

MEMORANDUM OF AGREEMENT # _____
BETWEEN
THE CITY OF SEATTLE DEPARTMENT
SEATTLE CITY LIGHT
AND
PORT OF SEATTLE
FOR
PRIMARY METERED SERVICE CONNECTIONS AND CONSTRUCTION OF SYSTEM IMPROVEMENTS
ASSOCIATED WITH TERMINAL 46 AND THE PIER 66 SHORE POWER PROJECT

THIS MEMORANDUM OF AGREEMENT (“Agreement”) DATED _____, 2024 is made by and between the City of Seattle (“City”), a municipal corporation of the State of Washington, by and through Seattle City Light (“City Light” or “SCL”) department and the Port of Seattle (“the Port”), a municipal corporation of the State of Washington, and hereinafter referred to collectively as “Parties” or individually as “Party.”

RECITALS

1. The Primary Metered Service Connections And Construction Of System Improvements Associated With Terminal 46 and the Pier 66 Shore Power Project is part of the Port’s long-term planning goals for carbon and air emissions reduction, including the Port’s Century Agenda, introduced in 2012, which outlines sustainability goals and objectives intended to guide the Port investments and operations for the next 25 years, and the 2020 Northwest Ports Clean Air Strategy which includes an objective to install shore power at all major cruise berths by 2030. The Project will accomplish these goals by providing standalone shore power for cruise vessels moored at PIER 66, located in Elliott Bay on the Seattle waterfront, allowing equipped ships to connect to 93% clean electricity from City Light rather than relying on fossil fuel sources. As a result, shore power can nearly eliminate emissions from ships at berth while connected. Once fully operational, the shore power connection at PIER 66 is estimated to reduce annual emissions by: 54 metric tons of oxides of nitrogen (NOx), 1 metric ton of diesel particulate matter (DMP), and 2,700 metric tons of greenhouse gas (GHG).

2. Providing shore power at PIER 66 allows shore power capable cruise vessels to plug into the local electrical grid and turn off their auxiliary diesel engines while at berth, resulting in an overall reduction in air pollutant and greenhouse gas emissions. As one of the most thoroughly demonstrated and robust methods for reducing at-berth emissions from cruise ships, shore power is a key strategy to meet the Port’s Century Agenda goal of being the greenest and most energy-efficient port in North America and to advance the region as a leading tourism destination and business gateway.

3. The Project will also help establish electrification of medium and heavy duty commercial fleets and maritime vessels and facilities, grid modernization, integrated planning, strategic technologies, and clean energy objectives as described in Seattle City Light’s Transportation Electrification Strategic Investment Plan and 2022-2026 Strategic Plan.

4. The Port is the SEPA Lead Agency for the Project and completed an Environmental Checklist in May 2021 and issued a SEPA Determination of Non-Significance on July 2, 2021.

NOW, THEREFORE, pursuant to the above recitals and in consideration of the terms, conditions, performances, and duties described herein, Parties through this Agreement, it is hereby agreed as follows:

AGREEMENT

1. General.

1.1. Definitions.

1.1.1. "Business Days" means Monday through Friday, inclusive, except for official City of Seattle, Port of Seattle, and State holidays.

1.1.2. "City Standards" means all City of Seattle laws, rules, regulations and standards and all applicable federal and state laws, rules, regulations and standards, including but not limited to the following, except as otherwise provided in this Agreement:

- The Seattle Municipal Code;
- The City of Seattle Standard Specifications for Road, Bridge and Municipal Construction;
- The City of Seattle Standard Plans for Municipal Construction;
- SDOT, SCL, SDCI, and SPU Director's Rules, including the City of Seattle Right of Way Improvements Manual, 2005-2023, and any revisions to the Manual;
- SCL Material Standards; and
- SCL Construction Guidelines.

1.1.3. "Environmental Law(s)" means any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction), now or hereafter in effect including, but not limited to: the Federal Clean Air Act; the Federal Water Pollution Control Act; the Federal Safe Drinking Water Act; the Federal Comprehensive Environmental Response Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; the Federal Resource Conservation and Recovery Act, as amended by the Solid and Hazardous Waste Amendments of 1984; the Federal Occupational Safety and Health Act; the Federal Emergency Planning and Right-to-Know Act of 1986; the Federal Hazardous Materials Transportation Control Act of 1980; the Federal Clean Water Act of 1977; the Federal Insecticide, Fungicide and Rodenticide Act; the Federal Waste Management Recovery and Recycling Act; the Washington Hazardous Waste Management Act; the Washington Hazardous Waste Fees Act; Washington Model Toxics Control Act; the Washington Nuclear Energy and Radiation Act; the Washington Radioactive Waste Storage and Transportation Act; the Washington Underground Petroleum Storage Tanks Act; and any regulations promulgated thereunder from time to time.

1.1.4. "Hazardous Substance(s)" means any substance, or substance containing any component, now or hereafter designated as a hazardous, dangerous, toxic or harmful substance, material or waste, subject to regulation under any federal, state or local law, regulation or ordinance relating to environmental protection, contamination or cleanup including, but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 C.F.R. § 172.101) or by the United States Environmental Protection Agency as hazardous substances (40 C.F.R. pt. 302 and amendments thereto) or in the Washington Hazardous Waste Management Act (Ch. 70.105 RCW) or the Washington Model Toxics Control Act (Chs. 70.105D RCW and 82.21 RCW), petroleum

products and their derivatives, and such other substances, materials and wastes as become regulated or subject to cleanup authority under any Environmental Law. See also “Environmental Law(s).”

1.1.5. “Internal Use Only” means a designation place on certain City Light documents which if released for public information could compromise the security of the power system.

1.1.6. “Joint” refers to an arrangement by City Light and the Port for multiple segments of work as described in Section 1.4 Scope of Agreement and Exhibit 3 where both Parties share responsibilities.

1.1.7. “MTCA” means the Washington Model Toxics Control Act (Chs. 70.105D RCW and 82.21 RCW). See also “Environmental Law(s).”

1.1.8. “Project” means the Primary Metered Service Connections And Construction Of System Improvements Associated With Terminal 46 and the Pier 66 Shore Power Project, as generally described in Section 1.3, and the scope for which is set forth in Section 1.4 and Exhibit 3.

1.1.9. “Remediation” means the same as Remedy or Remedial Action defined in MTCA, which includes any action or expenditure consistent with the purposes of MTCA to identify, eliminate, or minimize any threat or potential threat posed by Hazardous Substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a Hazardous Substance and any assessments to determine the risk or potential risk to human health or the environment. See also “Environmental Law(s).”

1.1.10. “SCL Facilities” means the electrical facilities impacted by, or constructed as part of, the PROJECT that are owned or will be owned by SCL.

1.1.11. “SDCI” means the City of Seattle Department of Construction and Inspections.

1.1.12. “SDOT” means the City of Seattle Department of Transportation.

1.1.13. “Service Agreement” means Seattle City Light's Standard General Service Application and Contract.

1.1.14. “Work” means the construction and inspection work that is necessary to complete the Project. Work will be performed in accordance with this Agreement.

1.2. Term of Agreement.

The term of this Agreement shall be for a period of two (2) years from the date of execution and may be renewed upon mutual agreement in writing unless this Agreement is terminated pursuant to Section 4.

1.3. Project Overview.

The Project is located in Elliott Bay on the Seattle waterfront. The Port is proposing to provide shore power (i.e., cold ironing) to serve shore power capable cruise vessels at the Pier 66/Bell Street Cruise Terminal (Pier 66). The Project will involve installing a shore power system with a submarine cable that will connect the PIER 66 facility to a new power feeder extension at Terminal 46. The new power feeder extension will connect to the City Light electrical power grid. Project components include:

1. Installing upland electric cables, ductbanks, meter and switchgear infrastructure, and vaults to connect the submarine cable to an existing City Light electrical power vault at Terminal 46, subject to City Light review and approval.
2. Installing upland electrical cables, ductbanks, and vault to an existing City Light vault north of South King Street and continuing to the north terminal property line. This new infrastructure is for service to the Washington State Ferries (WSF) Colman Dock Terminal Electrification project, subject to City Light review and approval.
3. Upland grading to install the cables and electric utility infrastructure at Terminal 46.
4. Installing an approximately 6,110-foot-long, 26 kilovolt (kV) submarine cable from the north end of Terminal 46 to the south end of the Pier 66 pier structure, subject to City Light review and approval.
5. Installing protective submarine cable features including a rigid conduit at the Terminal 46 slope and articulated mats across the Terminal 46 and Pier 66 berth areas
6. Installing electric utility infrastructure and shore power equipment/system on the Pier 66 pier and routing the cable under the pier to two cruise vessel shore power connection or plug-in locations, subject to City Light review and approval.

1.4. Scope of this Agreement.

Exhibit 3 sets forth scope and cost responsibilities between the Port and City Light by nodes and segments of Work. This Agreement sets forth the roles and responsibilities of the Port and City Light with respect to the Project's design, permitting, environmental review, tribal agreements, construction, testing and commissioning, operations, maintenance, and lifecycle replacement of civil and electrical infrastructure for this project. City Light is responsible for specific tasks identified as City Light's responsibility in Section 1.9, Section 1.10 and Exhibit 3. Other than work specifically identified to be performed by City Light in this Agreement, the Port is responsible for the remaining portions of the Project as described in Section 1.9, Section 1.10 and Exhibit 3 of this Agreement.

1.5. Scope Exceptions.

Section 1.4 or Exhibit 3 set forth the scope and responsibilities of the Work. Any task or responsibility not listed in Section 1.4, Section 1.10, or Exhibit 3 is outside of the scope of this Agreement.

1.6. Budgeted Scope of Work.

Costs for scopes of work are defined in Exhibit 1.

1.7. Time of Completion and Schedule.

The Work will be performed in accordance with the anticipated schedule in **Exhibit 2**. This Agreement will remain in effect per **1.2 Term of Agreement** or until completion of all Work, whichever is greater.

1.8. Project Managers

Administration of this agreement shall be provided by the designated Project Managers for each of the Parties as follows below, which may be updated by notice pursuant to **Section 6.9 Change in Contact Person**.

City Light Project Manager	Port Project Manager
Phil M. Ambrose Senior Project Manager Seattle City Light	Mark Longridge Capital Project Manager Port of Seattle

700 Fifth Avenue, Suite 3300
Seattle, Washington 98104-5031
Phone: (206) 684-4654

2711 Alaskan Way
Seattle, WA 98121
Phone: 9206) 310-6591

The City Light Project Manager is designated by City Light to act as the City's coordinator and primary representative in matters arising during the course of construction as set forth in this Agreement. The Port Project Manager is designated by the Port to act as the Port's coordinator and primary representative in matters arising during the course of construction as set forth in this Agreement.

1.9. General Responsibilities of the Parties.

1.9.1 The Project Managers identified in **Section 1.8 Project Managers** shall coordinate with each other as needed with respect to communications with external entities including local, state, and federal agencies, community organizations, industry, media, and other external audiences.

1.9.2 The Parties agree to proactively coordinate communication activities involving external audiences. Coordination may include identifying opportunities for joint public statements. To facilitate coordination, the Parties will identify points of contact for engagement and communications at each agency.

1.9.3 The Parties shall manage risk and conduct construction in a manner that maximizes cumulative public benefits and minimizes cumulative public costs. In performing its obligations under this Agreement, each Party shall comply with Environmental Laws applicable to its specific tasks.

1.9.4 The Port will apply for permits required by Environmental Laws and enter into tribal agreements as necessary to facilitate such permitting for the Project. The Port is the SEPA Lead Agency. The Port confirms that environmental review of the proposed PROJECT is complete as of the effective date of this Agreement.

1.9.5 Each PARTY shall provide the funding and resources necessary to fulfill the responsibility of that PARTY as established in this Agreement.

1.9.6 The PARTIES agree to work cooperatively with each other and make reasonable, good faith efforts to timely and expeditiously complete the PROJECT, as provided in this Agreement, including, but not limited to development of preliminary engineering, final design, major equipment and materials procurement, and construction.

1.9.7 The PARTIES agree that the PROJECT will not be complete until all the elements in **Exhibit 3** are completed. The PARTIES agree that the current scope identified for certain elements of the PROJECT are reflected in **Exhibit 3**. Future mutual agreement in writing and signed by both PARTIES will be required in order to alter the scope outlined in **Exhibit 3**. The Parties shall provide each other with quarterly updates regarding the **Project** budget to ensure timely negotiation of scope issues.

1.10. Responsibilities of the Parties Specific to the Submarine Cable from Terminal 46 to Pier 66

1.10.1 The PORT will install and own a submarine cable from Terminal 46 to Pier 66 as an integral part of the Project for the PORT's exclusive use.

1.10.2 The PORT agrees that all costs associated with design, installation, operations, permitting, environmental review, tribal agreements, maintenance, repair, and/or lifecycle replacement of the Submarine Cable are the PORT's cost responsibility in full.

1.10.3 The Port's use of the Salish Sea for the Submarine Cable is subject to coordination with local Tribes, including the Suquamish, Muckleshoot, and others, and coordination with local Tribes is fully the Port's responsibility.

1.10.4 A separate Operations Agreement will be developed between the Parties that details specific responsibilities for operations, routine inspection, and maintenance of the Submarine Cable.

1.11. Designated Representatives.

The Designated Representatives for each Party are as follows:

Seattle City Light	Port of Seattle
Tamara Jenkins Project Delivery Director Seattle City Light 700 Fifth Avenue, Suite 3400 Seattle, Washington 98104-5031 Phone: (206) 684-4654	Tin Nguyen Director, Waterfront Project Management Port of Seattle 2711 Alaskan Way Seattle, WA 98121 Phone: (206) 787-4887

The Designated Representatives of this Agreement may delegate authority and responsibilities as required by providing written notice of such delegation to the other Party. Designated Representatives may be updated by notice pursuant to **Section 6.9 Change in Contact Person.**

1.12. Construction Organization and Management.

Both Parties have staff and consultant resources and desire to work collaboratively to use these resources efficiently and cost effectively to avoid unnecessary duplicative effort.

The Parties will strive to perform their responsibilities in a timely manner, to avoid delays and minimize impacts on contractors and third parties. The Parties will give prompt notice of any delay and potential impact known to them. Any dispute between the Parties about responsibilities for delays and cost overruns arising under this Agreement will be resolved as provided in **Section 5 Disputes.**

1.13. Standard for Completion of Work.

Each Party will perform the Work under this Agreement in a workman-like manner and in compliance with applicable construction and electrical standards, codes, and regulations.

1.14. Ownership of Facilities.

1.14.1 City Light will own, operate, and maintain the power facilities constructed under this Agreement up to City Light's distribution system point of termination (up to and including metering equipment). Current carrying components from the distribution system to the City Light designated service point(s) are owned, operated, and maintained by City Light. The Electric Fuel Supply Facilities

(defined in 1.15 below) and the submarine cable are and shall at all times remain, the exclusive property of the Port.

1.14.3 The Parties recognize that City Light will require access to Port property to own, operate, and maintain portions of the power facilities constructed under this agreement. Short and long-term easements for access to power facilities will be executed via separate agreements.

1.15. Ownership of PORT’s Facilities, Environmental Incentives and Credits.

For this Project and under this Agreement, the CITY hereby acknowledges and agrees that neither this Agreement, nor any terms or conditions set forth herein, shall be deemed to prohibit, or in any way limit, the PORT’s eligibility to participate in the Washington Clean Fuels Program under Chapter 70A.535 RCW, as now or hereafter amended, or in any other federal, state, or municipal law, regulation, program, grant, or incentive now or hereinafter available that aims to curb or reduce greenhouse gas emissions, increase the generation or production of low-carbon energy, or mitigate the causes or effects of climate change.

For this Project and under this Agreement, for purposes of the Washington Clean Fuels Program, and any Electric Fuel Supply Facilities installed or constructed pursuant to the Project, the CITY hereby acknowledges and agrees that, as between the PARTIES, the PORT shall be deemed the exclusive “fuel reporting entity” and “credit generator” for purposes of all applicable regulations. The CITY hereby acknowledges and agrees that all electric fuel supply equipment and related infrastructure and facilities (collectively, along with [the Submarine Cable and] any “electric fuel supply equipment” as such term is defined in WAC 173-424-110(80), the “**Electric Fuel Supply Facilities**”) installed or constructed on Terminal 46, Pier 66, or any other property of the Port under this Project and Agreement, are, and shall at all times remain, the exclusive property of the Port. This Section 1.15 shall apply only for the purposes of the Project as defined herein and should not be presumed to be applicable to other Washington Clean Fuels Program credit generating arrangements involving the Port and SCL.

To the fullest extent permitted by law, the CITY hereby irrevocably waives any ownership, lien, security or other interest (including any lien that might otherwise be implied by law) that the CITY may have in any such Electric Fuel Supply Facilities under this Project and Agreement, or in any profits, income, environmental attributes, grants, benefits, incentives, or credits derived therefrom (collectively, along with any “Credits” as such term is defined in WAC 173-424-110(43), “**Credits**”), including any right of distraint. If requested by the PORT, the CITY shall enter into an amendment to this Agreement so as to permit the PORT to be eligible for any Credits, so long as such amendment does not materially increase another Party’s obligations under this Agreement. The CITY agrees to perform such further acts and execute such further documents as may be necessary or appropriate to preserve the PORT’s eligibility for, and rights, title and interest in and to, any Credits, and to carry out the intents and purposes of this Section 1.15.

Without limiting the generality of the foregoing, the CITY shall, upon the PORT’s request, provide the PORT, and/or the PORT’s designee, with such reasonable access to any information reasonably requested by the PORT with respect to the Project, including, without limitation, information regarding the carbon intensity (as such is defined in WAC 173-424-110(31)) of the electric power supplied by the Project, as well as general metering or energy consumption data, and shall execute and deliver to the PORT such acknowledgments or other documents as may reasonably be requested by the PORT or any utility or governmental entity in connection with the generation, ownership, sale, or transfer of Credits by the PORT.

2. Payment.

The PARTIES are responsible for payment as set forth in **Exhibit 1**. The PARTIES shall not be obligated to reimburse any expenditure in excess of the maximum amount stated, unless the PARTIES have agreed to such additional reimbursements and the Agreement has been amended to describe the additional work in excess of the budgeted scope of work. The initiating PARTY shall promptly notify the other PARTY in writing as soon as it is known when the maximum funding obligation will be reached and shall also specify in writing its position regarding any remaining work which it believes was contained within the budgeted scope of work. Should its estimated costs exceed the amount authorized, the PARTY performing the work shall promptly notify the other PARTY in writing and shall specify in writing its position regarding why the estimated cost will be or has been exceeded.

The PARTIES shall negotiate the total authorized amount. Reimbursement will not be made for activities that are not covered. The PARTIES will establish a budget contingency for the estimated cost of the work.

2.1. Reimbursement.

The Parties have established budget contingencies for the estimated cost of the Work which are included in the estimated total costs. City Light will manage the Work in the same manner it manages other work on its equipment. Any reports, pay records, or other management tools will be made available to the Port for review upon request. The Port will reimburse City Light for services delivered and work performed under this Agreement. City Light will reimburse the Port for services delivered and work performed under this Agreement. Cost estimates are subject to change and the Parties will provide each other with prompt notice of changes in scope of work, changing conditions or unanticipated work which may impact Project costs.

Within thirty (30) calendar days after the billed Party's receipt of any complete and accurate invoice, the billing Party will remit the reimbursement. The Parties will work cooperatively to resolve issues related to the accuracy of these invoices so as to avoid any delay in payment. Any invoiced expenditure unsupported by appropriate documentation will be identified in writing to the receiving Party and payment for such will not be included in the reimbursement; provided, however, that the presence of unsupported items within an invoice will not delay payment of those items which are supported by appropriate documentation.

Any dispute regarding invoices must be resolved as provided in **Section 5** of this Agreement.

3. Administration.

3.1. Monitoring and Reporting of Progress.

The Parties are committed to working cooperatively and efficiently and will closely monitor the time required to complete work products consistent with the scope of work and budget for the Work. Each Party will provide clear, accurate, and detailed progress reports as necessary. The Parties will further refine progress reporting, accounting and program management systems, as they agree, in order to ensure useful and descriptive information that complements the Port's Project Control system. City Light and the Port will provide active, ongoing oversight to ensure that Project funds are expended efficiently.

3.2. Reconciliation.

Both Parties shall monitor and reconcile the actual versus estimated effort on a quarterly basis. Parties will negotiate additional funding or a reduction in services relating to the Work to the extent that such

work cannot be performed within the estimate of compensation and expense reimbursement due for the services delivered and work performed.

3.3. Availability of Records.

All records in support of all costs incurred and actual expenditures kept by the Parties will be maintained in accordance with procedures prescribed by the Washington State Auditor's Office and the applicable Federal funding agencies. The records will be open to inspection by the other Party and the Federal government during normal business hours and will be retained and made available for such inspection for a period of not less than six (6) years from the final payment under this Agreement. Copies of said records should be furnished to the other Party and/or the Federal government upon request. This requirement will be included in all third-party contracts related to the Work entered into by either Party to fulfill the terms of this Agreement.

3.4. Public Records Requests.

The Port and City Light are subject to Washington State's Public Records Act, RCW Chapter 42.56 and other disclosure laws. In response to a public records request, either Party may release documents and records related to this Agreement in accordance with applicable Law. The responding Party may assert exemptions from disclosure which it believes are authorized by statute. While it is not a legal obligation, the responding Party, as a courtesy, will notify the nonresponding Party of the receipt of any such request and provide the nonresponding Party up to ten (10) business days to obtain and serve the responding Party with a court injunction to prevent the responding Party from releasing the records. If the nonresponding Party fails to obtain a Court Order and serve the responding Party within ten days, the responding Party may release the documents. The Parties acknowledge that the responding Party will have no liability to the nonresponding Party if the records responsive to the request are disclosed in accordance with applicable law.

3.5. Audit.

If any audit is requested by either Party or required by any applicable federal agency requirements, the Parties agree to cooperate with any such audit and provide documentation as is reasonably requested in support of all costs.

4. Termination of Agreement.

4.1. Termination for Default or Convenience.

If for any cause, either Party does not fulfill in a timely and proper manner its obligations under this Agreement or Amendment, or if either Party violates any of these terms and conditions, the aggrieved Party will give the other Party written notice of such failure or violation. The responsible Party will be given the opportunity to correct the violation or failure within thirty (30) business days of receipt of the written notice. If the failure or violation is not corrected, this Agreement or Amendment may be terminated in whole or in part immediately by issuance of a written Notice of Termination, subject to the terms of this Agreement. In the event of termination by default, the defaulting Party will be obligated to compensate the other Party for contract closeout costs and the portion of work that has been satisfactorily rendered to the effective date of the termination.

Either party may terminate this Agreement upon sixty (60) business days' prior written notification to the other party. If this Agreement is so terminated, the parties shall be responsible for payment of deliverables properly invoiced and accepted prior to the effective date of termination.

4.2. Duties of Parties upon Termination.

A termination by either Party will not extinguish or release either Party from liability, claims or obligations to third parties existing as of the time of termination including (1) unasserted claims or liabilities based on acts or omissions occurring prior to the termination of this Agreement and (2) contractor claims and costs incurred by the Party in the execution of work. Any costs incurred prior to proper notification of termination will be borne by the Parties in accordance with the terms of this Agreement. The Parties agree to work together cooperatively to develop a coordinated plan for termination including the determination of reasonable contract closeout costs.

4.3. Procedures upon Termination.

All work in progress at the time of termination will be completed to the extent necessary to restore the usefulness of Seattle City Light infrastructure affected by the Work in accordance with the City Standards, including any necessary Amendments. At the Port's request all designs, construction documents, and other work product developed under this Agreement, except Seattle City Light Internal Use Only documents, will be packaged and delivered to the Port. Such closeout work and non-cancelable obligations will be invoiced and paid in accordance with the provisions of **Section 2** of the Agreement. After proper notice of termination, all of the provisions of this Agreement will remain in force as necessary and until no longer necessary to support the completion of Work that was open and uncompleted or any non-cancelable obligation at the time this Agreement was terminated. The Port and City Light agree to apply the following procedures subsequent to either Party initiating termination:

- A. The Parties to this Agreement will seek to resolve the status of each cost component of the work at the initiation of termination.
- B. The Parties will seek consensus on the action to be taken on each component.
- C. The Parties will mutually agree to arrange for the assignment and assumption of obligations of third-party contracts for the performance of work under this Agreement and Amendments.
- D. The Parties will agree upon a cost estimate for terminating any third-party contracts that have been executed under this Agreement.
- E. If the Parties cannot agree, they will submit the matter to the Dispute Resolution process set forth in **Section 5** below.

5. Disputes.

5.1. Dispute Resolution.

The Port and City Light will work collaboratively to resolve disagreements arising from activities performed under this Agreement. Disagreements between the Parties will be resolved promptly and at the lowest level of hierarchy as follows:

- A. The Parties will endeavor to resolve disputes at the lowest level possible, starting with the project management level. The Parties will involve such members of each Party's field and management staff as will support prompt resolution. If a resolution cannot be agreed to within 30 business days, either Party can move the dispute to the next level.
- B. If the matter cannot be resolved at the project management level, the Parties' respective Designated Representatives will meet to resolve the dispute. If the Designated Representative cannot resolve the matter within 90 business days, either Party make take this dispute to a court of law as specified in Section 6.2.
- C. The Parties agree that neither they, nor any contractor obligated by this provision, may seek relief in a court of law until each of these procedural steps above are exhausted.

Any disputes or questions of interpretation of this Agreement that may arise between the Parties shall be governed under these Dispute Resolution provisions. The Parties agree that cooperation and

communication are essential to resolving issues efficiently. At all times prior to resolution of the dispute, the Parties shall continue to perform under this Agreement in the same manner and under the same terms as existed prior to the dispute.

6. Legal Resolution.

6.1. Indemnity.

To the maximum extent permitted by law, each Party to this Agreement will protect, defend, indemnify, and save harmless the other Party, and its officers, officials, employees, and agents, while acting within the scope of their employment, from any and all costs, claims, demands, judgments, damages, or liability of any kind including injuries to persons or damages to property, which arise out of, or in any way result from, or are connected to, or are due to negligent acts or omissions of the indemnifying Party in the performance of its obligations as set out in this Agreement. No Party is required to indemnify, defend, or save harmless the other Party if the claim, suit, or action for injuries, death, or damages is caused by the sole negligence or willful misconduct of the Party seeking indemnification. If such injury to persons or damages to property are caused by the concurrent negligence of the Parties, each Party will be responsible to the extent of that Party's negligence. Each Party agrees that its obligations under this indemnification section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents.

For this purpose, each Party, by mutual negotiation, hereby waives, with respect to the other Party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW.

In the event of any claims, demands, actions and lawsuits, the indemnifying Party upon prompt notice from the other Party will assume all costs of defense thereof, including legal fees incurred by the other Party, and of all resulting judgments that may be obtained against the other Party. In the event that any Party incurs attorney fees, costs or other legal expenses to enforce the provisions of this section, all such fees, costs and expenses will be recoverable by the prevailing Party. This indemnification will survive the expiration or earlier termination of this Agreement.

6.2. Governing Law and Venue.

This Agreement will be governed by, and construed and enforced in accordance with, the laws of the State of Washington. In the event that any Party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this Agreement, the Parties hereto agree that any such action or proceedings must be brought in a court of competent jurisdiction situated in Seattle, King County, Washington.

6.3. Insurance Provisions of Contracts.

6.3.1. The Port will procure and maintain, or cause its contractors and subcontractor(s) to procure and maintain minimum insurance coverage and limits appropriate (such as but not limited to: Liability, Auto, Workers Compensation, USL&H, E&O A&E, Pollution, Builders Risk, Hull P&I) for a project of this scope. By requiring such minimum insurance, the City shall not be deemed or construed to have assessed the risk that may be applicable to the Port or its contractors under this agreement. The Port and its contractor(s) and subcontractor(s) should assess their own risks; and if they deem appropriate and/or prudent, maintain or require greater limits and/or broader coverage. The City shall have the right to receive coverage up to any insurance limits maintained by the Port, its contractors and subcontractors that exceed the minimum required limits set by the Port.

6.3.2. Any deductible and/or self-insured retention of any policies shall not limit or apply to the City or the Port and shall be the sole responsibility of the Port's contractor(s). Upon request, and within ten (10) business days, the Port shall provide the City with certificates of insurance and endorsements certifying the coverage.

6.3.3. The City will procure and maintain, or cause its contractors and subcontractor(s) to procure and maintain minimum insurance coverage and limits appropriate (such as but not limited to: Liability, Auto, Workers Compensation, USL&H, E&O A&E, Pollution, Builders Risk, Hull P&I) for a project of this scope. By requiring such minimum insurance, the Port shall not be deemed or construed to have assessed the risk that may be applicable to the City or its contractors under this agreement. The City and its contractor(s) and subcontractor(s) should assess their own risks; and if they deem appropriate and/or prudent, maintain or require greater limits and/or broader coverage. The Port shall have the right to receive coverage up to any insurance limits maintained by the City, its contractors and subcontractors that exceed the minimum required limits set by the City.

6.3.4. Any deductible and/or self-insured retention of any policies shall not limit or apply to the City or the Port and shall be the sole responsibility of the City's contractor(s). Upon request, and within ten (10) business days, the City shall provide the Port with certificates of insurance and endorsements certifying the coverage.

6.3.5. The City acknowledges that the Port maintains a program of self-insurance for all of its liability risk and exposures, including but not limited to the activities contemplated under this agreement. The Port will, upon written request from the City, provide the City with commercially acceptable evidence of such self-insurance coverage (such as a certificate of self-insurance) in fulfillment of the liability insurance requirements pertaining to the Port's design and construction activities described in this agreement.

6.3.6. The Port acknowledges that the City maintains a program of self-insurance for all of its liability risk and exposures, including but not limited to the activities contemplated under this agreement. The City will, upon written request from the Port, provide the Port with commercially acceptable evidence of such self-insurance coverage (such as a certificate of self-insurance) in fulfillment of the liability insurance requirements pertaining to the City's activities described in this agreement.

6.4. Allocation of Risk.

For work performed by City Light or its third-party contractors, repair of damage to the City's equipment/infrastructure or the Port's equipment/infrastructure is the responsibility of the City Light.

For work performed by the Port or its third-party contractors, repair of damage to the City's equipment/infrastructure is the responsibility of the Port.

6.5. No Agency or Employee Relationship.

No joint employee venture or partnership is formed as a result of this Agreement. No employees, agents or subcontractors of one Party will be deemed, or represent themselves to be, employees of any other Party. In performing work and services pursuant to this Agreement, the City, its employees, consultants, agents, and representatives will be acting as agents of the City and will not be deemed or construed to be employees or agents of the Port in any manner whatsoever. The City will not hold itself out as, nor claim to be, an officer or employee of the Port and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Port. The City will be

solely responsible for any claims for wages or compensation by the City's employees, consultants, agents, and representatives, including sub-consultants, or any agency, and will defend, indemnify and hold the Port harmless therefrom. In performing work and services pursuant to this Agreement, the Port, its employees, consultants, agents, and representatives will be acting as agents of the Port and will not be deemed or construed to be employees or agents of the City in any manner whatsoever. The Port will not hold itself out as, nor claim to be, an officer or employee of the City and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the City. The Port will be solely responsible for any claims for wages or compensation by the Port's employees, consultants, agents, and representatives, including sub-consultants, or any agency, and will defend, indemnify and hold the City harmless therefrom.

6.6. Notices.

All notices or requests required or permitted under this Agreement must be in writing, must be personally delivered or sent by certified mail, return receipt requested, postage prepaid, with a copy by email and will be deemed to have been duly given if in writing and either delivered personally or by certified mail, to the Project Managers and Designated Representative of the other Party as named in this Agreement.

6.7. Interpretation.

This Agreement and any subsequent Amendments issued hereunder are the result of mutual negotiations between the Parties and any ambiguity herein is not to be construed against any Party but will be construed according to the fair intent of the language and interpreted in accordance with the laws of the State of Washington.

6.8. Compliance with Existing Laws.

Each Party will comply, and to the best of its ability will ensure that its employees, agents, consultants, contractors and representatives comply, with all federal, state, and local laws, regulations, and ordinances applicable to the work and services to be performed. The work performed by the City and the Port under this Agreement must comply with all applicable public works and procurement laws and regulations.

6.9. Change in Contact Person.

A Party may change the contact person or address to which such communications are to be directed by giving written notice to the other Party in the manner provided in this Agreement.

6.10. Binding on Successors.

All of the terms, provisions and conditions of this Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors, permitted assigns and legal representatives.

6.11. No Waivers.

No act or failure to act on the part of either Party with respect to the exercise or enforcement of any provision of this Agreement will be deemed to be a waiver on the part of either Party of any provision of this Agreement. No waiver of one provision by either Party will act as a waiver of any other provision or as a subsequent waiver of the same provision. No waiver is effective against either Party except an express waiver in writing.

6.12. No Third-Party Rights.

Nothing in this Agreement, whether express or implied, is intended to (1) confer any rights or remedies under or by reason of this Agreement on any persons other than the Parties to it and their

respective successors and permitted assigns; (2) relieve or discharge the obligation or liability of any third-party to a Party to this Agreement; nor (3) give any third parties any right of subrogation or action over against the other Party to this Agreement.

6.13. Assignment.

Neither Party may assign any interest, obligation, or benefit in this Agreement or transfer any interest in the same, whether by assignment or novation, without prior written consent by the other Party.

6.14. Severability.

If any of the terms and conditions of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, the remaining terms and conditions unaffected thereby will remain in full force and effect. The Parties agree to negotiate in good faith to reform this Agreement to replace any invalid or unenforceable term and/or condition with a valid and enforceable term and/or condition that comes as close as possible to the intention of the stricken term and/or condition.

6.15. Entire Agreement; Modification.

This Agreement, together with exhibits, and Amendments, represents the entire and integrated Agreement between the Parties and supersedes all prior negotiations, representations, or agreements written or oral. No amendment or modification of this Agreement shall be of any force or effect unless it is in writing and signed by the parties.

6.16. Captions.

The captions to this Agreement are for convenience and will not add to or limit the substance of its provisions.

7. Exhibits.

All exhibits named in this Agreement are hereby incorporated by reference and made a part hereof. The terms of this Agreement will control in the event of a conflict between an exhibit and the terms of this Agreement. This agreement is supported with the following Exhibits:

Exhibit 1: Project Budget

Exhibit 2: Schedule (Placeholder)

Exhibit 3: Project Area, Project Segments, and Responsibility Matrices

Exhibit 4: References

8. Signatures.

The Parties have executed this Agreement as of the day and year first above written.

Port of Seattle Port of Seattle _____	City of Seattle Seattle City Light _____
Stephen P. Metruck Executive Director	Dawn Lindell Interim General Manager and Chief Executive Officer

Exhibit 1: Project Budget

The Port’s total authorization for this project is \$44,000,000, to include soft costs not shown below.

	Total Cost	Port Share *	City Light Share
Major Works Construction Contract (Orion Marine Construction)	\$ 20,755,000.00	\$ 18,122,755.00	\$ 2,632,245.00
Port Pre-Purchases Authorization (submarine cable, electrical equipment)	\$ 6,865,000.00	\$ 6,865,000.00	\$ -
City Light Service Costs (billable to Port)	\$ 1,816,079.61	\$ 1,816,079.61	\$ -
City Light Ductbank Easement (billable to City Light)	\$ 110,000.00	\$ -	\$ 110,000.00
Port Reimbursement for City Light Design Services (billable to Port)	\$ 100,000.00	\$ 100,000.00	\$ -
Port Project Contingency (10%)	\$ 2,076,000.00	\$ 2,076,000.00	\$ -
City Light Contingency (20%)	\$ 526,449.00	\$ -	\$ 526,449.00
WA State Sales Tax	\$ 3,325,600.00	\$ 2,998,675.00	\$ 326,925.00
	\$ 35,574,128.61	\$ 31,978,509.61	\$ 3,595,619.00

*Port Share totals are limited to construction and reimbursement totals and do not include Port only costs such as design costs, permitting, project management and other soft costs

Exhibit 2: Schedule

Milestones Schedule (Actuals / Projected)

Milestone	Date
Project Start	Dec 10, 2019
Pre-Purchases Authorization (submarine cable, electrical equipment)	Dec 14, 2021
Port Commission Construction Authorization	Jan 10, 2023
Port Major Works Contract Award	May 16, 2023
Port Major Works Contractor Notice-to-Proceed (NTP) / Mobilize	Aug 29, 2023
T46 E-W Service Ductbank (Civil) Complete	Nov 2, 2023
<i>Submarine Cable Termination at T46 and P66</i>	<i>Mar 31, 2024</i>
<i>T46 N Extension Ductbank (Civil) Complete</i>	<i>May 15, 2024</i>
<i>T46 N/S Ductbank (Civil) Complete</i>	<i>May 15, 2024</i>
<i>In-Service Date</i>	<i>Jul 30, 2024</i>
<i>Port MW Construction Closeout</i>	<i>Sep 30, 2024</i>
<i>Port / SCL Costs Reconciled</i>	<i>Dec 31, 2024</i>

Exhibit 3: Project Area, Project Segments, and Responsibility Matrices



- Node A: Port's Existing South Substation
- Segment 1: City Light system extension located underground along the eastern edge of Terminal 46, extending from the existing South Substation to the northern edge of Terminal 46.
 - Segment 1A: City Light system extension located underground along the eastern edge of T46, extending from the existing South Substation to the Tri-Vault Area.
 - Segment 1B: City Light system extension and tie located underground along the eastern edge of Terminal 46, extending from the Tri-Vault Area to a stub in vicinity of the northern property line of Port Parcel 7666207695.
- Node B: Tri-Vault Area
- Segment 2: Terminal 46 duct route, extending underground to the west from Node B along the north edge of Terminal 46 to the existing bulkhead.
- Node C: Terminal 46 Splice Vault and Bulkhead
- Segment 3: Submarine cable, extending underwater from Terminal 46 to PIER 66.
- Node D: Pier 66 Bulkhead and Meter
- Segment 4: PIER 66 shore power connection.

Civil & Structural Design (including Design Support during Construction Phase) and Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	Civil Design Resp. "Who Designs"	Civil Design Cost "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	SCL	100% Port	MOA
1A	T46 N/S Service	SCL	100% Port	MOA
1B	T46 N Extension	SCL	100% SCL	MOA
B	Tri-Vault Area	SCL	100% Port	MOA
2	T46 E-W Service	Port	100% Port	MOA
C	T46 Splice Vault & Bulkhead	Port	100% Port	MOA
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Port	100% Port	MOA
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Electrical Design (including Design Support during Construction Phase) and Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	Electrical Design Resp. "Who Designs"	Electrical Design Cost "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	SCL	100% Port	Service Agreement
1A	T46 N/S Service	SCL	100% Port	Service Agreement
1B	T46 N Extension	SCL	100% SCL	N/A (non-billable to Port)
B	Tri-Vault Area	SCL	100% Port	Service Agreement
2	T46 E-W Service	SCL	100% Port	Service Agreement
C	T46 Splice Vault & Bulkhead	Joint	100% Port	Service Agreement
3	Sub Cable	Port	100% Port	Service Agreement
D	PIER 66 Bulkhead and Meter	Port	100% Port	Service Agreement
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Civil & Structural Construction and Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	Civil / Structural Construction Resp. "Who Builds"	Civil / Structural Construction Cost "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	Port	75% Port 25% SCL	MOA
1A	T46 N/S Service	Port	75% Port 25% SCL	MOA
1B	T46 N Extension	Port	100% SCL	MOA

#	Node / Segment	Civil / Structural Construction Resp. "Who Builds"	Civil / Structural Construction Resp. "Who Pays"	Agreement(s) Approach
B	Tri-Vault Area	Port	75% Port 25% SCL	MOA
2	T46 E-W Service	Port	100% Port	MOA
C	T46 Splice Vault & Bulkhead	Port	100% Port	MOA
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Port	100% Port	MOA
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Electrical Equipment Procurement and Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	Electrical Procurement Resp. "Who Procures"	Electrical Procurement Cost Resp. "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	SCL	100% Port	Service Agreement
1A	T46 N/S Service	SCL	100% Port	Service Agreement
1B	T46 N Extension	SCL	100% SCL	N/A (non-billable to Port)
B	Tri-Vault Area	SCL	100% Port	Service Agreement
2	T46 E-W Service	SCL	100% Port	Service Agreement
C	T46 Splice Vault & Bulkhead	Joint	100% Port	Service Agreement
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Joint	100% Port	Service Agreement
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Electrical Construction (includes ER and CI) and Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	Electrical Construction Resp. "Who Builds"	Electrical Construction Cost Resp. "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	SCL	100% Port	Service Agreement
1A	T46 N/S Service	SCL	100% Port	Service Agreement
1B	T46 N Extension	SCL	100% SCL	N/A (non-billable to Port)
B	Tri-Vault Area	SCL	100% Port	Service Agreement
2	T46 E-W Service	SCL	100% Port	Service Agreement
C	T46 Splice Vault & Bulkhead	Joint	100% Port	Service Agreement
3	Sub Cable	Port	100% Port	MOA

#	Node / Segment	Electrical Construction Resp. "Who Builds"	Electrical Construction Cost Resp. "Who Pays"	Agreement(s) Approach
D	PIER 66 Bulkhead and Meter	Joint	100% Port	Service Agreement
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Construction Management (with exception of Electrical Reviewer) Cost Responsibilities by Segment and Agreement Approach

#	Segment	CM Responsibility "Who conducts CM"	CM Costs Resp. "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	Joint	100% Port	MOA
1A	T46 N/S Service	Joint	100% Port	MOA
1B	T46 N Extension	Joint	100% SCL	MOA
B	Tri-Vault Area	Joint	100% Port	MOA
2	T46 E-W Service	Joint	100% Port	MOA
C	T46 Splice Vault & Bulkhead	Joint	100% Port	MOA
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Port	100% Port	MOA
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Permitting Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	Permitting Responsibility "Who gets the Permit"	Permitting Costs Resp. "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	Port	100% Port	MOA
1A	T46 N/S Service	Port	100% Port	MOA
1B	T46 N Extension	Port	100% Port	MOA
B	Tri-Vault Area	Port	100% Port	MOA
2	T46 E-W Service	Port	100% Port	MOA
C	T46 Splice Vault & Bulkhead	Port	100% Port	MOA
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Port	100% Port	MOA
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Testing and Commissioning Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	T&C Responsibility "Who conducts T&C"	T&C Costs Resp. "Who Pays"	Agreement(s) Approach
A	T46 S Sub (ex.)	SCL	100% Port	Service Agreement
1A	T46 N/S Service	Joint	100% Port	Service Agreement
1B	T46 N Extension	Joint	100% SCL	MOA
B	Tri-Vault Area	Joint	100% Port	Service Agreement
2	T46 E-W Service	Joint	100% Port	Service Agreement
C	T46 Splice Vault & Bulkhead	Joint	100% Port	Service Agreement
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Joint	100% Port	Service Agreement
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Electrical Equipment Ownership and Maintenance Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	O&M Electrical Responsibility "Who conducts O&M"	O&M Costs Resp. "Who Pays"	Agreement Approach
A	T46 S Sub (ex.)	SCL	100% Port	Service Agreement, Easement
1A	T46 N/S Service	SCL	75% Port 25% SCL	Service Agreement, Easement
1B	T46 N Extension	SCL	100% SCL	MOA, Easement
B	Tri-Vault Area	SCL	100% Port	Service Agreement, Easement
2	T46 E-W Service	SCL	100% Port	Service Agreement, Easement
C	T46 Splice Vault & Bulkhead	Joint	100% Port	Service Agreement, Easement
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Joint	100% Port	Service Agreement
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Civil / Structural Facilities Ownership and Maintenance Cost Responsibilities by Segment and Agreement Approach

#	Node / Segment	O&M Civil/Structural Responsibility "Who conducts O&M"	O&M Civil / Structural Costs Resp. "Who Pays"	Agreement Approach
A	T46 S Sub (ex.)	Port	100% Port	Service Agreement, Easement
1A	T46 N/S Service	Port	100% Port	Service Agreement, Easement
1B	T46 N Extension	Port	100% SCL	MOA, Easement
B	Tri-Vault Area	Port	100% Port	Service Agreement, Easement
2	T46 E-W Service	Port	100% Port	Service Agreement, Easement
C	T46 Splice Vault & Bulkhead	Port	100% Port	Service Agreement, Easement
3	Sub Cable	Port	100% Port	MOA
D	PIER 66 Bulkhead and Meter	Port	100% Port	Service Agreement
4	PIER 66 Shore Power	Port	100% Port	N/A (past SCL's Meter)

Exhibit 4: The following references are not attached but incorporated by reference into this MOA

- A. Service Letter - 2225 Alaskan Way - Permanent Shore Power Interruptible (26KV) Service
- B. Seattle City Light electric easement Terminal 46-Final_231123
- C. Port's Issue-for-Bid Public Works Construction Package