA-2000 to TA-2006; series of drawings on tree clearances; SCL; 5/10/2006

WAC-296-24-960, Washington Administrative Code - Training.

Form revised: February 26, 2014

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle City Light	Phil West / 4-3718	Greg Shiring / 6-4085

Legislation Title:
AN ORDINANCE relating to the City Light Department, approving a fifteen-year franchise to construct, operate, maintain, replace and repair an electrical light and power system in, across, over, along, under, through and below certain designated public rights-of-way in the City of Shoreline.

Summary of the Legislation:
This ordinance approves a fifteen-year franchise from the City of Shoreline to construct, operate, maintain, replace and repair an electrical light and power system in, across, over, along, under, through and below certain designated public rights-of-way. The current Franchise Agreement expires on July 31, 2014. Seattle City Light and the City of Shoreline have been engaged in negotiations to renegotiate the current franchise and have successfully reached agreement on a new Franchise Agreement, which provides terms and conditions for Seattle City Light to operate within Shoreline's right-of-way.

Background:
Seattle City Light ("SCL") provides electric service to the residents and businesses in the cities of Shoreline, Burien, Lake Forest Park, SeaTac and Tukwila (the "Franchise Cities"), under individual Franchise Agreements with each of these cities. The current 15 year Agreements have been in effect starting in 1999. They grant Seattle City Light a non-exclusive franchise to operate within the Franchise Cities' right-of-way, and establish terms and conditions under which Seattle City Light and the Franchise Cities work together on a variety of related issues, including rates as established by Seattle City Council, fees, and operational requirements.

Shoreline's current Agreement expires on July 31, 2014.

In late 2012, Seattle City Light engaged the Franchise Cities in discussions to renegotiate the Agreements. Meetings were held with the Cities to understand what is working well with the current Agreements, as well as areas for improvement. Following these initial meetings, City Light staff met individually with Shoreline to negotiate an Agreement that maintained consistency with Seattle City Light's Strategic Plan, and provides Shoreline with the same level of outstanding service, reliability, environmental stewardship, and accountability as we provide for customers within the Seattle city limits.

X **This legislation does not have any financial implications.**

Other Implications:

a) **Does the legislation have indirect financial implications, or long-term implications?**
The proposed agreement would continue a legal framework that provides SCL the certainty of franchise rights when it operates an electrical system in the City of Shoreline. SCL's 2014 Adopted Budget and the 2015/2016 proposed budget and revised strategic plan assumes that SCL continues this franchise with the associated operational and capital costs and related rate-based revenue. In addition, approval of this proposed Bill will allow SCL to continue to charge its customers in Shoreline a rate differential as specified by the City of Shoreline, and remit a contract fee to the City of Shoreline in consideration of Shoreline foregoing its rights to establish its own electric utility.

b) **What is the financial cost of not implementing the legislation?**
Without a franchise agreement in place, there would be no legal framework in which to operate in the City of Shoreline's right-of-way. SCL and Shoreline would need to continue negotiations for a franchise agreement that would meet approval of both Cities' legislative bodies, which at the very least would have impacts on administrative costs. The assumption is SCL would continue to operate within Shoreline during this time, so there should be no short term negative impact to SCL's revenues. However, if the proposed Agreement is not approved, the contract fee payment to the City of Shoreline would not continue. Additional long term impacts are unclear, as a franchise is necessary to continue operations in Shoreline's Right-of-way.

c) **Does this legislation affect any departments besides the originating department?**
No

d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?**
N/A – the City of Shoreline municipal code requires a franchise agreement for utilities to operate in their right-of-way

e) **Is a public hearing required for this legislation?**
No

f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No

g) **Does this legislation affect a piece of property?**
No

h) **Other Issues:**

List attachments to the fiscal note below:
N/A

City of Seattle
Edward B. Murray
Mayor

June 3, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Burgess:

I am pleased to transmit the attached proposed Council Bill that approves a fifteen-year Franchise Agreement from the City of Shoreline for Seattle City Light (SCL) to construct, operate, maintain, replace and repair an electrical light and power system in, across, over, along, under, through and below certain designated public rights-of-way. SCL and the City of Shoreline have been engaged in negotiations to renegotiate the current Franchise and have successfully reached agreement on a new Franchise Agreement, which provides terms and conditions for SCL to operate within Shoreline's right-of-way.

SCL currently provides electric service to the residents and businesses in the City of Shoreline under a fifteen-year Franchise Agreement, which expires July 31, 2014. Since March 2013, SCL and the City of Shoreline have been engaged in negotiations on a new Agreement which will grant SCL a non-exclusive franchise to operate within the City of Shoreline's public rights-of-way, and establishes terms and conditions under which SCL and the City of Shoreline work together on a variety of franchise issues, including rates as established by Seattle City Council, fees, and operational requirements. While the terms and conditions of the new agreement are generally consistent with the current agreement, they have been clarified and/or improved for better understanding and easier implementation.

The negotiated agreement maintains consistency with Seattle City Light's Strategic Plan, and provides Shoreline with the same level of outstanding service, reliability, environmental stewardship, and accountability that we provide for customers within the Seattle city limits. Thank you for your consideration of this legislation. Should you have questions, please contact Phil West at (206) 684-3718.

Sincerely,

Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

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