

**STREET LIGHT SYSTEM
PURCHASE AND SALE AGREEMENT
BY AND BETWEEN
PUBLIC SERVICE COMPANY OF COLORADO
(Public Service)
AND
TOWN OF ERIE, COLORADO
(Town)**

Dated: November 1, 2024

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- Exhibit A – Facilities
- Exhibit B – Transition Agreement
 - Schedule 1 – Unique Points of Delivery
 - Schedule 2 – Distribution Pole Points of Delivery
 - Schedule 3 – Overhead Points of Delivery
 - Schedule 4 – Underground Points of Delivery
- Exhibit C – Bill of Sale
- Exhibit D – Easement Assignment

STREET LIGHT SYSTEM PURCHASE AND SALE AGREEMENT

THIS STREET LIGHT SYSTEM PURCHASE AND SALE AGREEMENT (“**Agreement**”) is hereby entered into as of November 1, 2024 (the “**Effective Date**”) by and between PUBLIC SERVICE COMPANY OF COLORADO, a Colorado corporation (“**Public Service**”) and the TOWN OF ERIE, Boulder and Weld County, Colorado, a Colorado municipal corporation (the “**Town**”). Each of the Town and Public Service may be referred to herein as a “**Party**,” or collectively, as the “**Parties**.”

RECITALS

A. Public Service owns certain Facilities (as defined below) consisting of certain street lighting facilities and appurtenant equipment located within the geographical and jurisdictional limits of the Town and more particularly described on Exhibit A attached hereto and by this reference made a part hereof;

B. The Town desires to purchase the Facilities from Public Service;

C. Public Service is willing to sell the Facilities to the Town and the Town is willing to purchase the Facilities and pay the costs and expenses of the Conversion Work (as defined below) pursuant to the terms and conditions of the Transition Agreement;

D. Conversion Work is to be completed after the sale of the Facilities;

E. Public Service will continue to provide energy for the Facilities after acquisition by the Town as contemplated herein and in the Transition Agreement, in accordance with applicable street lighting Tariffs; and

F. Sale of the Facilities as contemplated by this Agreement does not, and is not intended to, have any impact on transactions with other parties.

AGREEMENT

In consideration of the mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

In addition to terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

Section 1.01 “**Bill of Sale**” means the document transferring the ownership of the Facilities from Public Service to the Town which shall be substantially in the form of **Exhibit C**.

Section 1.02 “**Closing**” has the meaning given to it in Section 9.01 of this Agreement.

Section 1.03 “**Closing Date**” has the meaning given to it in Section 9.01 of this Agreement.

Section 1.04 “**Commission**” means the Colorado Public Utilities Commission.

Section 1.05 “**Confidential Information**” has the meaning given to it in Section 7.02.

Section 1.06 “**CORA**” has the meaning given to it in Section 7.04.

Section 1.07 “**CORA Disclosure Notice**” has the meaning given to it in Section 7.04.

Section 1.08 “**Disclosure Approval**” has the meaning given to it in Section 7.02.

Section 1.09 “**Easement Assignment**” means the document transferring the SL Easements from Public Service to the Town which shall be in substantially the same form as **Exhibit D**.

Section 1.10 “**Electric Distribution System**” means Public Service’s electric service lines operating below 34,500 volts and associated equipment, fixtures, and facilities.

Section 1.11 “**Environmental Laws**” means any federal, state, or local laws (including common laws), statutes, regulations, ordinances, codes, orders, or decrees issued or promulgated by any governmental authority relating to prevention of pollution, preservation and restoration of environmental quality, protection of human health, the environment and natural resources (including air, surface water, groundwater or land), or the release, use, generation, handling, storage, treatment, transportation, or disposal of Hazardous Material, whether imposed by statute or derived from common law including, but not limited to, the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (42 U.S.C. § 9601, et seq.), the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. § 6901, et seq.), the Federal Water Pollution Control Act, (33 U.S.C. § 1251, et seq.), the Clean Air Act, (42 U.S.C. § 7401, et seq.), the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.), and applicable state counterparts, and their implementing regulations, all as amended from time-to-time, and all other comparable federal, state or local laws, rules or regulations pertaining to protection of human health, the environment, or natural resources.

Section 1.12 “**Facility**” means any individual component that comprises the Facilities.

Section 1.13 “**Facilities**” means all of Public Service’s right, title, and interest, if any, as of the Effective Date in and to the street lighting equipment identified on Exhibit A and appurtenant equipment including, but not limited to, pole bases, poles and foundations, brackets, arms, luminaires, lamps, glass or plastic lenses and lamp covers, light sensitive devices, and lighting cable and conductors, conduit, splices and splice boxes on the Town’s side of and including the Point of Separation, all on the Town's side of the Points of Delivery identified on Exhibit A. Except for those SL Easements identified in Exhibit D which are a part of the Facilities, in no event shall Facilities include any of Public Service’s Distribution Poles or equipment, any poles or equipment owned by third parties, or any land rights or real property interests owned by Public Service.

Section 1.14 “**Franchise Agreement**” means the Franchise Agreement between the Town and Public Service Company of Colorado dated effective July 17, 2009.

Section 1.15 “**Future Asset Acquisition**” has the meaning given to it in Section 10.10(a) of this Agreement.

Section 1.16 “**Hazardous Materials**” means any substance, pollutant, contaminant, chemical, material or waste that is regulated, listed or identified under any Environmental Laws, or which is deemed or may be deemed hazardous, dangerous, damaging or toxic to living things or the environment, and shall include, without limitation, any flammable, explosive, or radioactive materials; hazardous materials; radioactive wastes; hazardous wastes; hazardous or toxic substances or related materials; lead and lead products; creosote; pentachlorophenol or other wood preservatives; polychlorinated biphenyls; per- and poly-fluoroalkyl substances; petroleum products, fractions and by-products thereof; radon, asbestos and asbestos-containing materials; medical waste; solid waste, and any excavated soil, debris, or groundwater that is contaminated with such materials.

Section 1.17 “**Indenture Release**” has the meaning given in Section 8.01(f) of this Agreement.

Section 1.18 “**Law**” or “**Laws**” means any applicable federal, state, local law, common law, constitution, statute, ordinance, judicial decision, tariff or regulation having the force and effect of law applicable to this Agreement.

Section 1.19 “**NDA**” has the meaning given to it in Section 7.01 of this Agreement.

Section 1.20 “**Party**” or “**Parties**” has the meaning given to it in the Preamble of this Agreement.

Section 1.21 “**Permanent Point of Separation**” means a Point of Separation accomplished by the installation and use of a pull box, overhead switch, or pedestal.

Section 1.22 “**Purchase Price**” has the meaning given to it in Section 2.01 of this Agreement.

Section 1.23 “**Separation Study**” means the conversion study that was undertaken by or on behalf of Public Service in coordination with, and at the expense of, the Town.

Section 1.24 “**Separation Study Report**” means the complete report prepared by Public Service or its designee in coordination with the Town, and at the expense of the Town, showing on a light by light, circuit by circuit basis, the results of the Separation Study, which has been provided to the Town.

Section 1.25 “**SL Easements**” means the easements, right-of-way, or claims of rights specifically associated with the Facilities necessary to operate, access, and maintain the Facilities and which are owned by Public Service and are assignable to the City and which are identified on **Exhibit D**.

Section 1.26 “**Tariff**” or “**Tariffs**” means Public Service’s electric tariffs on file with the Commission, as amended from time to time.

Section 1.27 “**Third Party Poles**” means those poles not owned by Public Service which have Facilities attached as of the Effective Date.

Section 1.28 “**Third Party Pole Owner**” means the owner of any Third Party Pole that has granted Public Service the right to attach any Facility and/or any portion of its Electric Distribution System to a Third Party Pole.

Section 1.29 “**Transition Agreement**” means the transition agreement attached hereto as **Exhibit B** and incorporated herein by this reference which sets forth the terms and conditions upon which the Removal, the Conversion Work, the Town Conversion Work, and the Temporary to Permanent Conversion Work shall be performed.

ARTICLE 2. PURCHASE AND SALE

Section 2.01 Purchase and Sale. Subject to the terms and conditions of this Agreement, (1) the Town agrees to purchase from Public Service and Public Service agrees to sell, assign, and deliver to the Town all of Public Service’s right, title, and interest, if any, in the Facilities for EIGHT HUNDRED TWENTY-SEVEN THOUSAND FOUR HUNDRED FIFTY-EIGHT [REDACTED] 71/100 Dollars (\$827,458.71) (the “**Purchase Price**”) [REDACTED]; and (2) the Town agrees to pay Public Service the Purchase Price, the entire cost of the Conversion Work, and any and all other costs and fees to be paid by the Town described in this Agreement.

Section 2.02 Effective Date of Purchase and Sale. The purchase and sale of the Facilities shall be effective on the Closing Date.

Section 2.03 Conversion of Facilities. Conversion of the Facilities and completion of all work required to separate the Facilities from Public Service’s Electric Distribution System shall be completed in accordance with the Transition Agreement.

Section 2.04 Excluded Property.

(a) Public Service will retain ownership of the Distribution Poles, its Electric Distribution System, and any other facilities or property other than those Facilities being transferred to the City under this Agreement.

(b) The Parties acknowledge that certain Facilities are located on Third Party Poles and those Facilities located on Third Party Poles have been identified in Exhibit A. The Third Party Poles are owned by CenturyLink and the Third Party Poles remain the property of the Third Party Pole Owner. There are Facilities attached to seven (7) Third Party Poles as of the Effective Date. Prior to Closing, the City shall be responsible for obtaining any permissions the Third Party Pole owner requires to maintain Facilities on Third Party Poles after Closing.

Section 2.05 SL Easements. The Parties have worked together to identify the SL Easements. The Parties recognize that there may be additional easements, existing as of the date of this Agreement, which have not been identified in Exhibit D but which otherwise meet the definition of a SL Easement. If such additional existing easements are identified after Closing, the Parties agree to work together to make an assignment of such easement rights owned by Public Service as may be necessary for the City to operate, access, and maintain the Facilities within a reasonable time after identification and in by assignment substantially in the form of Exhibit D.

Section 2.06 Recitals. The Recitals of this Agreement are hereby incorporated into the terms of this Agreement.

ARTICLE 3. REGULATORY APPROVALS

To effectuate this Agreement, regulatory approvals are required to be obtained by Public Service. Public Service and the Town shall cooperate to seek such regulatory approvals, including, without limitation, preparing responses to any information requests, providing any testimony or witnesses, and filing any supporting briefs or affidavits as may be useful and helpful to obtain regulatory approval. Prior to submitting any filing or other documentation associated with the amendment(s) or supplementation(s) of the Tariffs with respect to the transaction contemplated by this Agreement, Public Service shall deliver a draft of such filing or documentation to the Town and afford the Town at least three (3) days to review and comment on such draft. Such filing and documentation shall be considered Confidential Information (as defined below in Article 7). Public Service shall consider any comments made by the Town to such filing and documentation in good faith and shall make reasonable efforts to address the Town's comments but shall not be under any obligation to incorporate any such comments in its filings.

ARTICLE 4. PUBLIC SERVICE'S REPRESENTATIONS AND WARRANTIES

Public Service represents and warrants as of the Effective Date and as of the Closing Date that Public Service has authority to enter into this Agreement and to comply with all its obligations hereunder.

ARTICLE 5. TOWN'S REPRESENTATIONS AND WARRANTIES

The Town represents and warrants as of the Effective Date and as of the Closing Date that the Town has authority to enter into this Agreement and to comply with all its obligations hereunder. The Town also represents and warrants as of the Effective Date and as of the Closing Date that except as set forth in Article 4 of this Agreement, Public Service has not made any representations or warranties as to the Facilities and that the Town shall not rely on any of Public Service's estimates with respect to the value of the Facilities, projections as to future events or other internal analyses or forward looking statements.

**ARTICLE 6.
PURCHASE “AS IS”**

EXCEPT AS SET FORTH IN ARTICLE 4, PUBLIC SERVICE MAKES NO WARRANTIES, REPRESENTATIONS OR GUARANTEES, EXPRESS OR IMPLIED, WITH RESPECT TO THE FACILITIES. THE FACILITIES ARE BEING SOLD, AND TOWN SHALL RECEIVE SAID PROPERTY, IN “AS IS, WHERE IS, AND WITH ALL FAULTS” CONDITION WITHOUT REPRESENTATION OR WARRANTY, EXPRESS OF IMPLIED, EITHER ORAL OR WRITTEN, MADE BY PUBLIC SERVICE OR ANY REPRESENTATIVE OF PUBLIC SERVICE, INCLUDING, BUT NOT LIMITED TO, THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR WITH RESPECT TO THE EXISTENCE OR ABSENCE OF ANY HAZARDOUS MATERIALS. TOWN RECOGNIZES THAT THERE ARE RISKS ASSOCIATED WITH BUYING THE FACILITIES AND AGREES TO MAKE ITS OWN INVESTIGATION CONCERNING THE FACILITIES PRIOR TO CLOSING AND SHALL RELY ON SUCH FINDINGS WITHOUT ANY REPRESENTATION OR WARRANTY FROM PUBLIC SERVICE OR ANY REPRESENTATIVE OF PUBLIC SERVICE.

TOWN ACKNOWLEDGES, UNDERSTANDS, AND AGREES TO RELEASE AND DISCHARGE, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO INDEMNIFY, DEFEND AND SAVE HARMLESS PUBLIC SERVICE, ITS EMPLOYEES, OFFICERS, DIRECTORS, AGENTS, SUBSIDIARIES, AFFILIATES, SUCCESSORS, AND ASSIGNS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, DAMAGES, LOSSES, COSTS, EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS’ FEES) AND ACTIONS OF ANY KIND WHATSOEVER, WHETHER KNOWN, UNKNOWN, DETERMINED, UNDETERMINED, PRESENTLY ASCERTAINABLE OR UNASCERTAINABLE, OF EVERY KIND AND NATURE RESULTING IN INJURY OR DAMAGES TO PERSONS (INCLUDING, WITHOUT LIMITATION, PERSONAL INJURY OR DEATH) OR PROPERTY (INCLUDING, WITHOUT LIMITATION, LOSS OF THE USE THEREOF), WHICH HAVE ARISEN OR MAY HEREAFTER ARISE, OR ARE IN ANY MANNER CONNECTED WITH, ARISING FROM OR RELATING TO (OR CLAIMED OR ALLEGED TO HAVE BEEN CAUSED BY OR TO HAVE RESULTED FROM), IN WHOLE OR IN PART, TOWN’S PURCHASE, OWNERSHIP OR DISPOSITION HEREAFTER OF THE FACILITIES, WHETHER OR NOT BASED ON STRICT LIABILITY, CITY’S NEGLIGENCE OR ANY OTHER REASON, INCLUDING WITHOUT LIMITATION, ALL RISKS TO THE PREMISES ON WHICH THE FACILITIES WILL BE LOCATED BY TOWN, AND TOWN WILL DEFEND ALL SUCH CLAIMS, DEMANDS, ETC. AT ITS SOLE COST AND EXPENSE, WHETHER GROUNDLESS OR NOT.

ARTICLE 7. CONFIDENTIALITY

Section 7.01 Non-Disclosure. The terms of that certain Mutual Non-Disclosure Agreement Governing Confidential Discussions by and between the Parties, dated as of October 1, 2021, as it may be amended (“**NDA**”), shall apply with respect to this Agreement and all exhibits attached hereto.

Section 7.02 Disclosure Approval. Pursuant to section 3 of the NDA, after Public Service satisfies the conditions precedent contained in Section 8.01(d) and Section 8.01(f) of this Agreement, Public Service shall approve, in writing (the “**Disclosure Approval**”), the public disclosure of the Agreement and all exhibits attached hereto, subject to Public Service providing the Town a redacted version of the Agreement and all exhibits attached hereto redacting Public Service’s confidential and proprietary information, including but not limited to information provided by Public Service to the Town subject to the NDA (“**Confidential Information**”). The Disclosure Approval shall contain a list or other identification of those terms and provisions of this Agreement and the exhibits hereto that Public Service deems to be confidential or proprietary, and those provisions shall constitute Confidential Information as that term is used herein.

Section 7.03 Redaction. The Town shall ensure that all the Confidential Information has been redacted prior to any public disclosure of the Agreement or the exhibits hereto.

Section 7.04 CORA Request. If the Town receives a request for the disclosure of the Confidential Information pursuant to the Colorado Open Records Act (“**CORA**”), the Town shall (i) immediately, upon receipt of the request, notify and provide Public Service a copy of the request by e-mail correspondence to *dLLawCORAREquests@xcelenergy.com* and as provided in Section 10.02, (ii) deny the request if the Town believes any of the exceptions set forth in CORA apply to the Confidential Information, and (iii) inform Public Service of the Town’s action concerning the request, in sufficient time for Public Service to intervene in, or initiate, a judicial proceeding to prevent disclosure of the Confidential Information, if the Town does not believe any exceptions set forth in CORA apply (“**CORA Disclosure Notice**”).

Section 7.05 Continuing Duty to Inform. After receiving a CORA request for any Confidential Information, the Town shall continually keep Public Service reasonably informed of any developments related thereto.

Section 7.06 Disclosure of Confidential Information. The Town may only disclose the Confidential Information (i) after written approval of such disclosure by Public Service, (ii) pursuant to a final order of a court or similar judicial or administrative body, after the running of all time periods to appeal such order, or (iii) if, after ten (10) business days of providing a CORA Disclosure Notice to Public Service, Public Service fails to intervene in, or initiate, a judicial proceeding to prevent disclosure of the Confidential Information.

Section 7.07 Limited Indemnity. Public Service shall indemnify and hold harmless the Town from any claims, damages or awards, including attorneys’ fees, related to the Town’s denial of a CORA request for Confidential Information pursuant to this Article 7.

ARTICLE 8.
CONDITIONS PRECEDENT TO CLOSING

Section 8.01 Conditions Precedent to Closing. The Parties shall use commercially reasonable efforts to cause the following events to occur and the following conditions to be satisfied promptly after the Effective Date. The obligations under this Agreement are subject to the condition that the following events shall have occurred at or prior to Closing:

- (a) The Town has received all necessary approvals and has the authority to purchase of the Facilities;
- (b) The Town shall have performed any obligations of, and shall have complied with any requirements imposed on, the Town under the Tariffs prior to Closing;
- (c) The Town shall have paid the costs of the Separation Study and Separation Study Report and shall have made all payments due prior to Closing under this Agreement;
- (d) The Town shall have entered into any and all agreements required to maintain the Facilities on Third Party Poles.
- (e) Public Service shall have received all final, non-appealable Commission approvals that are legally required to effectuate the sale of the Facilities, which approvals must be fully acceptable to Public Service and the Town, and shall not impose any unsatisfactory conditions nor revise the terms and conditions of this Agreement, the Tariff or any related agreements in any material respect; and
- (f) Public Service shall have obtained a release of the Facilities from Public Service's corporate mortgage bond indenture (the "**Indenture Release**"). Public Service shall use reasonable efforts to submit a request to obtain the Indenture Release within sixty (60) days after the Effective Date.

ARTICLE 9.
CLOSING OF THE SALE

Section 9.01 Date of Closing. The consummation of the transaction contemplated herein (the "**Closing**") shall be held at a time and place mutually agreed to by the Parties, no later than ninety (90) days after the satisfaction of all conditions precedent to Closing as set forth in Article 8 (the "**Closing Date**"). As to any instrument noted in Sections 9.02 or 9.03 below which requires filing or recording in the appropriate office of record, the Party tasked with filing or recording shall complete the same, including paying any filing or recording fees required by the filing or recording office, and forward evidence of such filing or recording to the other Party no later than forty-five (45) days after Closing.

Section 9.02 Public Service Closing Deliverables. At Closing, subject to the delivery by the Purchaser of the Purchase Price and performance of its other obligations under this Agreement, Public Service shall:

- (a) deliver to the Town all documents of conveyance and transfer as are legally required to convey and vest in the Town all Public Service's right, title, and interest in the Facilities herein, including the Bill of Sale and the Easement Assignment,
- (b) record or file in the appropriate office of record the Indenture Release; and
- (c) deliver to the Town the Transition Agreement executed by Public Service.
- (d) deliver to the Town all GIS shapefiles of distribution transformers serving the Facilities and all downstream secondary infrastructure and respective equipment from the transformer (including, but not limited to: cables, conductors, conduit, pedestals, splices and splice boxes, poles, open points, etc.) pertaining to the service of the Facilities.

Section 9.03 Town Closing Deliverables. At Closing, Town shall deliver to Public Service:

- (a) the Transition Agreement executed by Town;
- (b) record or file in the appropriate office of record the Easement Assignment; and
- (c) the Purchase Price and any other outstanding amounts owed pursuant to this Agreement, via wire transfer, certified or bank cashier's check or other good funds.

Section 9.04 Tender of Other Charges. Except as may otherwise be set forth herein, payment of any amounts due to either Party under this Agreement shall be made within thirty (30) days after receipt of an accurate invoice. Interest shall accrue on any overdue unpaid amounts at a rate of one and one-half percent (1.5%) per month.

Section 9.05 Termination of Agreement. The Parties agree to make commercially reasonable efforts to satisfy all conditions to Closing in a timely manner and to negotiate in good faith to address any unresolved conditions. However, if the final, non-appealable Commission approval required to effectuate the sale of the Facilities has not been granted, or the Indenture Release has not been obtained, or any other condition to Closing is unmet (not due to a default by either Party) within one (1) year of the Effective Date, then this Agreement shall terminate by its own terms, except for those matters, terms, or conditions that specifically survive the expiration or termination of this Agreement. Notwithstanding any other provision hereof, each Party reserves all rights afforded to them under applicable Laws, and neither Party shall be required to waive any such rights.

**ARTICLE 10.
MISCELLANEOUS**

Section 10.01 Exhibits. The Exhibits to this Agreement are hereby incorporated in this Agreement by reference and constitute a part of this Agreement.

Section 10.02 Notices. All notices and communications required or permitted under this Agreement shall be in writing and addressed as set forth below. Any communication or delivery hereunder shall be deemed to have been duly made and the receiving party charged with notice,

whether personally delivered, sent by facsimile transmission, mail, or overnight courier, when received. All notices shall be addressed as follows:

If to Public Service: Public Service Company of Colorado
 c/o Xcel Energy Services Inc.
 1800 Larimer St., Suite 1400
 Denver, Colorado 80202
 Attn: Legal Dept. – Real Estate

With a copy to: Xcel Energy
 1518 Chestnut Ave. N., First Floor
 Minneapolis, MN 55403
 Attn: Director, Distribution Business Operations

If to the Town: Town of Erie
 645 Holbrook Street
 P.O. Box 750
 Erie, Colorado 80516
 Attn: Town Administrator

with a copy to: Kendra Carberry, Town Attorney
 Hoffmann, Parker, Wilson & Carberry, P.C.
 511 16th St Mall #610,
 Denver, CO 80202.

Any Party may, by written notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

Section 10.03 Headings. The headings of Articles and Sections of this Agreement are for guidance and convenience of reference only and shall not limit or otherwise affect any of the terms or provisions of this Agreement.

Section 10.04 Counterparts and Electronic Signatures. This Agreement may be executed and delivered in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or by electronic image scan transmission in .pdf format shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes.

Section 10.05 Interpretation. The Parties stipulate and agree that this Agreement shall be deemed and considered for all purposes as prepared through the joint efforts of the Parties and shall not be construed against one Party or the other as a result of the preparation, submittal, or other event of negotiation, drafting, or execution thereof.

Section 10.06 Governing Law. This Agreement, and all claims or causes of action (whether in contract or in tort) that may be based upon, arise out of, or relate to this Agreement,

or the negotiation, execution, or performance of this Agreement (including any claim or cause of action based upon, arising out of, or related to any representation or warranty made in connection with this Agreement or as an inducement to enter into this Agreement), shall be governed by the laws of the State of Colorado. Venue for any proceeding brought pursuant to this Agreement shall be in Boulder County, Colorado, unless the appropriate venue for a dispute is before the Colorado Public Utilities Commission, in which case the Parties agree that the dispute shall be heard at the Commission's office in Denver, Colorado. If venue would be appropriate in either forum, the Party bringing the claim shall make the choice.

Section 10.07 Entire Agreement. This Agreement and the exhibits attached hereto constitute the entire agreement between the Parties for the Town's purchase of the Facilities. There are no other provisions, terms, or conditions to this Agreement, whether written or oral, and all prior or contemporaneous agreements with respect to the subject matter herein are superseded by this Agreement.

Section 10.08 Amendment. This Agreement may not be amended nor any rights hereunder waived except by an instrument in writing signed by the Party to be charged with such amendment or waiver and delivered by such Party to the Party claiming the benefit of such amendment or waiver.

Section 10.09 Condemnation. So long as the Town has not terminated this Agreement due to an uncured default by Public Service, the Town shall not initiate condemnation or eminent domain action to acquire the Facilities prior to Closing or termination of this Agreement.

Section 10.10 Disclaimer. The Town and Public Service agree to each of the following provisions:

- (a) The sale of the Facilities by Public Service to the Town as described in this Agreement does not represent a waiver of any rights or remedies the Parties have in association with a Future Asset Acquisition (defined below);
- (b) Following Closing, Public Service will continue to provide the Town with electric service for the Facilities under a street lighting service category pursuant to the Tariffs;
- (c) Public Service has not had an appraisal completed of the Facilities;
- (d) The Purchase Price is a negotiated price and does not necessarily represent the fair market value of the Facilities, or damages to the remainder, as would be derived through an acquisition by eminent domain;
- (e) Public Service did not seek additional compensation that it believes it would be entitled to under Law if the Town were to condemn the Facilities; and
- (f) The Parties agree that any value assigned to the SL Easements described in the Easement Assignment is not intended to accurately measure the value of the same (or the value of any other easement or right-of-way owned by Public Service). The Parties further agree that such value shall be inadmissible as evidence in any trial, hearing, case,

arbitration, or mediation in front of any tribunal, including but not limited to any condemnation or eminent domain action;

(g) If any of the following occur (each a “**Future Asset Acquisition**”), the Parties agree that this sale, including the Purchase Price and system separation/integration, shall not be controlling, precedent setting, or used in evidence in any future legal, administrative or other proceeding associated with such Future Asset Acquisition:

- (i) the Town brings a condemnation action to acquire any other Public Service facilities or property;
- (ii) Public Service brings an inverse condemnation action regarding any other Public Service facilities or property;
- (iii) the Town attempts to discontinue service from Public Service prior to the expiration of the Franchise Agreement; or
- (iv) the Parties enter into a voluntary sale for other Public Service facilities or property.

Any challenges to the Town’s authority to condemn in any Future Asset Acquisition and the compensation owed to Public Service shall be determined pursuant to Law, including the determination of the fair market value of the property taken, as well as damages.

Section 10.11 Severability. If any term or other provision of this Agreement is invalid, illegal, or incapable of being enforced under any Law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the Agreement is not affected in any adverse manner to either Party. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the Agreement is fulfilled to the extent possible.

Section 10.12 Survival. All provisions of this Agreement shall survive Closing and shall not merge with the Bill of Sale. The following provisions shall survive the expiration and any termination of this Agreement: Article 7; Section 9.04; Section 9.05; and Article 10.

[remainder of page intentionally blank]

[signature page follows]

IN WITNESS WHEREOF, this Street Light System Purchase and Sale Agreement has been signed by or on behalf of each of the Parties as of the dates of the acknowledgements below to be effective as of the Effective Date.

PUBLIC SERVICE

PUBLIC SERVICE COMPANY OF COLORADO

By: _____

Name: Robert Kenney

Title: President

STATE OF COLORADO)

)

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, _____, by Robert Kenney, President, Public Service Company of Colorado, a Colorado corporation, on behalf of such a company.

Witness my hand and official Seal.

My Commission Expires: _____

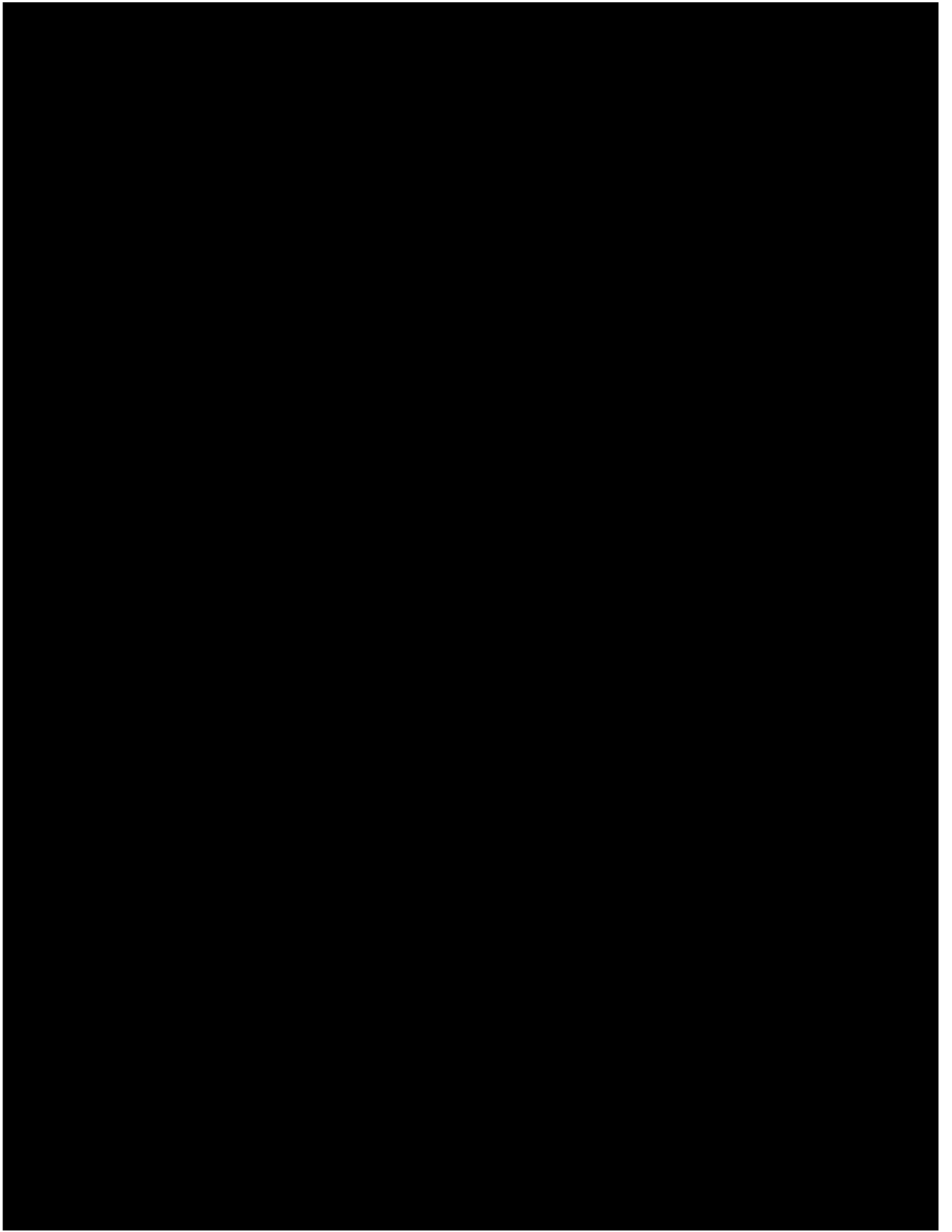
Notary Public:

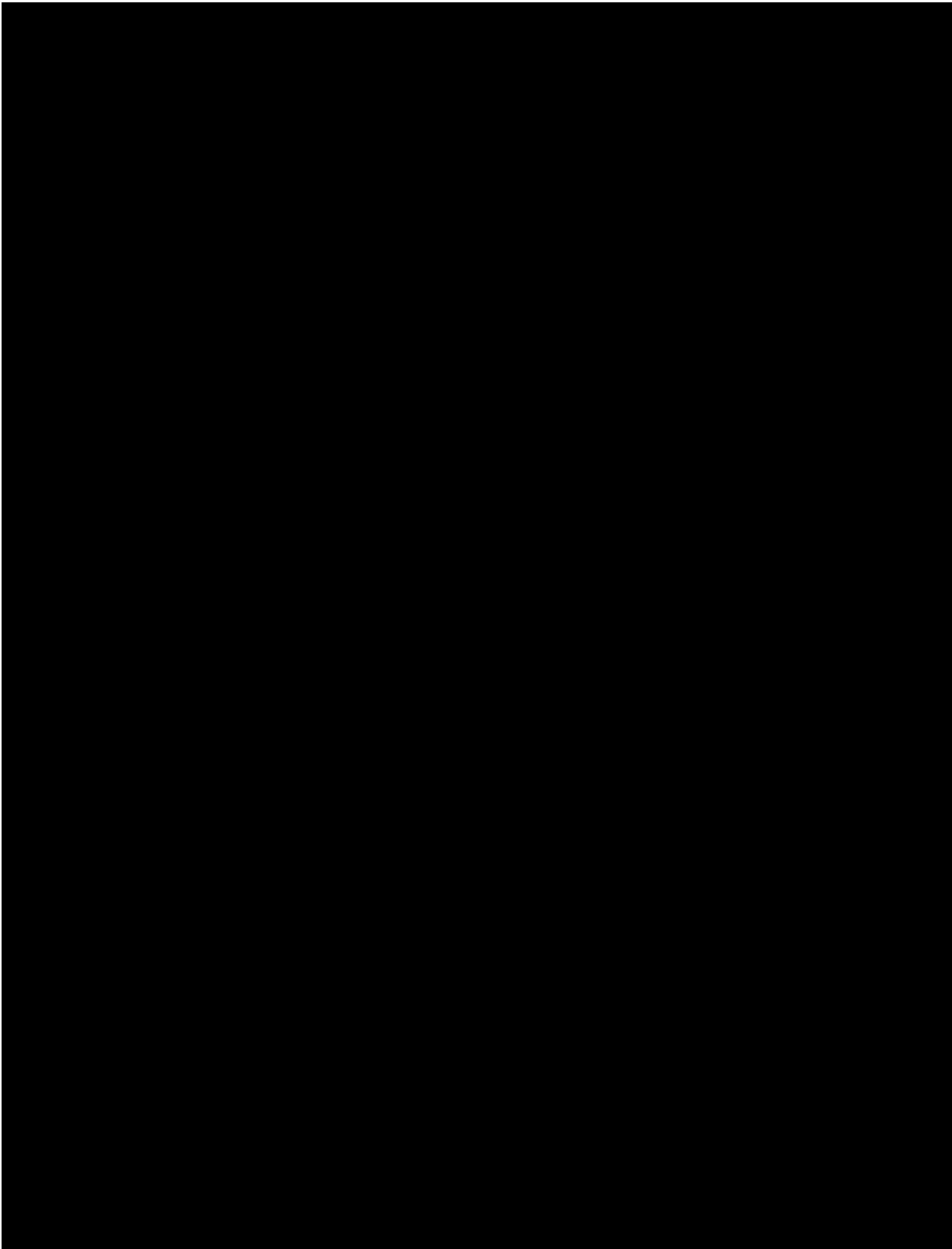
[signatures continue on next page]

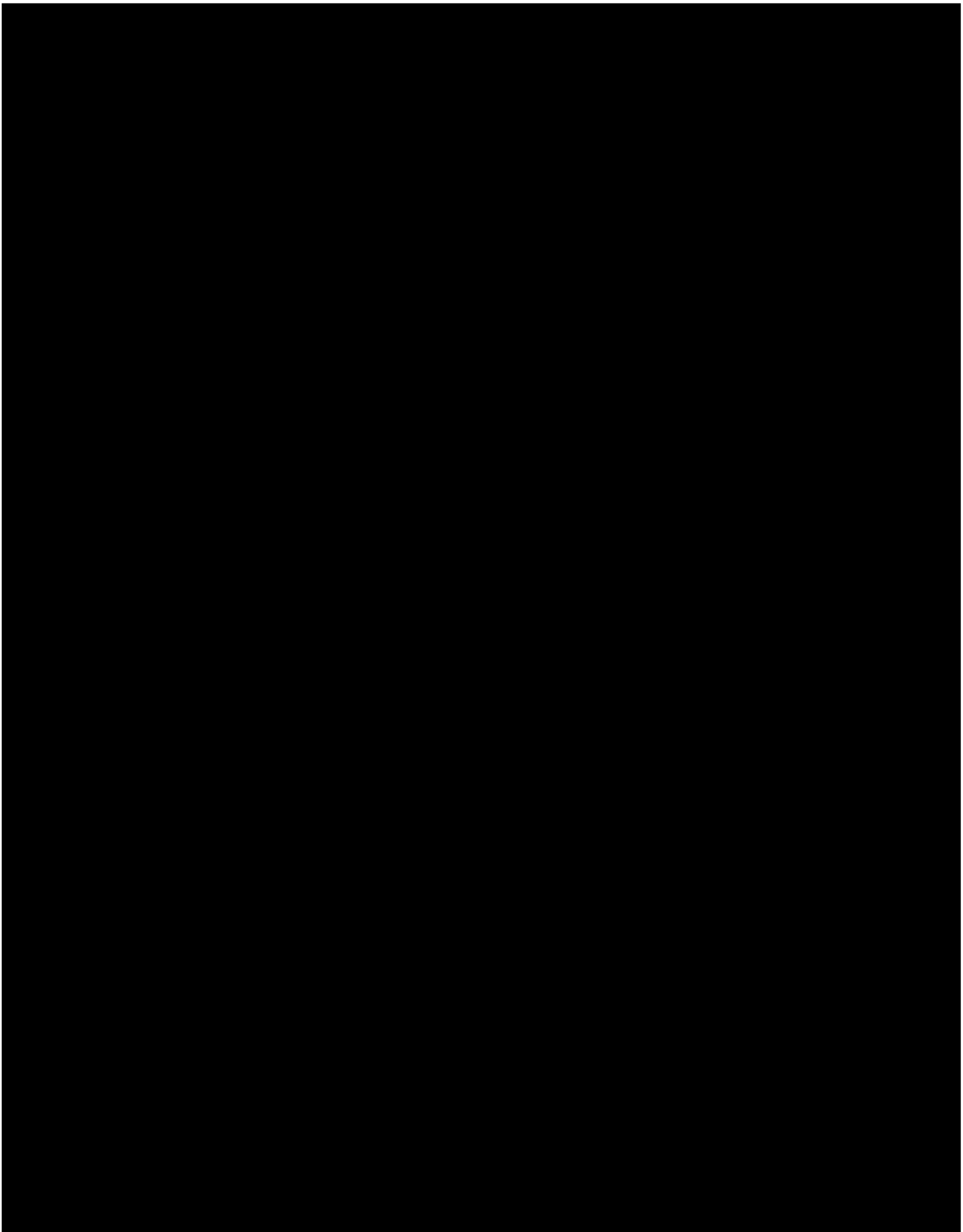
EXHIBIT A

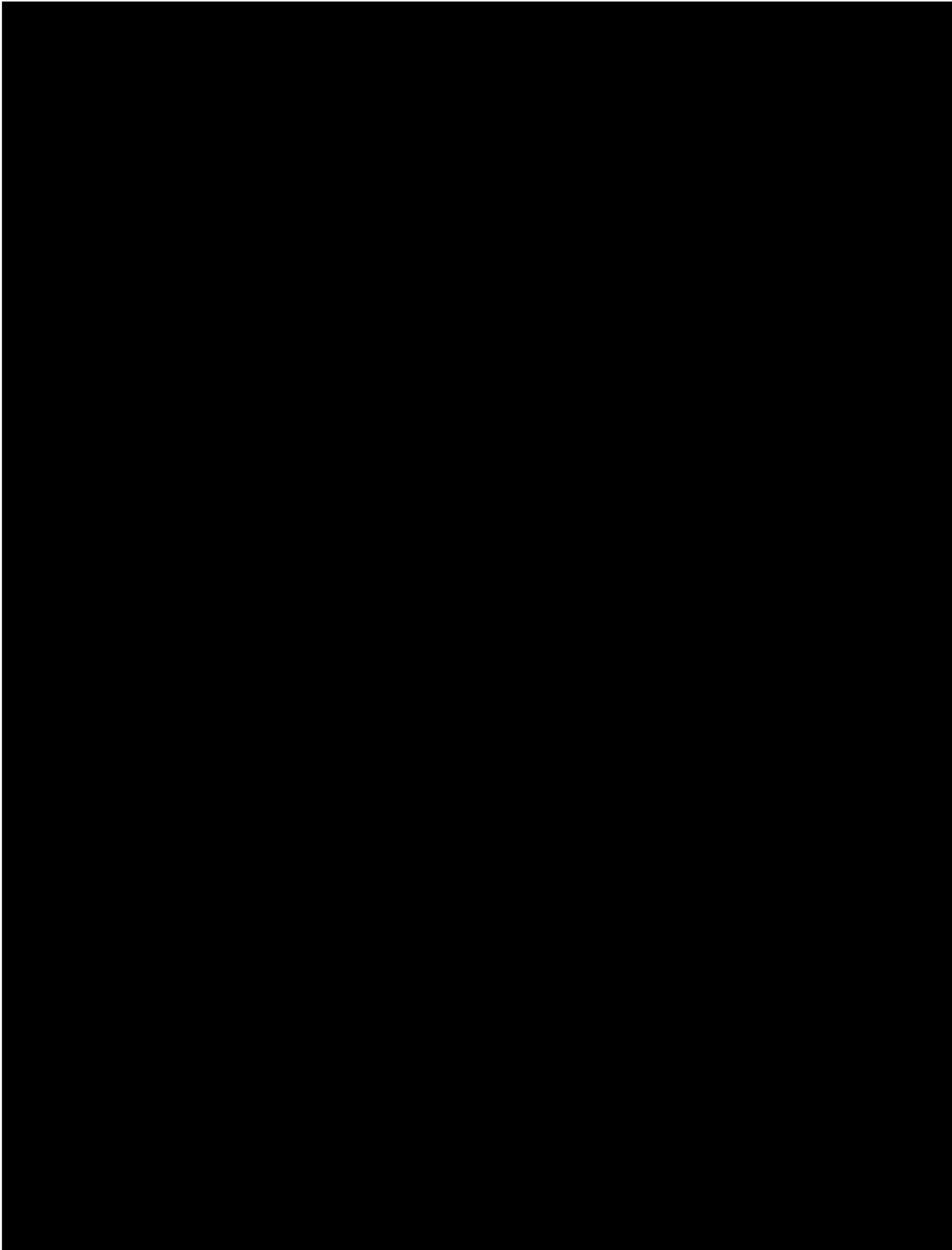
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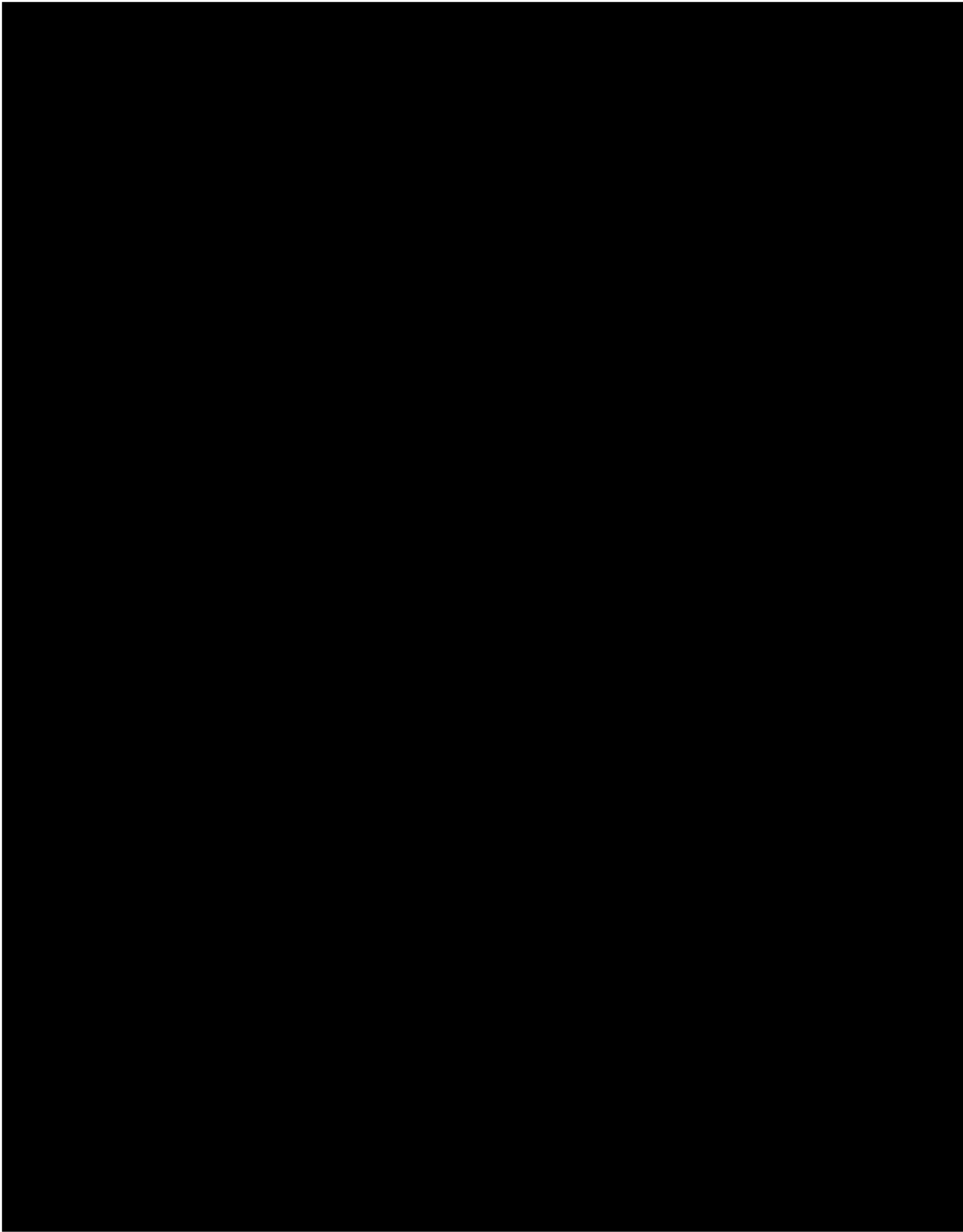












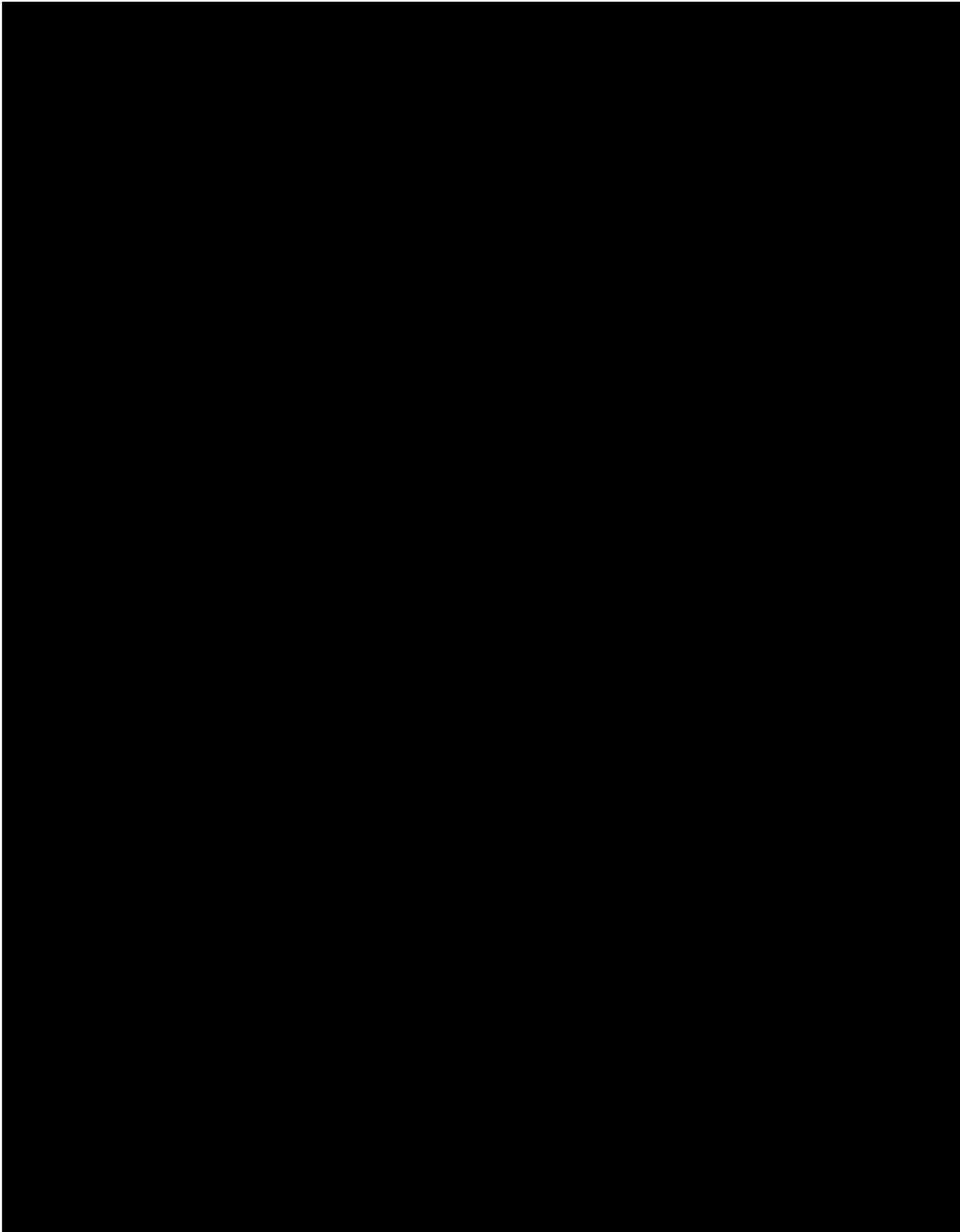


EXHIBIT B
Transition Agreement

See attached.

EXHIBIT C

Bill of Sale

See attached.

EXHIBIT D

Easement Assignment

See attached.