

TRANSITION AGREEMENT

This TRANSITION AGREEMENT (“**Transition Agreement**”) is hereby entered into and made as of _____, 202_ (the ‘Effective Date’) between Public Service Company of Colorado (“**Public Service**”) and the Town of Erie, Colorado municipal corporation (the “**Town**”). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed thereto in that certain Street Light System Purchase and Sale Agreement dated November 1, 2024 by and between Public Service and the Town (the “**Purchase Agreement**”).

ARTICLE 1. **SCOPE OF TRANSITION AGREEMENT**

Section 1.01 Scope. This Transition Agreement sets forth the terms and conditions pursuant to which (a) Public Service will permit the Town to retain attachments of certain street lights currently attached to the Distribution Poles owned by Public Service as set forth on Exhibit D of the Purchase Agreement, (b) Public Service will perform its portion of the Conversion Work; (c) Town will perform the Removal; (d) the Town will perform the Town Conversion Town; and (e) Town will perform the Temporary to Permanent Conversion Work.

Section 1.02 Tariff Reference. The work contemplated by this Transition Agreement shall be performed and completed in accordance with Tariff sheets 97A, 97B, R139, and R140, all effective as of September 10, 2021, as the same may be amended from time to time.

ARTICLE 2. **DEFINITIONS**

Capitalized terms not otherwise defined herein shall have the meanings ascribed in the Purchase Agreement. In addition to terms defined elsewhere in this Transition Agreement, the following terms shall have the following meanings:

Section 2.01 “Approved Contractor” means any contractor approved in writing by Public Service to conduct work on its Electric Distribution System, including the street lighting system, with the ability to conduct transformer and pedestal openings.

Section 2.02 “Conversion Costs” means all actual costs incurred by the Company that are reasonably necessary to perform the Conversion Work, including, without limitation, all actual costs of removing, relocating, separating, or modifying any other utility or any other object or substance which is required or becomes required as a result of the Conversion Work.

Section 2.03 “Conversion Work” means the work Public Service deems reasonably necessary to disconnect service from the Facilities at the Point of Separation, including the work contemplated in the Tariff and this Transition Agreement, or any other work by mutual agreement of the Parties.

Section 2.04 “Distribution Poles” means the overhead distribution utility poles that support Public Service’s electric service lines operating below 34,500 volts that are part of its Electric Distribution System on the Effective Date.

Section 2.05 “Distribution Pole Facilities” means the bracket arm assemblies and luminaires (consisting of the head, internal components, lamp socket, reflector if any, refractor or glass cover if any, photocontrol, lamp and conductor on the Town’s side of the Point of Delivery) transferred to the Town pursuant to the Purchase Agreement and identified on Exhibit A to the Purchase Agreement. For purposes of clarity, Public Service will retain ownership of the Distribution Pole and any facilities other than those being transferred to the Town under the Purchase Agreement.

Section 2.06 “Electric Distribution System” means Public Service’s electric service lines operating below 34,500 volts and associated equipment, fixtures, and facilities.

Section 2.07 “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 2.08 “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 2.09 “Permanent Point of Separation” means a Point of Separation accomplished by the installation and use of a pull box, overhead switch, or pedestal.

Section 2.10 “Plan” means the plan prepared by the Parties coordinating the Town Conversion Work and Public Services’ Conversion Work.

Section 2.11 “Point of Delivery” means each physical point at which ownership and responsibility for operation and maintenance of the Facilities changes from. Public Service to the Town and that allows Public Service to fuse and/or electrically separate Public Service’s Electric

Distribution System from the Facilities being transferred to the Town pursuant to this Transition Agreement. For Distribution Pole Facilities the Point of Delivery is the Town's owned fusible link on the conductor between the end of the mast arm (pole side) and Public Service's secondary system as identified in the complete report prepared by Public Service or its designee in coordination with the Town, showing on a light by light, circuit by circuit basis, the results of the Separation Study Report that was undertaken by Public Service in coordination with the Town, prior to the date hereof.

Section 2.12 "Public Service Conversion Work" means the work to be performed by Public Service to de-energize the Facilities to allow the Town Conversion Work.

Section 2.13 "Point of Separation" means each Temporary Point of Separation or Permanent Point of Separation installed as part of the Town's Conversion Work.

Section 2.14 "Rate Schedule ESL" means Rate Schedule Energy Only Street Lighting Service of Public Service's COLO. PUC No. 8 Electric Tariff, as the same may be modified from time to time by approval of the Commission.

Section 2.15 "Rate Schedule MSL" means Rate Schedule Metered Street Lighting Service of Public Service's COLO. PUC No. 8 Electric Tariff, as the same may be modified from time to time by approval of the Commission.

Section 2.16 "Removal" means the work necessary to remove Distribution Pole Facilities from Distribution Poles.

Section 2.17 "Temporary Point of Separation" means a Point of Separation accomplished by the installation and use of a temporary fuse at the base of the street lighting pole or foundation.

Section 2.18 "Temporary to Permanent Conversion" means the Town Conversion Work necessary to convert a Temporary Point of Separation to a Permanent Point of Separation.

Section 2.19 "Town Conversion Work" means the work necessary to separate the Facilities from Public Service's Electric Distribution System and required to transfer the Facilities on the Town's side of the Point of Delivery which includes installation ownership and operation of a Point of Separation (e.g. a pull box, pedestal, overhead switch, or fuse) with respect to each circuit, this work includes the installation of all Temporary Points of Separation and Permanent Points of Separation, and completion of the Temporary to Permanent Conversion Work and the Removal.

ARTICLE 3.

CONVERSION OF FACILITIES

Section 3.01 Public Service Conversion Work. Public Service shall be responsible for performing the Public Service Conversion Work following the Closing Date. This Public Service Conversion Work will be conducted in accordance with the Separation Study Report and this Transition Agreement.

(a) To the extent not performed by Public Service employees, all Public Service Conversion Work shall be performed in accordance with Public Service's sourcing and bidding policies and shall be performed by Approved Contractors.

(b) All Public Service Conversion Work shall be done in accordance with Laws. The Town shall cooperate with Public Service in obtaining or providing any permits required for Public Service to perform the Public Service Conversion Work.

(c) The Town agrees to pay Public Service for all Public Service Conversion Work Costs. The Conversion Costs incurred shall be paid by the Town to Public Service within thirty (30) days after invoice. In addition, the Town is solely responsible for all costs of the Town Conversion Work.

Section 3.02 Town Conversion Work. The Town shall be responsible for the work associated with the transfer of the Facilities on the Town's side of the Point of Delivery in accordance with the Separation Study Report and this Transition Agreement at the Town's cost. At the initial time of separation, the Town may separate the Facilities by installing Temporary Points of Separation. The Town shall use commercially reasonable efforts to complete the installation of all Temporary Points of Separation within twelve (12) months following the Closing Date, or thereafter as may be reasonably practicable (the "**Temporary Separation Deadline**"). If the Town has elected to utilize a Temporary Point of Separation as the initial Point of Separation for any of the Facilities the terms of Section 3.03 shall also apply.

(a) The Town may use an Approved Contractor to complete the Public Service Conversion Work (excluding any Distribution Pole Attached Street Light O&M Service described in Section 4.03). Should the Town elect to use an Approved Contractor, the Town shall notify Public Service of its election and shall contract directly for services with the Approved Contractor. The Town shall remain responsible for any Conversion Costs incurred.

(b) All Town Conversion Work shall be done in accordance with Laws. The Town shall obtain any permits required for the performance of the Town Conversion Work.

(c) The Parties shall coordinate the Town Conversion Work and Public Service's Conversion Work. The Parties may prepare a Plan as to each circuit and/or each Facility or Distribution Pole Facility to assist with coordination. The Plan may be updated by the Parties from time to time as required to reflect the progress of the installation of Points of Separation and the of the Town Conversion Work.

Section 3.03 Temporary to Permanent Conversion Work. As identified in the Separation Study, the Parties have agreed that Temporary Points of Separation shall be installed as part of the Town's Conversion Work.

(a) After completion of the installation of the Temporary Points of Separation, the Town must complete the Temporary to Permanent Conversion. The Town shall complete the Temporary to Permanent Conversion in accordance with this Transition Agreement. The Parties agree to coordinate the Temporary to Permanent Conversion work in accordance with the Plan.

(b) Notwithstanding the time frame set forth in Section 3.02 above or anything to the contrary in the Plan, if at any time, prior to the completion of the Temporary to Permanent Conversion, Public Service is required to perform a transformer or pedestal opening, e.g. to de-energize, re-energize, relocate or in any way provide service to the Temporary Point of Separation, the Town shall immediately replace the Temporary Point of Separation with a Permanent Point of Separation in accordance with Public Service's specifications. To timely facilitate the foregoing, the Town shall make reasonable efforts to inventory and maintain a minimum of 10 pull boxes in its possession at all times during the Term.

- (1) The Town understands that if Public Service is required to perform a transformer or pedestal opening in accordance with this subparagraph (b), the streetlight conduit will remain deenergized until the Town installs the Permanent Point of Separation.
- (2) If Public Service is required to perform a transformer or pedestal opening or to otherwise de-energize the Facilities for any reason unrelated to the Conversion Work or a fault of the Facilities after Closing (e.g. as the result of an outage), the Town shall not be required to replace the Temporary Point of Separation with a Permanent Point of Separation at such time; *provided, however*, that the Town may coordinate the installation of a Permanent Point of Separation at such time in the Town's discretion.

(3) The Temporary to Permanent Conversion Work shall be completed within fifteen (15) years following the date of this Transition Agreement (the "**Temporary to Permanent Conversion Deadline**").

(4) The Town shall install, own and operate, at its sole cost, risk and expense, the Point of Separation or "POS" and Public Service, or the Town through an Approved Contractor, shall make terminations and fusing within the pull box/pedestal to energize the lighting circuit.

ARTICLE 4.

USE OF DISTRIBUTION POLE FACILITIES AND POLES

Section 4.01 Use of Distribution Pole Facilities and Distribution Poles. During the Term, the Town shall be permitted to retain attachments of Distribution Pole Facilities to Distribution Poles in accordance with the Tariffs.

Section 4.02 Removal. Pursuant to the Purchase Agreement, the Town has acquired 32 Distribution Pole Facilities attached to any Distribution Pole or Distribution Poles. The Town may request at any time to a Removal of its Distribution Pole Facilities from any Distribution Pole or Distribution Poles, *provided, however*, that the Removal of all Distribution Pole Facilities from any and all Distribution Pole or Poles must be completed within five (5) years from the date of this Transition Agreement (the "**Removal Deadline**"). Any Removal of Distribution Pole Facilities shall be completed by Public Service or its contractors at the Town's sole cost and expense and

pursuant to and in accordance with the Tariff. Upon the expiration of the Removal Deadline, the Town and Public Service shall have coordinated and effectuated the Removal of all the Distribution Pole Facilities from the Distribution Poles, at the sole cost and expense of the Town. The Town and Public Service shall work in good faith and the Town shall diligently pursue the Removal to complete the Removal on or before the Removal Deadline.

Section 4.03 Acknowledgment of Distribution Pole Attached Street Light O&M Service. Until the Removal of the Distribution Pole Facilities has been completed, the parties hereby acknowledge that the Town will take “Distribution Pole Attached Street Light O&M Service,” as defined and provided for in the Tariffs for all Distribution Pole Facilities. As provided for in the Tariff, “Distribution Pole Attached Street Light O&M Service” includes the ordinary and routine maintenance as well as all other maintenance, including without limitation replacement and removal of Distribution Pole Facilities that are attached to the Distribution Poles. Consistent with the terms of Distribution Pole Attached Street Light O&M Service pursuant to the Tariff, except for any Approved Contractor, the Town, and its contractors, affiliates, agents and other authorized personnel, shall not access, climb, or otherwise use the Distribution Poles except as expressly set forth under this Transition Agreement.

Section 4.04 Acceptance of Distribution Poles “AS IS”. Notwithstanding anything in this Transition Agreement to the contrary, with respect to the subject matter provided for under this Transition Agreement only, including without limitation the provisions of Section 3.01, the Town:

- (a) Accepts the Distribution Poles as suitable for the purposes for which they are licensed or made available for use by the Town hereunder;
- (b) Accepts each Distribution Pole, any equipment or facilities of Public Service and any structures on the Pole and every part and appurtenance thereof “AS IS”, with all faults;
- (c) Waives any claims against Public Service arising or alleged to be arising in any way out of the existence at or near the Distribution Poles of (i) electric power generation, transmission, distribution, or related equipment; and (ii) electricity or other electromagnetic fields;
- (d) Waives any claims against Public Service relating to or arising from the condition of or defects in the Distribution Poles and its appurtenances, any equipment or facilities of Public Service, or any structures or third-party attachments on the Distribution Poles, or in respect of the Distribution Poles’ habitability or suitability for any permitted purposes;
- (e) Agrees and understands that it has been fully advised by Public Service that electromagnetic fields (“**EMF**”) occur in the vicinity of Public Service’s electric transmission and distribution lines and substations, Distribution Poles and other equipment owned or operated by Public Service or third parties, and hereby releases Public Service from any liability for any claims arising from, alleged to arise from, or related to any injury

allegedly actually occurring, imposed as a result of, arising from or related to effects of EMF, stray current, or induced voltage on or about the Distribution Poles; and

(f) Has been notified by Public Service that there may be Hazardous Materials present in or around its facilities due to utility operations, including the Distribution Poles.

Section 4.05 Waivers Regarding Hazardous Materials. In return for the right to occupy the Distribution Poles as set forth in this Transition Agreement, the Town hereby waives and releases any claims against Public Service. Public Service reserves the right to make all decisions regarding the steps to be taken in addressing the discovery and presence of Hazardous Materials in and around its facilities due to utility operations, including the Distribution Poles, including the right to revoke the Town's right to use said facilities should such Hazardous Materials be discovered.

Section 4.06 Use of the Distribution Poles Generally.

(a) Termination of Right to Use. If at any time Public Service determines, in its sole discretion, that a Distribution Pole, or space on a Distribution Pole, is no longer suitable for attachment of the Distribution Pole Facilities, Public Service may require that such Distribution Pole Facilities be removed from such Distribution Pole upon the earlier to occur of (i) thirty (30) days' written notice to the Town, or (ii) the actual date of the need for removal unless the parties can make other mutually agreeable arrangements to continue to accommodate the Distribution Pole Facilities. Public Service may agree to modify said Distribution Pole upon reasonable request and at the expense of the Town. In the case of safety or reliability concerns, Public Service may implement immediate remediation measures, including removal of the Distribution Pole Facilities. The Town shall reimburse Public Service the entire actual and documented cost and expense thereby incurred.

(b) Relocation of Distribution Pole. If any governmental agency or entity requests the relocation of any Distribution Pole containing Distribution Pole Facilities or requires Public Service to change its wiring from aerial to underground, upon the earlier to occur of (i) thirty (30) days' written notice to the Town, or (ii) the actual date of the need for removal or relocation, Public Service may remove or relocate such Distribution Pole Facilities, and the City will be responsible for all costs and expenses related only to the removal or relocation of the Distribution Pole Facilities. All other costs or expenses related to the foregoing shall be borne or paid in accordance with the Franchise Agreement or other applicable agreement between Public Service and the requesting entity.

(c) Distribution Pole Replacement. If at any time Public Service decides to replace a Distribution Pole occupied by any of the Distribution Pole Facilities (including due to casualty), Public Service may remove, relocate, or transfer the Distribution Pole Facilities, at the Town's sole cost and expense, from the Distribution Pole upon the earlier to occur of (i) thirty (30) days' written notice to the Town, or (ii) the actual date of the need for removal, relocation, or transfer, unless the parties can make such other arrangements as are mutually agreeable to continue to accommodate the Distribution Pole Facilities on the Distribution Pole.

(d) Rearrangement of Distribution Pole Facilities to Accommodate Others. Upon written request of Public Service or a third party, and at no cost to the Town, the Town shall coordinate with the third party to make reasonable accommodations to facilitate the third party's attachment of equipment to Distribution Pole(s), including rearrangement of the Distribution Pole Facilities, where such rearrangement will not result in violation of any Laws. Notwithstanding the foregoing, the Town shall not be required to make any accommodation under this subsection that materially and adversely affects the operation of the Distribution Pole Facilities.

Section 4.07 Distribution Pole Facilities Generally.

(a) Modification. The Town may request that Public Service remove, modify or change the position of Distribution Pole Facilities, which request may not be unreasonably denied, at the Town's sole cost and expense. Prior to giving any such consent, Public Service may require the Town to provide additional wind and ice loading analysis, and otherwise reasonably demonstrate that the desired modification of such Distribution Pole Facilities will not adversely affect the integrity of the Distribution Pole or facilities of Public Service and other attaching parties.

(b) Unauthorized Attachments. The Purchase Agreement and this Transition Agreement do not authorize the Town (or any party through or under the Town) to attach any other equipment or objects to Distribution Pole Facilities or to Distribution Poles, regardless of whether such objects are owned by the Town or a third party. In the event any equipment or object, other than the Distribution Pole Facilities, are attached to any Distribution Pole by, through or under the Town and without Public Service's prior written consent, Public Service may remove and dispose of such equipment or object at the Town's sole cost and expense.

(c) Noncompliant Distribution Pole Facilities. If, at the time of Closing, Public Service has not yet taken steps to comply with existing Laws or contractual requirements or obligations and must perform any Distribution Pole Attached Street Light O&M Service after Closing to bring the Distribution Pole Facilities into compliance therewith, then the Town shall not be responsible for the costs and expenses arising therefrom. Otherwise, in the event Public Service must perform any Distribution Pole Attached Street Light O&M Service, including without limitation altering, modifying, adjusting or otherwise changing the Distribution Pole Facilities, as required to make the Distribution Pole Facilities compliant with any Laws or contractual requirements or obligations, upon the earlier to occur of (i) thirty (30) days' written notice to the Town, or (ii) Public Service's determination that prompt performance of such service is necessary for safety or health reasons, Public Service may perform such services, which shall be at the Town's sole cost and expense.

Section 4.08 Liens.

(a) The Town must keep the Distribution Poles free from any liens arising from any work performed, materials furnished, or obligations incurred at the request or on behalf of the Town. If any lien is filed against the Distribution Pole as a result of the acts or

omissions of the Town, or the Town's employees, agents, or contractors, the Town must discharge the lien or bond the lien off in a manner reasonably satisfactory to Public Service within sixty (60) days after the Town receives written notice from any party that the lien has been filed or within such longer period of time, if applicable, as may be provided by Law. If the Town fails to discharge or bond any lien within such sixty (60) days or such applicable longer period, then in addition to any other right or remedy of Public Service, Public Service may, at its election, discharge the lien by deposit with a court. The Town must pay on demand any amount paid by Public Service for the discharge or satisfaction of any lien, and all reasonable attorneys' fees and other legal costs and expenses of Public Service incurred in defending any such action or in obtaining the discharge of such lien, together with all necessary disbursements in connection therewith. Nothing in this Section 2.07(a) shall be interpreted to permit the Town or its contractors to perform any work on the Distribution Pole Facilities without Public Service's prior written consent.

(b) Upon completion of the Conversion Work, the Distribution Pole Facilities shall be free from any liens arising from any work performed, materials furnished, or obligations incurred at the request of Public Service, except to the extent the Town fails to timely pay Public Service for any fees, costs or expenses due hereunder. If any lien is filed against the Distribution Pole Facilities as a result of the acts or omissions of Public Service, or its employees, agents, or contractors, except to the extent the Town fails to timely pay Public Service for any fees, costs or expenses due hereunder, and such lien encumbers the Distribution Pole Facilities upon the completion of the Conversion Work, Public Service must discharge the lien or bond the lien off in a manner reasonably satisfactory to the Town within sixty (60) days after completion of the Conversion Work or within such longer period of time, if applicable, as may be provided by Law. If Public Service fails to discharge or bond any such lien within such sixty (60) days or such applicable longer period, then in addition to any other right or remedy of the Town, the Town may, at its election, discharge the lien by deposit with a court. Public Service must pay on demand any amount paid by the Town for the discharge or satisfaction of any such lien, and all reasonable attorneys' fees and other legal costs and expenses of the Town incurred in defending any such action or in obtaining the discharge of such lien, together with all necessary disbursements in connection therewith.

Section 4.09 Subordination. Nothing in the Purchase Agreement or this Transition Agreement shall be construed to in any way deny, prohibit or interfere with Public Service's rights and ability to utilize its Distribution Poles for the furnishing of services to its customers. All rights of the Town hereunder are subject and subordinate to Public Service's rights to so utilize its Distribution Poles and Public Service retains all rights, consistent with Laws, to sole and priority use of the Distribution Poles. Notwithstanding the above, nothing herein contained shall be construed to compel Public Service to maintain any of its Distribution Poles for a period longer than demanded by its own service requirements. In addition to any rights of Public Service contained elsewhere in this Transition Agreement, Public Service may remove all Distribution Pole Facilities within sixty (60) days of notification to the Town that Public Service has determined to remove or abandon any Pole or underground any part of its system; provided, however, that, with respect to abandonment of the Distribution Poles, the parties recognize the applicability of Article 9 of the Franchise Agreement, and do not so modify any such applicable terms through this

Transition Agreement. Any removal of Distribution Pole Facilities shall be done at the Town's sole cost and expense.

Section 4.10 Other Restrictions. It is expressly understood that any rights granted to the Town hereunder are subject to applicable contracts with or permissions of governmental authorities or private persons, such as but not limited to easements or rights of way, concerning Public Service's use of its Distribution Poles.

Section 4.11 Agreement Only. This Transition Agreement shall not in any way vest ownership in any of Public Service's Distribution Poles or other facilities in the Town but is and shall continue to be a license to utilize such Distribution Poles in accordance with the terms hereof. The Town shall obtain no priority for its Distribution Pole Facilities over any other party's attachments except as specified in this Transition Agreement and required by Laws.

Section 4.12 Non-exclusive. This Transition Agreement is a non-exclusive license and Public Service reserves the right to grant similar agreements to others and to make other arrangements with third parties for the use of its Distribution Poles. The Town understands that Public Service may have entered into, and may in the future enter into, agreements with other entities for the joint and/or licensed use of Distribution Poles or other facilities. The rights of the Town hereunder are subject to those prior agreements as they may be amended from time to time, and all previously authorized attachments, but the Town's rights hereunder shall not be materially adversely affected by any future agreement with a third party for the use of the Distribution Poles, as determined by Public Service acting within its sole discretion and in accordance with Laws. All costs and expenses incurred to accommodate Distribution Pole Facilities on any Pole necessary to comply with those prior agreements shall be borne solely by the Town.

ARTICLE 5. POINT OF DELIVERY

Each Point of Delivery is shown in the Separation Study on a light by light, circuit by circuit basis. The actual Points of Delivery shall be at each Point of Separation between Facilities for an individual streetlight or connected string of streetlights. Each Point of Delivery is defined in the Separation Study, is unique to each Facility, and is identified by category. The Parties acknowledge and agree that (i) each Facility being transferred to the Town shall include the secondary conductor associated with such Facility, unless specifically noted in Exhibit A to the Purchase Agreement, and (ii) subject to (b) below, Public Service shall have the right to require a Permanent Point of Separation installation on any Facility being transferred, whether or not a pull-box installation is specified for such Facility in this Transition Agreement. In addition to the SL Easements, the Town shall be responsible for obtaining any land rights or real property interests necessary to own, operate, and maintain the Facilities and Point of Delivery. The categories are:

(a) POS. The Point of Delivery shall be at the Permanent POS for all Facilities for which a pull-box installation is made pursuant to this Transition Agreement.

(b) Foundation/Pole Fuse. In the event that a pull box installation is not made (i) due to physical constraints as reasonably determined by the Parties or (ii) the Town has elected to install a Temporary Point of Separation, the Point of Delivery shall be the fuse

installed on the wire into the foundation or pole depending on the installation type. Subsequent to the initial installation where a pull box/pedestal is not installed, if the lighting pole/foundation requires repair or replacement and/or circumstances have changed that now reasonably permit the installation of a pull box/pedestal and if Tariff provisions require installation of a pull box/pedestal, e.g. Public Service needs to de-energize, re-energize, relocate or in any way provide service to the lighting conductor, the Town shall install a Permanent Point of Separation in accordance with Public Service's specifications at the Town's sole cost and expense.

(c) Unique. In unique circumstances where the parties determine that a pull box/pedestal or a lighting pole/foundation is not acceptable, or for any Facility located on a Third-Party Pole, the Parties may mutually determine the Point of Delivery at another location other than at a pull box/pedestal or lighting pole/foundation, in accordance with Public Service's standards. The unique Points of Delivery are further identified on **Schedule 1** attached hereto and incorporated herein.

(d) Distribution Poles. For any Facilities located on Public Service distribution poles, the Points of Delivery are identified on **Schedule 2** attached hereto and incorporated herein.

(e) Overhead. Notwithstanding the foregoing, for Facilities served by overhead distribution lines, the Point of Delivery will be located at a point based upon the individual circumstances related to the location, type and size of Public Service's primary and secondary voltage distribution facilities relative to the lighting facilities. The overhead Points of Delivery are further identified on **Schedule 3** attached hereto and incorporated herein.

(f) Underground. For Facilities served by underground distribution lines, the Point of Delivery will be located at a point based upon the individual circumstances related to the location, type and size of Public Service's primary and secondary voltage distribution facilities relative to the lighting facilities. The underground Points of Delivery are further identified on **Schedule 4** attached hereto and incorporated herein.

ARTICLE 6.

ELECTRIC SERVICE, MONITORING PROGRAM AND REPORTING

Section 6.01 Electric Service. Commencing on the Closing Date, the Town shall purchase electricity for the Facilities from Public Service pursuant to an applicable Tariff. Prior to completion of the Conversion Work, Town Conversion Work, and Temporary to Permanent Conversion Work, the Town may take service pursuant to Public Service's Rate Schedule ESL. Upon completion of Conversion Work, the Town may continue to take service under Rate Schedule ESL or may convert service to any applicable class.

Section 6.02 Monitoring. After the Closing Date, and pursuant to applicable Tariffs, Public Service may monitor and measure the electric usage of the Town by temporary meter placement or other similar means, through a sampling program, or through periodic testing at an

individual service point. Public Service shall provide, own, operate and maintain such temporary metering or other temporary equipment necessary to complete such monitoring activities.

Section 6.03 Reporting. Annually, on or before the anniversary of the Effective Date, and until such time as the Town Conversion Work has been completed, the Town shall provide Public Service a report which includes describes those (i) Facilities for which a Permanent Point of Separation has been installed, and (ii) Distribution Pole Facilities for which Removal has been completed. This requirement may be satisfied by providing an updated Plan which reflects the foregoing information.

ARTICLE 7. TERM, DEFAULT AND TERMINATION

Section 7.01 Term. All terms of this Transition Agreement shall be effective as of the Effective Date and shall remain in effect for a period of fifteen (15) years (the “**Term**”) unless the Town Conversion Work is completed prior to the end of the Term. For avoidance of doubt, the Term shall not extend the Removal Deadline related to Distribution Pole Facilities and the use of Distribution Poles, as provided in Article 4. For ease of reference, the respective deadlines for the transition work described in this Transition Agreement are set forth in Section 3.02 (Temporary Separation Deadline), Section 4.12 (Removal Deadline), and Section 3.03 (Temporary to Permanent Conversion Deadline).

Section 7.02 Default. A party shall be in default hereunder and in breach of this Transition Agreement for (a) in the case of the Town, (i) nonpayment of any fees due hereunder when due, or (ii) violation of any term, condition or covenant of the Purchase Agreement or this Transition Agreement; or (b) in the case of Public Service, (i) failure to perform the Conversion Work pursuant to the terms of this Transition Agreement, except to the extent such nonperformance is due to the acts or omissions of the Town, or (ii) violation of any term, condition or covenant of the Purchase Agreement or this Transition Agreement.

Section 7.03 Termination. Upon any default of either Party, the other Party shall have the right to terminate this Transition Agreement upon sixty (60) days’ written notice, provided the defaulting Party does not cure the default to the reasonable satisfaction of the other Party within such thirty (30) day period. The non-defaulting party may, at its option and with or without terminating this Transition Agreement, bring legal action to collect any amounts due or to compel compliance with any obligation hereunder. Upon any termination of this Transition Agreement, including without limitation, due to an uncured default of the Town, , or expiration of the Term, Public Service shall (i) remove all Distribution Pole Facilities from the Distribution Poles and (ii) replace all Temporary Points of Service with Permanent Points of Service at a location in Public Service’s sole determination all at the Town’s sole cost and expense within one-hundred twenty (120) days after such termination, and such reasonable costs and expenses shall be paid by the Town within thirty (30) days after invoice. Any termination of this Transition Agreement shall not release either Party from any liability or obligations accruing prior to the date of termination.

ARTICLE 8.
TAXES

Section 8.01 Taxes, Fees, Assessment and Franchises. In addition to the costs of all work performed by Public Service or its contractors pursuant to this Transition Agreement, the Town shall pay Public Service the actual, documented amount of any federal, state or local excise tax, license, sales, use or other similar taxes, fees, assessment, surcharge, franchise fee or charge paid by Public Service resulting from or due to the Town's use or occupancy of the Distribution Poles, other than taxes on Public Service's income from this Transition Agreement. The charges shall be paid by the Town within thirty (30) days of receipt of an invoice from Public Service. To the extent the Town claims to be exempt from any otherwise applicable tax, the Town shall provide Public Service with a Certificate of Exemption or any other supporting documents, regarding the specific tax for which an exemption is claimed.

ARTICLE 9.
INSURANCE

Section 9.01 Insurance. For so long as the Town is using the Distribution Poles, the Town shall maintain, in full force and effect, with a carrier or carriers duly authorized to do business in the State of Colorado, the following insurance coverage:

(a) Worker's compensation insurance complying with the Laws of the State of Colorado.

(b) Commercial General Liability Coverage, including owner's and contractor's protective liability, product/completed operations liability, with a combined single limit of \$2,000,000 each occurrence. Such insurance shall (i) name Public Service, its officers, agents, and employees as additional insured; (ii) be primary for all purposes; and (iii) contain standard cross-liability provisions.

(c) Comprehensive Automobile Liability with combined single limits of not less than one million dollars (\$1,000,000).

(d) Excess liability/umbrella coverage in an amount not less than \$5,000,000 for each occurrence. Such insurance shall name Public Service, its officers, agents and employees as additional insured.

(e) The Town shall require its insurers to waive all rights of subrogation against Public Service, its officers, agents and employees. It is understood that the limits of such insurance coverage shall not be construed to limit the Town's liability under this Transition Agreement. The Town shall submit certificates of such insurance to Public Service, in a form and substance acceptable to Public Service, at or prior to execution hereof, which shall provide for a thirty (30) day written notice to Public Service prior to any cancellation, non-renewal or material reduction in coverage of any insurance. In the event of cancellation, equivalent substitute insurance must be obtained so that appropriate insurance coverage exists at all times. The Town shall cause its insurance policies to name Public Service Company of Colorado as an additional insured for purposes of its obligations under this Transition Agreement. The Town shall assure that its insurance carriers shall maintain

a rating by a national rating agency satisfactory to Public Service during the term of this Transition Agreement and any extensions thereto.

(f) All policies shall be written on an occurrence basis (except workers' compensation and employer's liability policy) and all policies shall contain an endorsement (if terminology is not printed on the form) that the Town policies shall be primary in all instances regardless of what, if any, like coverages are carried by Public Service.

(g) All renewal certificates of insurance for said policies shall be provided to Public Service's local representative fifteen (15) days prior to the expiration date of said policies.

(h) The Town's liability is not limited to the amount of insurance coverage required in this Transition Agreement.

ARTICLE 10. MISCELLANEOUS

Section 10.01 Assignment. Neither party may assign, partially assign, or otherwise transfer any of its rights or privileges granted hereunder, including without limitation, the rights granted to the Town to maintain Distribution Pole Facilities on the Distribution Poles.

Section 10.02 Conflict. To the extent of any conflict or inconsistency between the terms of this Transition Agreement and the terms of the Purchase Agreement, the terms of this Transition Agreement shall prevail.

Section 10.03 Relationship of the Parties. Notwithstanding anything to the contrary in this Transition Agreement, under no circumstances will either party be deemed to be in any relationship with the other party carrying with it fiduciary or trust responsibilities. The parties do not intend for this Transition Agreement or the relationship established thereby to be considered the formation of a joint venture or partnership between the parties for any purpose.

Section 10.04 No Third-Party Beneficiaries. The provisions of the Purchase Agreement and this Transition Agreement are for the benefit of the parties hereto and not for any other person. The Purchase Agreement and this Transition Agreement shall not provide to any person not a party, assignee or successor of a party, and shall not be construed to provide any such third-party, with any remedy, claim, liability, reimbursement, cause of action or other privilege or right in excess of those existing without reference to the Purchase Agreement or this Transition Agreement.

Section 10.05 Dispute Resolution. For disputes arising out of or relating to this Transition Agreement, to the extent the Commission has jurisdiction over a particular claim and such claim relates to a tariffed service or the Town's attachment of Distribution Pole Facilities to the Distribution Poles, a party must bring an action in front of the Commission for resolution of such disputes and may seek to pursue, at its election, any right or remedy it may have under this Transition Agreement or at law or in equity. For all other disputes arising out of or relating to this Transition Agreement, the parties may bring an action in front of the Commission or in a court of competent jurisdiction in Boulder County, Colorado. Each party shall be responsible for its own

legal, expert and other costs incurred by it in resolving any dispute under this Transition Agreement.

Section 10.06 Counterparts. This Transition Agreement may be executed in counterparts and, when counterparts of this Transition Agreement have been executed and delivered by the parties as provided in this Section 10.06, this Transition Agreement shall be fully binding and effective, just as if the parties had executed and delivered a single counterpart of this Transition Agreement.

Section 10.07 Entire Agreement. This Transition Agreement, together with the Purchase Agreement, constitutes the entire agreement between the parties with respect to the subject matter hereof. There are no other provisions, terms, or conditions to this Transition Agreement, whether written or oral, and, except for the Purchase Agreement, all prior or contemporaneous agreements with respect to the subject matter herein are superseded by this Transition Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

[SIGNATURE PAGE FOLLOWS]

CONFIDENTIAL

IN WITNESS WHEREOF, this Transition Agreement has been signed by or on behalf of the following Parties on the day first written above.

PUBLIC SERVICE

PUBLIC SERVICE COMPANY OF COLORADO

By: _____
Name: Robert Kenney
Title: President

[signatures continue on next page]

CONFIDENTIAL

IN WITNESS WHEREOF, this Transition Agreement has been signed by or on behalf of the following party on the day first above written.

TOWN

Town of Erie, Colorado

By: _____
Name: _____
Title: _____

SCHEDULE 1

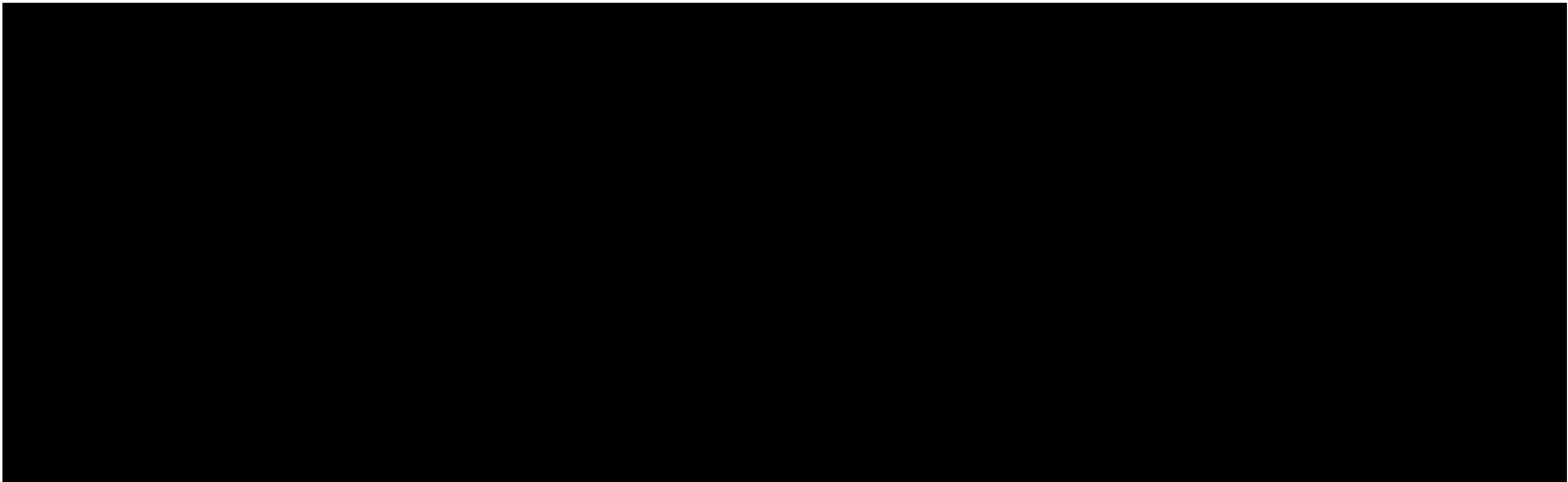
Unique Points of Delivery

N/A – none.

SCHEDULE 2

Distribution Pole Points of Delivery

See attached.



SCHEDULE 3

Overhead Points of Delivery

See attached.



SCHEDULE 4

Underground Points of Delivery

See attached.

