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November 14, 2024

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, PA 17120


**Re: Municipal Contract – Right of Way Agreement between Duquesne Light Company
and the City of Pittsburgh
AGREEMENT 762442
Docket No. U-2024-_____**

Dear Secretary Chiavetta:

Enclosed for review and approval in accordance with 66 Pa.C.S. § 507 and 52 Pa. Code § 3.101, is a Right of Way Agreement dated October 2, 2024, between Duquesne Light Company and the City of Pittsburgh. The City of Pittsburgh granted to Duquesne Light Company a right of way on its property situated in Allegheny County which provides the right to erect, install, use, own, operate, maintain, repair, renew and remove a utility poles, and improve access for vegetation management.

Should you have any questions, comments or concerns, please contact me.

Respectfully Submitted,


Aron J. Beatty
Attorney ID 86625

Enclosure

Please record and return to:

City of Pittsburgh
Law Department
313 City-County Building
414 Grant Street
Pittsburgh, PA 15219

EASEMENT AGREEMENT

This EASEMENT AGREEMENT (this "**Agreement**"), dated _____ (the "**Effective Date**"), by and between the DUQUESNE LIGHT COMPANY (hereinafter, the "**Grantee**"), having an address at 2841 New Beaver Avenue, N3-AM, Pittsburgh, Pennsylvania 15233, County of Allegheny, and the CITY OF PITTSBURGH, a municipal corporation of the Commonwealth of Pennsylvania, having an address at 414 Grant Street, Pittsburgh, PA 15219 (hereinafter, the "**Grantor**"). Grantee and Grantor may be referred to in this Agreement individually as a "Party" or collectively as the "Parties."

WITNESSETH:

WHEREAS, Grantor is the fee owner of certain land located in the City of Pittsburgh, County of Allegheny, Pennsylvania, designated by the Allegheny County Recorder of Deeds as Lot and Block No. 119-B-300, hereinafter referred to as the "Property"; and

WHEREAS, Grantee wishes to install, use, own, operate, maintain, repair, renew, and finally remove five poles (DL# 473294; DL#473295; DL#473296; DL#473304; DL#473305) and one anchor to pole DL#473294, together with the guy wires and other apparatus thereto upon, over, under, along, across, and through the Property; and

WHEREAS, Grantor is willing to grant to Grantee an easement to install, use, own, operate, maintain, repair, renew, and finally remove five poles (DL# 473294; DL#473295; DL#473296; DL#473304; DL#473305) and one anchor to pole DL#473294, together with the guy wires and other apparatus thereto upon the Property (the "**Easement Area**"), as more particularly shown in Duquesne Light Company Drawing No. 762442 attached hereto as Exhibit A and made a part hereof;

NOW, THEREFORE, for good and valuable consideration provided by Grantee to Grantor and the mutual covenants, terms, and conditions set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Recitals: The recitals set forth above ("**Recitals**"), including all terms referenced therein are hereby incorporated into the body of this Agreement as though set forth herein.
2. Grant. Grantor hereby grants and conveys to Grantee a non-exclusive perpetual easement (the "**Easement**") in, under, upon, about, over, and through the Easement Area located on the Property, for the benefit of Grantee. The Easement shall serve the following purposes described in the Recitals and as further set forth herein.
3. Use. Grantee may use the Easement to install, use, own, operate, maintain, repair, renew, and finally remove five poles (DL# 473294; DL#473295; DL#473296; DL#473304; DL#473305) and one anchor to pole DL#473294, together with the guy wires and other apparatus thereto. The Easement includes the right of ingress, egress, and regress to the Easement Area for the permitted uses.

4. Access. Grantee may, for the purposes set forth in Section 3, access the Easement Area at any time.

5. Plans. On Grantor's request, Grantee shall provide Grantor with as-built drawings and a survey showing the location and depth of any improvements installed in the Easement Area.

6. Restoration. Following any work on the Property or Easement Area by Grantee, Grantee will promptly restore the ground surface of the Property and Easement Area, including pavements, driveways, sidewalks, fencing, trees, and any shrubs or grasses, and any subsurface fixtures, equipment or improvements, at Grantee's expense, to substantially the same or better condition than they were in prior to the performance of the work. This Section shall not limit Grantee's right to trim or remove any trees or shrubbery which, at any time or times, may interfere or threaten to interfere with the installation, use, operation, maintenance, repair, renewal, or removal of the cables, wires, and appurtenant facilities.

7. Compliance with Laws. Grantor and Grantee shall remain in compliance with the applicable statutes, ordinances, rules, and regulations of all governing public authorities as those statutes, ordinances, rules, and regulations are amended from time to time.

8. Reservation of Rights. All right, title, and interest in and to the Easement Area under this Agreement, which may be used and enjoyed without directly interfering with the rights conveyed by this Agreement, are reserved to Grantor.

9. Representations and Warranties. The Grantor provides all rights hereunder in quitclaim and does not warrant any further title to the rights granted in this Agreement or that the same are free and clear of all liens and encumbrances. Grantee hereby takes title under this Agreement solely at its own risk.

10. Grantor's Use of Property. Grantor reserves the right to use the area of the Property in any manner and for any purpose that does not interfere with the rights granted herein, Grantee's Easement rights, or Grantee's use of the Easement Area.

11. Public Right-of-Way. This Agreement shall not be construed as providing any permanent or temporary access, easements, or other rights in any public right-of-way. The public rights-of-way are governed according to applicable law, including the permitting and regulatory jurisdiction of the City's Department of Mobility and Infrastructure ("DOMI"). For any activities arising hereunder within the public right-of-way, Grantee must first seek any and all applicable permits from DOMI.

12. Transferability. The parties to this Agreement hereby acknowledge and agree that the easements and other rights conferred by this Agreement are intended to, and do, constitute covenants that run with the land and shall inure to the benefit of and be binding upon the parties and their respective grantees, heirs, executors, administrators, representatives, successors, and assigns.

13. Default and Remedies. In the event of a default by Grantor or Grantee, the non-defaulting party may seek any and all remedies permitted by law.

14. Indemnity and Hold Harmless. Grantee agrees to indemnify, save and hold harmless, and defend (if requested) Grantor and all of their officers, agents, and employees, from all suits, actions, causes of action and/or claims brought or raised against Grantor for or on account of any injuries, including death, damages, punitive damages, loss of property, costs, and/or expenses, including, but not limited to,

attorneys' fees, alleged to have been caused, in whole or in part, by, through, or in connection with any act, error, or omission of Grantee, in conjunction with the rights and permissions granted under this Agreement.

Grantee shall require all contractors exercising any rights or permission granted under this Agreement to indemnify and defend (if requested) Grantor and all of their officers, agents and employees, from all suits, actions, causes of action and/or claims brought or raised against the Grantor for or on account of any injuries, including death, damages, punitive damages, loss of property, costs, and/or expenses, including, but not limited to, attorneys' fees, alleged to have been caused, in whole or in part, by, through, or in connection with contractor acts or omissions, whether due to the use of defective materials or defective workmanship, or on account of any act, omission, or negligence of the contractor, and/or its employees, agents, consultants, subcontractors or suppliers and it shall fully and finally release, indemnify and hold harmless the Grantor and its respective officers, directors, employees, agents, consultants, insurers, successors and assigns, from and against any and all actions, claims, losses, injuries, including death, damages, punitive damages, loss of property, costs, and expenses, including, but not limited to attorneys' fees, caused by, or in any manner arising from, in whole or in part, any act, omission or negligence of the contractor, and/or its employees, agents, consultants, subcontractors or suppliers; and shall pay, liquidate and discharge any and all claims, losses and demands for injuries to persons, including death, and damage to property caused by, or in any manner arising from contractor's acts, errors, or omissions.

15. Grantor Not Liable. In no event shall Grantor be liable for any damage to or loss of personal property or equipment sustained by Grantee within the Easement Area.

16. Insurance. Grantee shall provide, and require all contractors entering the Easement Area to maintain, insurance in the amounts specified below and shall keep Grantor listed as an additional insured on both the general and automobile policy at all times:

General Liability: \$1,000,000.00 per occurrence; \$2,000,000.00 aggregate

Automobile Liability: \$1,000,000.00 (each accident)

Umbrella/Excess Liability: \$5,000,000

Commercial General Liability: Grantee shall purchase and maintain for the duration of the contract general liability coverage on an occurrence basis with coverage at least as broad as the ISO form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate. This policy shall include the City of Pittsburgh, its officers, officials, employees, volunteers, and anyone else requested by Grantor as an Additional Insured via endorsements at least as broad as ISO form CG 20 10. This policy shall be primary and non-contributory with respect to any other insurance available to Grantor. The policy shall include endorsement CG 24 04, a Waiver of Subrogation in favor of Grantor. The general liability policy must be made on an occurrence basis.

Automobile Liability: Grantee shall purchase and maintain for the duration of the contract automobile liability with a limit of no less than \$1,000,000 per accident for bodily injury and property damage with respect to the operations of any owned, hired and non-owned vehicles used in the performance of the work. If Grantee has no owned vehicles, hired and non-owned auto liability must be provided. The policy shall name the City of Pittsburgh as an additional insured. The policy shall contain a Waiver of Subrogation in favor of Grantor.

arising in connection with this Agreement and the transactions contemplated hereby shall be tried and litigated in state or federal courts located in Allegheny County, Pennsylvania.

21. Counterparts. This Agreement may be executed in counterparts, and when executed and delivered by all parties in person, by facsimile, or by email in a PDF document, shall become one (1) integrated agreement enforceable on its terms.

22. Integration. This Agreement supersedes all prior agreements between the parties with respect to the subject hereof and all discussions, understandings, offers, and negotiations with respect thereto, whether oral or written.

23. No Waiver. No delay or failure on the part of Grantor to invoke any available right, power, or remedy in respect to a breach of this Agreement shall be held or deemed to be a waiver by that party of (or estop that party from asserting) any right, power, or remedy available to it on the recurrence or continuance of said breach or the occurrence of a different breach.

24. Severability. Any provision of this Agreement that is invalid or unenforceable is ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining provisions of this Agreement. If any provision of this Agreement is so broad as to be unenforceable, the provision will be interpreted to be only so broad as is enforceable.

25. No Third-Party Beneficiaries. No right, duty, obligation, nor any section, provision, condition or other term of this Agreement shall create or be construed to create or confer an express or implied third-party beneficiary or benefit upon any person or entity other than the signatories to this Agreement.

26. Authority. Both parties represent and warrant that they have the authority to execute this Agreement, and each individual signing on behalf of a party to this Agreement states that they are the duly authorized representative of the signing party and that their signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

27. Home Rule Charter. This Agreement is subject to the provisions of the Pittsburgh Home Rule Charter; and the liability of Grantor thereunder is limited to zero (0) dollars.

28. Authorizing Resolution. This Agreement is entered into by Grantor pursuant to City of Pittsburgh Council Resolution 613 effective September 11, 2024

29. Public Utility Commission Filing. Grantee shall file a copy of this Agreement with the Pennsylvania Public Utility Commission as required by Title 66, Section 507 of the Public Utility Code, and this Agreement shall become effective in accordance therewith.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

GRANTEE:

By:  tpr

Name: Ryan Karmonick

Title: Supervisor of Rights of Way

COMMONWEALTH OF PENNSYLVANIA)

) SS:

COUNTY OF ALLEGHENY)

On this 3rd day of September, 2024, before me, a Notary Public, (the undersigned officer), personally appeared Ryan Karmonick, who acknowledged himself to be the Supervisor of Rights of Way at Duquesne Light Company and that he, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



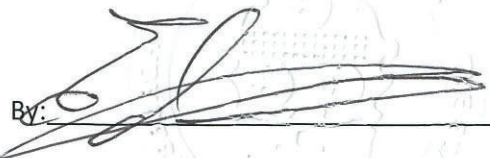
Notary Public

My Commission Expires:

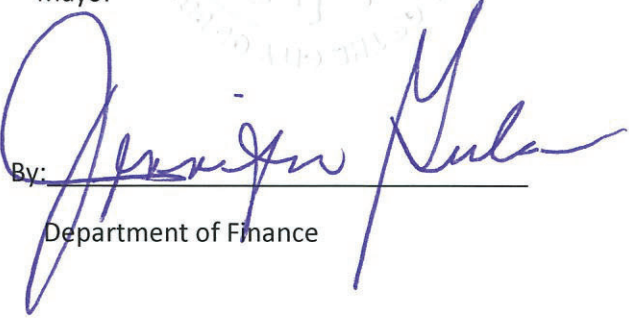
Commonwealth of Pennsylvania - Notary Seal
Alison Udovich, Notary Public
Allegheny County
My commission expires September 21, 2027
Commission number 1438385
Member, Pennsylvania Association of Notaries

Signature Pages Continued:

CITY OF PITTSBURGH ("Grantor")

By: 

Mayor

By: 

Department of Finance

EXAMINED BY: 

Assistant City Solicitor

APPROVED AS TO FORM: 

City Solicitor

COMMONWEALTH OF PENNSYLVANIA)

) SS:

COUNTY OF ALLEGHENY)

Before me, the undersigned authority, a Notary Public in and for said County and Commonwealth, personally appeared Jennifer Gula, the Director of the Department of Finance of the City of Pittsburgh, known to me or satisfactorily proven to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same on behalf of the City of Pittsburgh for the purposes therein expressed.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 2 day of October, 2024

Commonwealth of Pennsylvania - Notary Seal
Leslie J. Stephens, Notary Public
Allegheny County
My commission expires March 2, 2026
Commission number 1254621
Member, Pennsylvania Association of Notaries

Leslie J. Stephens
Notary Public

My Commission expires: 3/2/26

THE PITTSBURGH WATER AND SEWER AUTHORITY:

By: William J. Pickering

Name: William J. Pickering

Title: Chief Executive Officer

Edward Barca

Finance Director for the Pittsburgh Water and Sewer Authority

APPROVED AS TO FORM:

Megan Thiessen

Legal Counsel for the Pittsburgh Water and Sewer Authority

EXHIBIT A
DEPICTION OF THE EASEMENT

EXHIBIT B
INSURANCE CERTIFICATES

