

Memorandum of Understanding Vegetation Management Procedure

The Memorandum of Understanding is entered into between the City of Bellevue (the "City") and Puget Sound Energy ("PSE"), also referred to herein together as the "Parties."

WHEREAS, the City and PSE have entered into a Franchise Agreement, Ordinance No. _____ (the "Franchise"), and

WHEREAS, the City takes exceptional pride in the care of trees within the City, whether located within a native area or along a landscaped street, all trees should be trimmed with the same care and attention to detail, and

WHEREAS, the City and PSE recognize the value of defining and developing their working relationship through cooperation, planning, communication and coordination, and

WHEREAS, the City and PSE desire to establish mutually agreed practices for the performance of vegetation management within and adjacent to the Franchise Area as defined by the Franchise.

NOW, THEREFORE, it is hereby understood and agreed between the Parties as follows:

This Memorandum of Understanding is intended by the Parties to be supplemental to the Franchise to the extent it contains practices for the performance of vegetation management within and adjacent to the Franchise Area.

Unless specifically defined otherwise in this agreement, all defined terms herein will have the same meaning as when used in the Franchise.

This Memorandum of Understanding may be amended by mutual agreement of the Parties. Any amendment must be set forth in writing, signed by both Parties, and specifically state that it is an amendment to this Memorandum of Understanding.

This Memorandum of Understanding, as from time to time amended, will remain in full force and effect for the term of the Franchise, unless sooner terminated by mutual agreement of the Parties. These provisions are agreed to by the Parties for the purpose of implementing Section 15 of the Franchise.

Vegetation Management Procedure

1. The City's Natural Resource Manager ("NRM"), or his/her designee, should be notified at least one week prior to any vegetation management work being conducted within City limits; except that emergency work can be done the same day providing that the NRM is contacted either by phone or email. If the NRM is not available, a message can be left and City staff will review the nature of the work on the next available business day.
2. Vegetation Management Process. Vegetation management in the Franchise Area (as defined in the Franchise) is a continuous and ongoing need which arises with respect to:
 - 2.1 Emergency: Vegetation management which arises as a result of an emergency or other unexpected events or conditions which require immediate response to an unsafe condition which has or could result in bodily injury, damage to property or equipment, and/or

interference/obstruction to the rights-of-way (for example, car-hit poles, downed poles or lines or equipment due to wind, ice, snow, insects, rot, earth movement, birds/animals or fallen trees/vegetation, etc.).

2.2 Routine: Routine and predictable vegetation management performed to maintain safe distances between existing PSE poles/lines/equipment and nearby vegetation.

2.3 New Installations: Vegetation management (including “make ready” work) arising from or related to: installation by PSE of new or replacement poles, lines or equipment; or installation by third parties of equipment to be located on PSE pole/lines/equipment (collectively “New Installation”).

3. Compliance with Applicable Requirements. PSE (or its contractors) are not permitted to engage in any vegetation management activities in the Franchise Area without first obtaining a right of way use permit subject to the following additional terms and conditions:

3.1 Emergency and Routine Vegetation Management; Programmatic Permits. Prior to the commencement of each programmatic permit period (calendar year or every 3 years, as the case may be), PSE and the NRM (or designee) shall meet, discuss and agree upon the terms and conditions of “programmatic” right of way use permits year with respect to all “Emergency” and “Routine” vegetation management activities by PSE (or its contractors).

A “Routine” programmatic right of way use permit is issued for a three (3) year period (the current routine programmatic right of way use permit expires 12/31/2018). The Emergency programmatic right of way use permit is obtained each calendar year.

“Routine” vegetation management activities are further divided between “critical areas” and “non-critical areas.”

The conditions of these programmatic right of way use permits shall provide that Emergency and Routine Vegetation Management activities/work shall be performed in compliance with and subject to:

3.1.1 any applicable land use permits, which may be issued from time to time, which include requirements related to Emergency or Routine vegetation management.
[NEED STAFF INPUT for revision]

3.1.2 All requirements contained in applicable provisions of the Bellevue City Code, and City policies and procedures including, without limitation references to the SEPA and Critical Areas.

3.1.3 The terms of the Franchise Agreement (if consistent with the foregoing).

3.1.4 Such other reasonable terms and conditions as the parties shall mutually agree.

3.1.5 With respect to all programmatic permits, PSE and the City shall meet at periodic intervals (2 to 4 times per year) to review the work which has been performed and the work to be performed in the near future under the programmatic permit.

3.2 New Installations: All vegetation management arising from or related to any New Installation shall be performed in accordance with the following:

3.2.1 If a Land Use permit is required for the New Installation then the related vegetation management shall be performed and conducted in compliance with all requirements (if any are specified) contained in the applicable land use permit.

- 3.2.2 All requirements contained in applicable Bellevue City Code, and City policies and procedures including, without limitation references to the SEPA and Critical Areas.
- 3.2.3 The terms of the Franchise Agreement (if consistent with the foregoing).
- 3.2.4 All requirements contained in the applicable right of way use permit related to the work.
4. All pruning should be conducted under current International Society of Arboriculture standards. Crew foreman will be aware of these standards and ensure that they are implemented for all pruning conducted by or for PSE within the City.
5. PSE or its contractors should trim trees according to species growth habits. Crew foreman will be aware of the applicable requirements, different tree species and understand their corresponding growth habits.
6. In the event trees need to be trimmed within and/or adjacent to the Franchise Area or within City owned property (including native areas and developed parks), the City shall be notified ahead of time and shall be provided the opportunity to have the trees removed entirely. Replacement trees can be negotiated between NRM and PSE or their contractor on a case by case basis.
7. All debris associated with line clearance tree trimming and/or removal work within or adjacent to the Franchise Area or within City owned property (including native areas and developed parks) will be chipped and removed by PSE or its contractor from the site at no cost to the City. "Drop and Scatter" practices will require prior approval from the NRM.
8. When trees are heavily trimmed or removed within native areas, the work should be performed in such a way as to avoid damage to other trees within that area. If additional trees are accidentally damaged during such work, PSE, or its contractor, will use its best efforts to appropriately prune any such damaged trees. The NRM is to be contacted immediately in the event of any unplanned damages to City owned trees.
9. Climbing trees with gaffs or spikes is strongly discouraged on any deciduous, hardwood or think bark tree species unless the tree is to be removed.
10. A knowledgeable PSE representative will stay in close communication with the NRM while vegetation management work is performed within the City. Periodic performance reviews should be conducted at the request of the NRM.
11. Any dispute, disagreement or claim arising out of PSE's vegetation management practices must first be presented to and considered by the Parties. A Party who wishes to present such dispute, disagreement or claim will notify the other Party and pursue resolution of the dispute, disagreement or claim consistent with Section 11 and 12 of the Franchise and as limited by Section 25 of the Franchise.

All negotiations pursuant to these procedures for the resolution of disputes will be confidential and will be treated as compromise and settlement negotiations for purposes of the state and federal rules of evidence.

Agreed and Accepted this _____ day of _____, 2018.

CITY OF BELLEVUE Signature: _____ Name: _____ Title: _____	PUGET SOUND ENERGY Signature: _____ Name: _____ Title: _____
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Approved as to form:	
<hr/> BY: Monica Buck Assistant Bellevue City Attorney	

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