CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 15-08

A RESOLUTION OF THE TIGARD CITY COUNCIL APPROVING AN AGREEMENT FOR ALTERNATE SERVICE BETWEEN PORTLAND GENERAL ELECTRIC COMPANY, THE CITY OF LAKE OSWEGO AND THE CITY OF TIGARD RELATING TO CONSTRUCTION OF THE NEW WATER TREATMENT PLANT, AND AUTHORIZING THE CITY MANAGER TO SIGN THE AGREEMENT

WHEREAS, on August 6, 2008, the cities of Lake Oswego and Tigard (the "cities") executed an Intergovernmental Agreement Regarding Water Supply Facilities, Design, Construction, and Operation; and

WHEREAS, the cities have determined that that it is in the best interests of both that the design and construction of certain water supply facilities include a back-up source of electrical power for planned and emergency interruptions of the primary electrical power over the operating life of such facilities; and

WHEREAS, through analysis of alternatives for providing a back-up source of electrical power, the cities have determined that entering into an agreement for alternate power service (Agreement) with Portland General Electric (PGE) best meets the cities' objective of providing an reliable supply of water to their citizens for public health, fire suppression, sanitation and economic development; and

WHEREAS, the Agreement with PGE is providing the cities on-demand access to a second power source of electrical power from its supply system in perpetuity, in exchange for a one-time lump sum payment of $530,698.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The city manager is authorized to sign the Agreement substantially in the form attached hereto as Attachment 1.

SECTION 2: This resolution is effective immediately upon passage.

PASSED: This 24th day of February 2015.

Mayor - City of Tigard

ATTEST:

Carol A Krager
City Recorder - City of Tigard

CITY OF LAKE OSWEGO; CITY OF TIGARD

AND

PORTLAND GENERAL ELECTRIC COMPANY

AGREEMENT FOR ALTERNATE SERVICE

(Water Treatment Plant in West Linn)

2014

This Agreement for Alternate Electric Service ("Agreement") is between the City of Lake Oswego, an Oregon municipal corporation; the City of Tigard, an Oregon municipal corporation; both hereinafter referred to as "Customer" and PORTLAND GENERAL ELECTRIC ("PGE"), an Oregon corporation. PGE and Customer are hereinafter sometimes referred to individually as "Party" and collectively as the "Parties".

The Parties agree as follows:

1. Term of Agreement

   This Agreement shall commence on the date of execution and remain in effect for as long as Customer requires alternate electric service at the location described below, or until Customer provides written notice to PGE in accordance with paragraph 10a) herein, whichever is earlier.

2. Conditions of Service

   PGE reserves the right to test, operate, and maintain the PGE equipment involved. Customer will be notified, in writing or by using another mutually agreeable method of communications, in advance, to the extent practicable, if the alternate service will be unavailable for more than 24 hours. This Agreement does not provide for increases in PGE's alternate service capacity and service may, therefore, be interrupted if actual kVA demand, by Customer, on the alternate service facilities exceeds the contracted maximum kVA demand.

3. Location to be Served and Point of Delivery

   a) The alternate electric service capacity, agreed to herein, shall be available for use at Customer's premises located at:

      4260 Kenthorpe Way, West Linn, OR 97068.

   b) The point of delivery of the alternate electric service is specifically described as:

   Termination lugs for the 750 kcmil AL XLP cable contained within the EUSERC-compliant (section 400 of the 2012 Electric Utility Service Equipment Requirements Committee standards manual), 15 kV-rated, revenue metering cabinet located at Lake Oswego/Tigard Water Partnership Water Treatment Plant (4260 Kenthorpe Way, West Linn, OR 97068). See Exhibit 1.

4. Payment

a. Contracted Demand:

Customer agrees to pay PGE a one-time lump-sum payment of $530,698. Subject to timely receipt of the one-time lump-sum payment to PGE and following completion of construction of the necessary facilities, PGE agrees to provide 4,000 kVA of alternate service capacity pursuant to the terms and conditions of this Agreement.

b. Demand in Excess of Contracted Amount:

When the alternate service is utilized, Customer's monthly billing will consist of: i) the standard kW and kVAR demand charges on either the preferred or alternate service, whichever is the greater; ii) the sum total kWh charge for both services; and, iii) in the event that Customer imposes a kVA demand on the alternate service facilities in excess of the above-listed, Customer will pay PGE an additional monthly amount for that month and the succeeding 11 months. The additional monthly amount, discussed in (iii) above, will be determined by multiplying the excess kVA demand by the then-current tariff sum of transmission and distribution demand charges and the applicable facilities capacity charges. For informational purposes only, currently, the sum of these monthly charges is $4.75 per kVA for a Schedule 85 primary voltage customer at 4,000 kVA, however, this rate is subject to change. Should a condition of kVA demand occur, which exceeds the maximum kVA contracted for under this Agreement, Customer shall either modify operations to prevent excess kVA demand or execute a supplemental Agreement with PGE for the additional amount of alternate service required. It is understood and agreed that the cost of accommodating additional alternate service for Customer will be based on the costs of PGE in effect at that time. Customer will also be billed actual cost of any damage to PGE's alternate service facilities caused by Customer's alternate service demand in excess of the contracted amount.

5. Advanced Notice for Using Alternate Facilities

Either PGE or Customer may arrange for service to be provided through the alternate service facilities. Customer must gain prior approval for non-emergency usage by providing written notice to PGE five (5) days in advance of the desired switch. Notice to PGE shall be provided to Andrew Schafer, Key Customer Manager (503-464-2583).

6. Indemnification

Customer shall, to the fullest extent permitted by law, protect, defend, indemnify and hold harmless PGE and its affiliates and their respective employees, directors, and agents ("Indemnitees") from and against any losses, costs, claims, penalties, fines, liens, demands, liabilities, legal actions, judgments, and expenses of every kind (including, without limitation, reasonable attorney fees, including at trial and on appeal) asserted or imposed against any Indemnitees by any third party (including, without limitation, employees of Customer or PGE) and arising out of the negligent or wrongful acts or omissions of Customer or any subcontractor of or consultant to Customer or any of their respective employees, directors or agents arising out of or in any way related to the performance or nonperformance of this Agreement ("Indemnified Losses"), except to the extent such Indemnified Losses are caused by the sole negligence or willful misconduct of the Indemnitees. Customer warrants to PGE that its indemnity obligation will be supported by liability insurance to be furnished by it, or self-insurance approved by PGE for these purposes; provided that recovery under or in respect of this indemnity shall not be limited to the proceeds of any insurance.

7. Disclaimer of Consequential Damages

EXCEPT TO THE EXTENT REQUIRED BY LAW, PGE SHALL NOT BE LIABLE TO CUSTOMER FOR ANY LOST OR PROSPECTIVE PROFITS OR ANY OTHER SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INCIDENTAL OR INDIRECT LOSSES OR DAMAGES (IN TORT, CONTRACT OR OTHERWISE) UNDER OR IN RESPECT OF THIS AGREEMENT.

8. Successors and Assigns

Customer may assign this Agreement to a third party or a successor in interest as long as a) in PGE's reasonable judgment such third party's or successor's creditworthiness and ability to perform Customer's obligations under this Agreement are at least as good as that of Customer; and b) the assignee or successor agrees to be bound by all the terms of conditions of this Agreement.

9. Cancellation of Previous Agreements

Any and all former agreements between Customer and PGE for the alternate electric service covered by this Agreement are hereby canceled and terminated.

10. Termination of This Agreement

a) This Agreement may be terminated by Customer upon 30 days' written notice to PGE. The subsequent availability of alternate electric service is subject to all changes in applicable tariffs, including Utility Rules and Regulations and all lawful orders of the Public Utility Commission of Oregon.

b) Should the payment for alternate service be on a monthly basis, upon termination Customer will pay to PGE the amount that PGE's depreciated investment in such alternate service facilities exceeds the current value of the facilities to PGE.

c) If the Customer has made a lump-sum prepayment to PGE for the alternate service facilities, upon termination PGE will pay to the Customer an amount equal to the current value to PGE for said facilities. This amount will not exceed the undepreciated amount of said facilities at the time of such termination.

d) In the event that the Customer fails to prevent excess kVA demand and refuses to timely execute a supplemental agreement with PGE for the additional amount of alternate service required by it, upon written notice to Customer, PGE may terminate this Agreement and Customer shall be responsible for all outstanding amounts owed to PGE including the payment under section 10b), to the extent applicable.

INTENTIONAL BREAK
SIGNATURE PAGE TO FOLLOW

CUSTOMER: CITY OF LAKE OSWEGO

Scott Lazenby City Manager

(Signature, Title)

1/21/15

(Date)

LAKE OSWEGO – Approval as to Form

12-22-14

(Initials, Date)

CUSTOMER: CITY OF TIGARD

(Signature, Title)

(Date)

TIGARD – Approval as to Form

(Initials, Date)

COMPANY: PORTLAND GENERAL ELECTRIC COMPANY

(Signature, Title)

(Date)

PGE – Rates and Regulatory Affairs

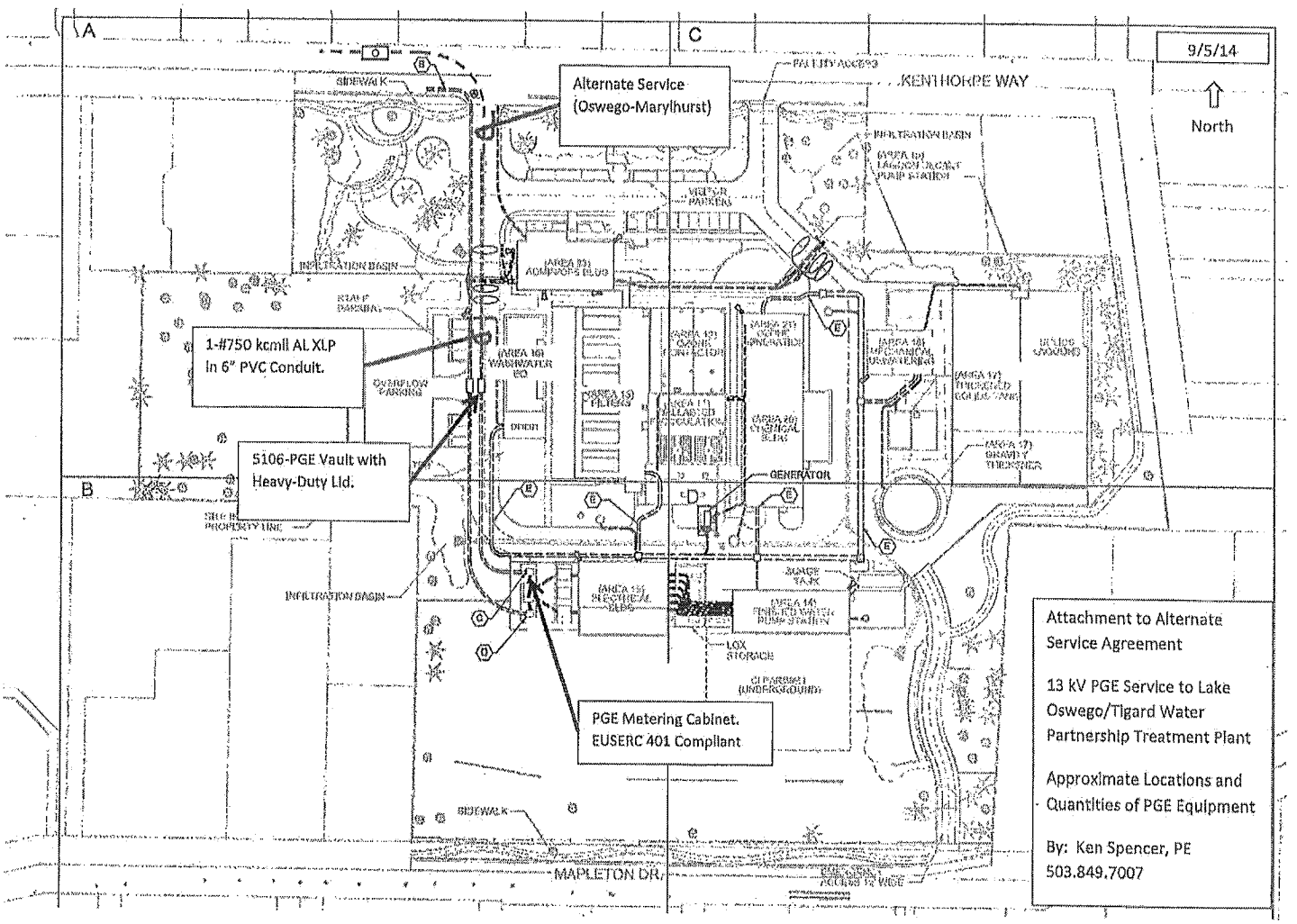
(Signature, Title)

(Date)

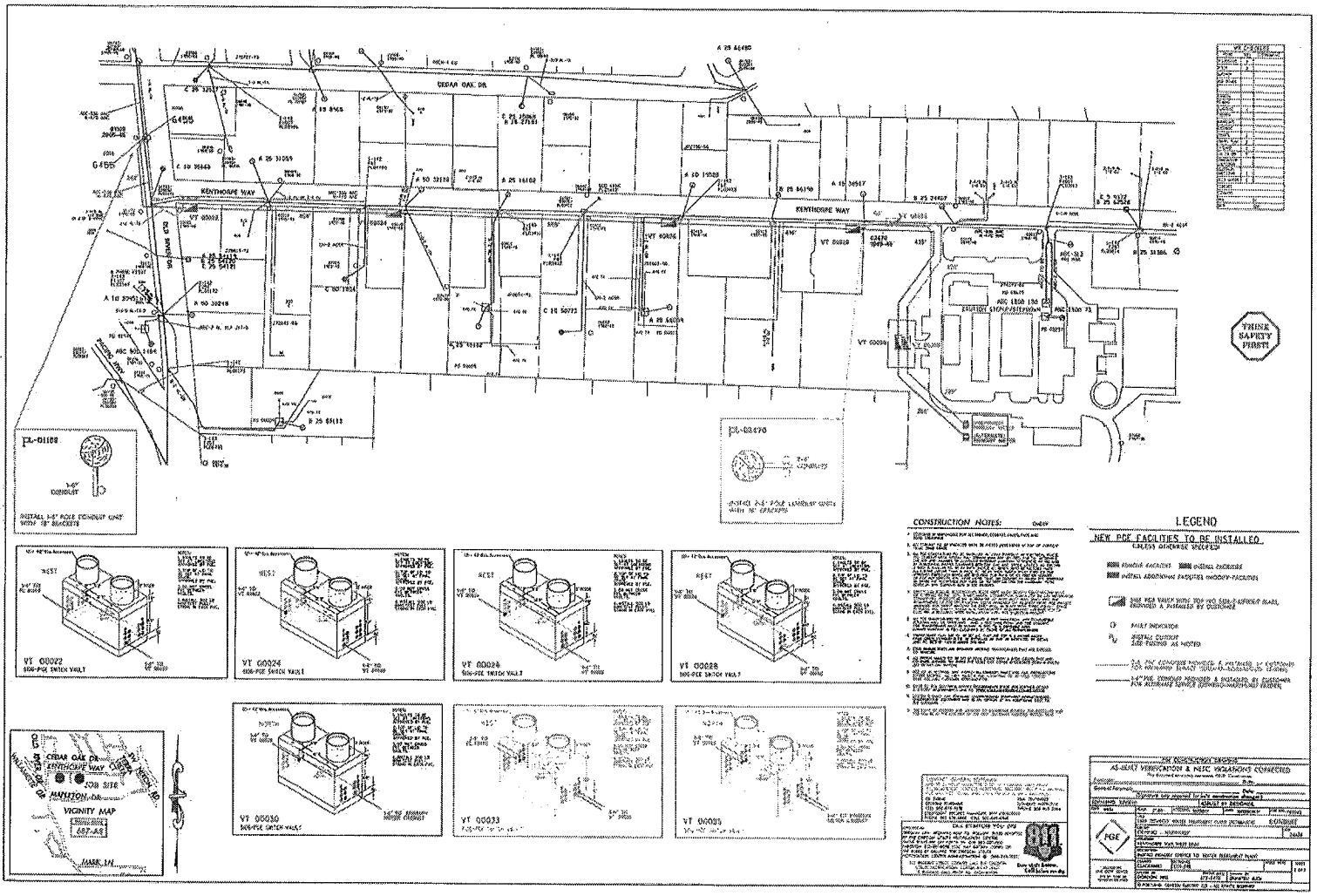
PGE – Legal Review

12/10/14

(Initials, Date)



Partial Site Plan – No Scale


CEDAR OAK DR
KENTHORPE WAY
THINK SAFETY FIRST!
CONSTRUCTION NOTES:
LEGEND
NEW PGE FACILITIES TO BE INSTALLED
VT 00022
VT 00024
VT 00026
VT 00028
VT 00030
VT 00033
VT 00035
VICINITY MAP
MARK LN
AS-BUILT VERIFICATION & NESC VIOLATIONS CORRECTED
PGE