

**AGREEMENT
BETWEEN
PUGET SOUND ENERGY, INC.
AND THE CITY OF TACOMA**

THIS AGREEMENT PROVIDING FOR ENVIRONMENTAL IMPACT FUNDING (“Agreement”) is made this ___ day of _____, 2015 by and between Puget Sound Energy, Inc. (“PSE”), and the City of Tacoma (“City”). PSE and the City may be referred to jointly as the “Parties,” and each separately may be referred to as a “Party.”

RECITALS

A. PSE is proposing to develop a liquefied natural gas (“LNG”) facility at the Port of Tacoma (the “Project”). PSE proposes to sell LNG for use as transportation fuel and to provide ancillary services.

B. The City has undertaken comprehensive environmental review of the Project under the State Environmental Policy Act (“SEPA”), including without limit, expanded scoping to solicit stakeholder input on the scope of the Environmental Impact Statement (“EIS”), conducting a public forum for review of the Draft EIS (“DEIS”), solicitation of stakeholder comments on the DEIS, conducting a meeting with interested and affected agencies to review the DEIS, consideration of comments from various stakeholders following the official close of the comment period, government-to-government consultation with the Puyallup Tribe of Indians, and revisions to the Final EIS (“FEIS”) in response to written and oral comments received regarding the project and DEIS. During the preparation of the DEIS and FEIS (collectively the “EIS”) the City utilized its own environmental consultant and an independent third-party consulting firm with expertise in LNG to conduct technical peer review of the proposed Project design, engineering, operations and risk assessments.

C. The Project and its related sales would present new business activity in the City which is anticipated to increase the City’s tax revenues and employment opportunities for City residents. In addition, PSE and the City have had a long partnership related to improving air quality and establishing a sustainable economy. The use of natural gas for transportation purposes is the kind of clean, emerging fuel that the City wants to encourage.

D. As is reasonably and thoroughly discussed in the EIS, the Project would also cause a variety of impacts to the built and natural environment within the City, which, in some cases, would rise to the levels of significance.

E. Mitigation measures that have a nexus to, and which are in rough proportion to the impacts of the construction and operation of the Project, could be imposed to either minimize the impacts to a level that is less than significant or eliminate the impacts in their entirety.

F. Mitigation may take many forms, including without limit actions taken by PSE in regard to revisions to Project siting and design, application of plans and policies, implementation of best practices in facility operation, and funding to the City that it can expend on impact-reducing projects and activities.

G. The FEIS recommends mitigation measures to be undertaken by PSE directly and by the City with funds provided by both PSE and other potential contributors. The proposed mitigation measures are in proportion to the entirety of related impacts arising to the level of significant. The recommendations in the FEIS for project impact mitigation are separate and distinct from any measures imposed on any Project-related shoreline substantial development permit in accordance with the City's Public Access Alternatives Plan.

H. In consideration of the foregoing, the parties agree that PSE shall provide mitigation funds to be used by the City to reduce FEIS enumerated impacts resulting from the construction and operation of the Project to a level that is less than significant in accordance with the provisions below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each Party and in future consideration of the benefit to the general public by the creation and operation of the Project within the City, and as a direct benefit to the City and other valuable consideration, the adequacy of which is hereby acknowledged, PSE and the City agree as follows:

Section 1. Recitals; Definitions.

(a) Each of the recitals set forth above is incorporated into this Agreement as though fully set forth herein.

(b) Capitalized terms used and defined herein shall have the meanings given to them in this Agreement.

Section 2. Term.

This Agreement shall become effective on the date it is executed by the last Party to do so (the "Effective Date") and shall continue in force until the mitigation measures described below are fully funded and completed in accordance with Section 3 and Section 4 or until this Agreement is terminated in accordance with Section 3.1.1 or Section 7.

Section 3. PSE Mitigation Measure Funding.

3.1 Within one hundred eighty (180) days of achieving both approval to move forward with the Project by PSE's Board of Directors and the start of PSE's onsite construction activities, PSE shall provide funds in the amount of Five Million, Five Hundred Thousand dollars (\$5,500,000) to the City to perform those actions and undertake to completion those

public improvements described in Section 4 below, which improvements shall reduce, to a level that is less than significant, all of the proportionate impacts of the Project on Public Health and Safety, Public Services and Utilities, and Transportation. Completion of this payment by PSE fully mitigates any and all impacts relating to the construction and operation of the Project identified in the FEIS. The City of Tacoma agrees to not seek additional funding from PSE for impacts related to the construction or operation of the Project and PSE will not be subject to any future tax, levy, fee, assessment or other amount imposed by the City related to the construction and initial operations of the Project or corresponding public improvements described in this Agreement.

3.1.1 Tolling. Notwithstanding the provisions in Section 3.1, *supra*, the PSE funding obligation shall be tolled during the pendency of any administrative or judicial appeal(s) of the first permit issued to PSE that is necessary for the development of the project, any local, state or federal permit issued to PSE which is necessary for the development of the Project and/or any administrative or judicial appeal(s) of the adequacy of environmental review performed in association therewith that is timely commenced. In the event that an administrative or judicial appeal of a permit or environmental review results in a final and enforceable decision denying the permit and/or determining the environmental review to be legally inadequate, then (a) this Agreement shall be terminated without further action of the parties and shall be of no further legal effect, and (b) the City will refund to PSE any portion of the mitigation funds previously paid by PSE.

Section 4. Funding of City-Performed Mitigation Measures.

4.1 Subject to subsections 5 and 7 below, the City shall perform the following actions and undertake to completion the following public improvements to reduce, to a level that is less than significant, the proportionate impacts of the Project on Public Health and Safety, Public Services and Utilities, and Transportation, as follows:

4.1.1 Fire Station 15. The City agrees that, by a date not later than commencement of commercial operations of the Project, it will reopen Fire Station 15 located on the Blair-Hylebos Peninsula and operate it in accordance with Tacoma Fire Department procedures and protocols. The Parties understand and acknowledge that City's continued operation of Fire Station 15 is subject to the budgetary and operational decision making of the City as a Washington State municipal corporation.

4.1.1.1 Contributions to Fire Station Re-Opening. The City agrees that the cost of re-opening Fire Station 15 is fixed at Four Hundred Seventy Thousand dollars (\$470,000) as of the date of this Agreement.

4.1.2 Intelligent Transportation System ("ITS"). The City shall, by a date not later than commencement of commercial operations of the Project, implement the first phase of the Tacoma Tideflats Intelligent Transportation System identified at p. 30 of the Tideflats and Port of Tacoma ITS Strategic Plan dated June 2015, to wit: construct initial ITS infrastructure needed for basic information sharing among stakeholders in the Tideflats and Port of Tacoma.

4.1.3 Taylor Way. The City shall, not later than five years after commencement of commercial operations of the Project, repave the two miles of Taylor Way beginning at SR 509 to the boundary of LNG Project facility as a Heavy Haul Corridor in accordance with specifications and standards established by the City.

4.1.3.1 City Financing of Taylor Way Repave. The City of Tacoma agrees that the \$5,500,000 in mitigation funding committed by PSE through this Agreement contains the entirety of PSE's contribution to the repaving of Taylor Way and the City may not seek additional contributions for any activities required for or related to the repaving of Taylor Way under this Agreement or through any other sources of legal authority. To the extent that additional funding is required, the City will seek funds from sources other than PSE, including without limit, from other facilities with impacts whose development is reasonably foreseeable.

4.1.3.2 Impact of the Taylor Way Repave on the Project. Notwithstanding any other contractual provision contained herein or elsewhere, the City agrees that neither the repave of Taylor Way nor any road alteration or re-design, improvement activity or other action taken by the City in connection with the repave of Taylor Way will require PSE to move, relocate or in any way alter the course of existing PSE natural gas pipelines or those proposed for construction as part of the Project. The parties intend and agree that this section will modify and supersede (and govern and control over) any conflicting provisions of any franchise agreement or related ordinance relating to PSE's use of the public rights-of-way of the City, including but not limited to the franchise agreement reflected in City Ordinance No. 28318.

4.1.4 The City recognizes that PSE has concerns regarding the possibility of uncompensated benefit to later developments in and around the Project area from the mitigation measures PSE has committed to in this Agreement. The City agrees to work with PSE to explore avenues for PSE to recoup proportionate reimbursement from any such future developments to the extent available.

Section 5. Amendments.

This Agreement may only be amended, modified, or changed in writing, executed by authorized representatives of the Parties, with the same formality as this Agreement was executed. The Parties hereby agree that the only representatives of the City authorized to sign this Agreement or any amendment, modification, or change to the terms and conditions of this Agreement are the Manager of the City or his/her duly appointed designee. Only officers of PSE, or their duly appointed designees, are authorized to sign this Agreement or any amendment, modification or change to the terms and conditions of this Agreement. Any attempt to amend, modify, or change this Agreement by either an unauthorized representative or unauthorized means shall be void.

Section 6. Representations and Warranties.

Each Party represents and warrants to the other that it has duly authorized, executed, and delivered this Agreement, and that any amendment, modification, or change to this Agreement that is agreed to and signed by or on behalf of it shall be likewise duly authorized, executed, and delivered.

The Parties agree that no representations or warranties have been made regarding their respective duties and obligations concerning compliance with any legal, regulatory, or other activity relating to this Project, and that this Agreement does not alter, waive, or otherwise affect such duties and obligations.

Section 7. Termination.

This Agreement may be terminated:

- (a) By mutual consent of the Parties expressed in writing.

Section 8. Remedies.

In the event of default by any Party, the non-defaulting Party shall have all rights and remedies available under applicable law. The rights of the respective Party to terminate this Agreement under Section 7 are in addition to all other available rights and remedies.

Section 9. Indemnification.

The City shall protect, defend, indemnify, and hold PSE, its officers, officials, employees and agents, while acting within the scope of their employment as such, harmless from any costs, claims, damages, causes of action, or judgments arising out of, or related to, the City's obligations under the terms of this Agreement and authority to participate in this Agreement. PSE shall protect, defend, indemnify, and hold the City, its officers, officials, employees and agents, harmless from any costs, claims, damages, causes of action, or judgments arising out of, or related to, PSE's obligations under the terms of this Agreement and authority to participate in this Agreement.

Section 10. Notices.

All notices required or permitted hereunder shall be in writing and shall be served on the parties at the following addresses:

If to City:	City of Tacoma 747 Market Street, 9 th Floor Tacoma, WA 98402 Attention: Peter Huffman Fax No.: (253) 591-2002 Phone: (253) 591-5373
If to PSE:	Puget Sound Energy, Inc. 10885 NE 4 th Street Bellevue, WA 98004-5591 Attention: Clay Riding Fax No.: (425) 456-2481 Phone: (425) 426-3179

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, (c) sent by facsimile transmission to the party and its counsel, receipt of which has been confirmed by telephone, and by regular mail, in which case notice shall be deemed delivered on the next Business Day following confirmed receipt, or (d) hand delivered, in which case notice shall be deemed delivered on the date of the hand delivery. Any notice given by counsel to a party shall have the same effect as if given by such party. The above addresses and phone numbers may be changed by written notice to be provided the other party in accordance with this Section 10; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

Section 11. Miscellaneous.

(a) **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective legal representatives, successors and assigns.

(b) **Captions.** The captions in this Agreement are inserted for convenience of reference and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

(c) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the

same instrument.

(d) **Entire Agreement.** This Agreement contains the entire agreement, including all of the exhibits attached hereto, between the Parties relating to the transactions contemplated hereby and all prior or contemporaneous agreements, understandings, representations or statements, oral or written, are superseded hereby.

(e) **Fair Construction.** The Parties hereby acknowledge and agree that each was properly represented by counsel and this Agreement was negotiated and drafted at arms' length so that the judicial rule of construction to the effect that any ambiguities are to be construed against the drafting party shall be inapplicable in the interpretation of this Agreement. The provisions of this Agreement shall be construed as a whole according to their common meaning and consistent with the other provisions contained herein in order to achieve the objectives and purposes of this Agreement.

(f) **Governing Law; Jurisdiction.** The construction, validity, meaning and effect of this Agreement shall be determined in accordance with the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Agreement, the Parties agree to be subject to the jurisdiction in the Pierce County Superior Court for the State of Washington.

(g) **Modifications; Waiver.** No waiver, modification amendment, discharge or change of this Agreement shall be valid unless the same is in writing and signed by the Party against which the enforcement of such modification, waiver, amendment, discharge or change is sought.

(h) **Severability; Material Alteration/Frustration of Purpose.** If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Agreement or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability. Any severance of the Agreement that results in the taxation of the Project or PSE's LNG business activities related thereto such that PSE loses the benefits of the long term certainty as to the tax exemption of PSE's LNG business activities provided by this Agreement constitutes a material alteration and frustration of purpose of this Agreement.

(i) **Survival.** The indemnities contained in Section 9 shall survive the termination or expiration of this Agreement. Except for the foregoing provision, all other agreements of the Parties contained in this Agreement shall terminate upon the termination or expiration of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

T. C. Broadnax
City Manager
City of Tacoma

Date

Peter Huffman, Planning and
Development Services Director

Andrew Cherullo, Finance Director

Attest:

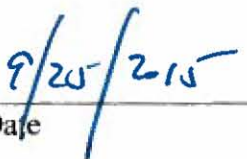
Approved as to Form:

Doris Sorum, City Clerk

Deputy City Attorney



Roger Garratt
Director of Strategic Initiatives
Puget Sound Energy, Inc.



Date