

ELECTRIC FACILITIES SERVICE AGREEMENT

This ELECTRIC FACILITIES SERVICE AGREEMENT (“Agreement”) is entered into by and between Umatilla Electric Cooperative (“UEC”), a cooperative organized and existing under the laws of the State of Oregon, and Umatilla County (“Member”). UEC and Member may be referred to herein each individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, UEC owns and operates an electric system that is used to transmit and distribute electric energy within its service territory, including to the Member’s property;

WHEREAS, Member plans to construct, own, and operate a River Pump Station (“River Station”) to be located at Tax Lot 5N27E1301 to support industrial and agricultural needs. The River Station will interconnect with UEC’s existing Umatilla Substation;

WHEREAS, Member also plans to construct, own, and operate a 4.5-mile irrigation pipeline to convey water from the River Station to customer projects;

WHEREAS, in order to provide electric service to the River Station, UEC must upgrade and increase the capacity of existing distribution lines served from Umatilla Substation;

WHEREAS, UEC agrees to perform the Facilities Services pursuant to this Agreement to provide the necessary upgrades and capacity to provide electric power to the River Station;

WHEREAS, Member desires to purchase electric power and related services from UEC to meet the electrical requirements of the equipment to be installed at the River Station; and

WHEREAS, Member agrees to pay UEC for the actual costs and expenses to complete the Facilities Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties mutually agree as follows:

Section 1: Definitions

- 1.1. **Defined Terms**. The following terms, when used in this Agreement with initial capitalization, whether singular or plural, shall have the meanings specified:
 - 1.1.1. “Agreement” means this Electric Facilities Service Agreement between UEC and Umatilla County.
 - 1.1.2. “Electric Facilities” means the electric facilities and equipment to be constructed, installed, owned, and operated by UEC as part of the Facilities Services.
 - 1.1.3. “Event of Default” means any material breach or non-performance of an obligation under this Agreement including, without limitation, the failure to pay any invoice in full when due.

- 1.1.4. "Facilities Service" means the engineering, geotechnical and site work, and the design, land rights acquisition, and procurement and installation of Electrical Facilities and equipment as necessary to complete phase 1 and phase 2 of the project as described in section 2.1 and depicted on Exhibit A to this Agreement.
- 1.1.5. "Facilities Service Costs" means the total costs and expenses to be incurred by UEC to perform the Facilities Services.
- 1.1.6. "Prudent Utility Practice" means any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a commercially reasonable cost consistent with good business practices, reliability, safety, and expedition. Prudent Utility Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of all others, but rather to delineate acceptable practices, methods, or acts generally accepted in the region.
- 1.1.7. "River Station" has the meaning described in the Recitals.
- 1.1.8. "Uncontrollable Force" means any event that is beyond the reasonable control of the Party whose performance is affected, including but not limited to the failure or loss of facilities (including facilities of third parties providing power or transmission service), flood, earthquake, storm, fire, lightning, epidemic, pandemic (including COVID-19), war, riot, civil disturbance, labor dispute or shortage, sabotage, and any injunctive order issued by any court or other lawful public authority.

Section 2: Facilities Services

- 2.1. Facilities Services. Subject to Member's payment of the Facilities Service Costs as provided in Section 4, UEC shall provide the following Facilities Services in accordance with UEC specifications and Prudent Utility Practice:
 - 2.1.1. UEC will design, construct, and operate a system upgrade to an 1100 MCM underground circuit from Umatilla Substation to Hwy 730 then an overhead 556 AAC reconductor across the highway to the new River Station.
- 2.2. Start Date. UEC shall commence the Facilities Services upon receipt from Member of a Notice to Proceed and the first Member payment as required by Section 4.2. UEC shall have no obligation to undertake the Facilities Services until receipt of the first payment described above and shall have no obligation to proceed with any subsequent phase of the Facilities Services until receipt of the Member payment applicable to such phase as scheduled herein.
- 2.3. Substantial Completion Date. Provided that Member performs its obligations under this Agreement in a timely manner, UEC shall use commercially reasonable efforts to substantially complete the Facilities Services by March 1, 2024. An estimated project schedule is attached as Exhibit C.
- 2.4. Metering. Member shall install a UEC approved EUSERC Switchboard metering section and provide, install, and own the secondary conductor and conduit for the new service at River Station. The switchboard section will be ready for connection no later than March 1, 2024.

- 2.5. Easements. UEC will be responsible, at Member's cost and expense, for obtaining easements or other property rights necessary to install Electric Facilities on property not owned by Member. Member shall, at its sole cost and expense, execute and deliver to UEC easements over the Member's property as may be reasonably required to install Electric Facilities pursuant to this Agreement. Such easements shall be in a form reasonably acceptable to UEC. UEC shall have no obligation to compensate Member for such easements or for any costs, expenses, surveys, or studies necessary to provide such easements.
- 2.6. Property Access. Member shall allow UEC access to the Member's property as needed to complete the Facilities Services hereunder.

Section 3: Term of Agreement

This Agreement shall be effective upon execution by both Parties ("Effective Date"). This Agreement shall remain in effect until the obligations of each Party are satisfied, unless earlier terminated by either Party pursuant to Section 6 ("Term").

Section 4: Facilities Service Costs

- 4.1. Member Payment Obligation. Member shall be responsible for payment of the actual costs incurred by UEC to provide the Facilities Services. Exhibit B is a good faith estimate of the Facilities Service Costs attributable to the facilities upgrades.
- 4.2. Payments. Member shall pay the estimated Facilities Service Costs in three (3) scheduled payments as described in Exhibit D. The first payment shall be due and payable upon the Effective Date of this Agreement. Subsequent payments shall be due and payable in the amounts and on the dates described in Exhibit D.
- 4.3. Final True-Up. UEC will calculate the final and actual Facilities Services Costs within ninety (90) days after substantial completion of the Facilities Services. UEC will provide Member with a final invoice or refund reflecting any difference between the final and actual Facilities Service Costs and the payments made by Member pursuant to this Agreement. Any final invoice shall be due and payable within twenty (20) days of the invoice date.
- 4.4. Capital Credits. Member will not accrue any UEC capital credits for payment of Facilities Service Costs pursuant to this Agreement.

Section 5: Billing

- 5.1. Invoices. UEC shall invoice Member for the Facilities Service Costs as described in Section 4. UEC shall submit invoices to Member at least fourteen (14) days before the scheduled due date. Invoice shall be submitted to:

Umatilla County
ATTN: Doug Olsen
216 SE 4th Street
Pendleton, OR 97801

- 5.2. Payments. Payments for all services provided hereunder shall be made to UEC at the address stated below on or before the due date described in Section 4 for the applicable payment.

Umatilla Electric Cooperative
PO Box 1148
750 E Elm Ave
Hermiston, OR 97838

- 5.3. Late Payments. Any payments not received by the due date shall be considered overdue. Interest shall accrue on any overdue amounts at a rate equal to one percent (1%) per month. Member shall reimburse UEC for all costs incurred by UEC for collection of late payments.
- 5.4. Billing Disputes. If Member disputes any portion of an invoice, then Member shall pay the disputed amount in full when due. If the disputed invoice is found to be in error, then an adjustment shall be made in a subsequent invoice or refund (with interest) issued by UEC to Member to reflect the corrected amount.
- 5.5. Billing Verification. Within fourteen (14) days of a written request by Member, UEC shall provide to Member such additional written information as may be appropriate to verify the accuracy of any invoice.

Section 6: Defaults and Remedies

- 6.1. Events of Default. Upon the occurrence of an Event of Default, the non-defaulting Party shall provide the defaulting Party with written notice setting forth in reasonable detail the nature of the Event of Default.
- 6.2. Remedies. Upon an Event of Default of this Agreement, the non-defaulting Party shall have all rights or remedies available to it at law or in equity. Without limiting the generality of the forgoing, the non-defaulting Party shall have the right, but not the obligation, to: (a) suspend its performance under this Agreement; and (b) terminate this Agreement if the Event of Default is ongoing as may be allowed herein.
- 6.2.1. Suspension of work on the Facilities Services shall not relieve Member of any of its obligations then due and owing under this Agreement.
- 6.2.2. If UEC terminates this Agreement pursuant to this Section 6, then the unpaid cost of any Facilities Service provided or unavoidable by UEC as of the termination date shall become immediately due and payable by Member.
- 6.3. Limitation of Liability. Except as expressly provided in this Agreement, neither Party shall be liable for special, incidental, exemplary, indirect, or consequential damages, whether based in contract or tort (including such Party's own negligence) or under any legal theory including, but not limited to, loss of profits or revenue, loss of use of equipment, cost of capital, cost of substitute equipment, facilities, or downtime costs.
- 6.4. Attorney Fees. If any action at law or in equity is taken to enforce or interpret the terms of this Agreement or to remedy an Event of Default, the prevailing Party shall be entitled to recover from the other Party its reasonable attorney fees and other costs, including fees and expenses at trial and on appeal.

Section 7: Uncontrollable Forces

Subject to limitations set forth in this Agreement, if either Party is rendered wholly or partly unable to perform any obligation under this Agreement (other than the payment of money when due) because of an Uncontrollable Force, such obligation of a Party shall be suspended for the duration of the Uncontrollable Force. The Party whose performance is affected by such Uncontrollable Force shall provide written notice to the other Party as soon as practical upon discovery of the Uncontrollable Force. The Party whose performance is affected by such Uncontrollable Force also shall use commercially reasonable efforts to remedy the Uncontrollable Force and resume its performance as soon as practicable.

Section 8: Waiver

Except as otherwise provided herein, any waiver by a Party of its rights with respect to an Event of Default or potential Event of Default hereunder, or with respect to any other matter arising in connection with this Agreement, shall not be deemed to be a waiver with respect to any subsequent default or matter. A delay by a Party in asserting any right hereunder shall not be deemed a waiver of any right under this Agreement.

Section 9: Notices

All written notices, demands, or requests required by this Agreement or the provisions hereunder, shall be considered given when delivered in person, or sent by first class U.S. mail, postage prepaid, duly placed in the U.S. mail, or by overnight delivery service, directed to the attention of the following:

To Member:

Umatilla County
ATTN: Doug Olsen
216 SE 4th Street
Pendleton, OR 97801

To UEC:

Umatilla Electric Cooperative
Attn: Manager of Engineering
PO Box 1148
750 E Elm Ave.
Hermiston, OR 97838

Section 10: Final Agreement

This Agreement, including the Exhibits attached hereto, constitutes the final agreement of the Parties with respect to the provision of and payment for the Facilities Services described herein. The Parties each expressly acknowledge and agree that this Agreement supersedes and replaces any prior agreements, communications, negotiations, correspondence, or representations by or between the Parties concerning the subject matter hereof.

Section 11: Assignability

Neither Party may transfer or assign this Agreement without the express written consent of the other Party, and any unconsented transfer or assignment of this Agreement is void.

Notwithstanding the forgoing, nothing in this Agreement shall prevent UEC from using third-party contractors to complete part or all of the Facilities Services.

Section 12: Approvals; Dedication; Authority

12.1. Ownership of Electric Facilities. UEC shall at all times be the sole owner of all Electric Facilities constructed or installed pursuant to this Agreement. UEC reserves the right to use the Electric Facilities to provide service to other members.

12.2. No Dedication of Electric System. Nothing in this Agreement shall constitute the dedication of any portion of UEC's electric system to Member.

Section 13: Amendment

No amendment, modification, or change to this Agreement shall be valid unless set forth in a written instrument executed by both Parties.

Section 14: Governing Law

This Agreement shall be governed by and interpreted and construed in accordance with the laws of the State of Oregon.

Section 15: No Third-Party Beneficiary

Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person that is not a Party to this Agreement. There shall be no express or implied third-party beneficiary of this Agreement. No entity or person, other than the Parties, shall have the right to enforce any provision, right, or obligations of this Agreement.

Section 16: Membership

At all times during the Term, Member shall be and remain a member in good standing of UEC. Member shall be bound by the applicable provisions of UEC's Articles of Incorporation and Bylaws, and by such all applicable UEC policies and terms and conditions of service. Nothing in this Agreement shall affect UEC's discretion and control over the operation and management of its electric system, including without limitation UEC's budgeting, financing, and ratemaking authority.

Section 17: Execution in Counterparts

This Agreement may be executed by electronic signature and in duplicate originals or electronic copies. The Parties also agree to execute any further documents, and take any further actions, as may be reasonable and necessary to carry out the purpose and intent of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their respective officers thereunder duly authorized.

UMATILLA ELECTRIC COOPERATIVE

MEMBER - UMATILLA COUNTY

Signature/Date

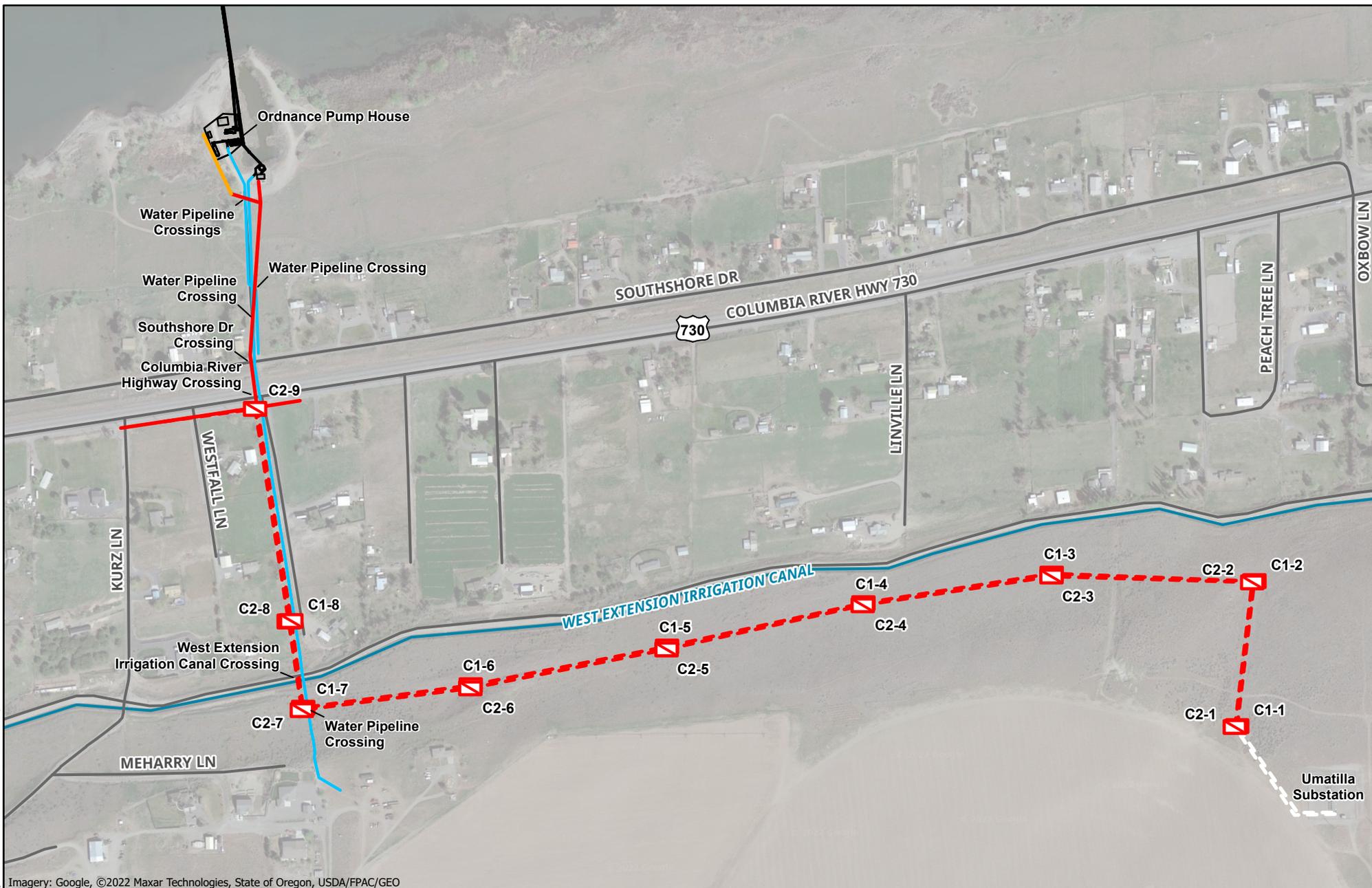
Signature/Date
John M. Shafer

Printed Name

Printed Name
Chair, Board of Commissioners

Title

Title



Imagery: Google, ©2022 Maxar Technologies, State of Oregon, USDA/FPAC/Geo

	Vault		Phase 2 Underground Alignment
	Transferred Underground		Water Pipeline
	Phase 1 Overhead Alignment		River or Canal
	Phase 1 Underground Alignment		Road
	Phase 2 Overhead Alignment		

TOTH & ASSOCIATES

1550 E REPUBLIC RD
 SPRINGFIELD, MO 65804
 Ph: 417-888-0645
 Fax: 417-888-0657
 www.tothassociates.com

DISCLAIMER: This map is for illustrative purposes, and should only be used as such.

Umatilla Electric Cooperative
 A Touchstone Energy Cooperative

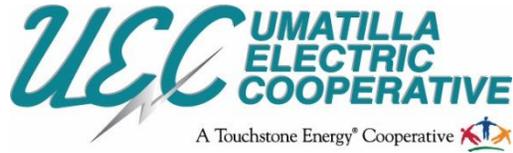
MAP BY: mbrown DATE: 9/14/2022
 APPD. BY: ALB DATE: 09/14/2022

Ordnance Pumping Station

Map Title: Exhibit A	Map Number: MB-266
Client: UMATILLA ELECTRIC COOPERATIVE HERMISTON, OREGON OREGON 14, UMATILLA	

0 525 Feet

C:\Oregon\14\GIS\Acc\GIS\Proc\Ordinance Pumping Station\Ordinance Construction\Ordinance Construction.aprx

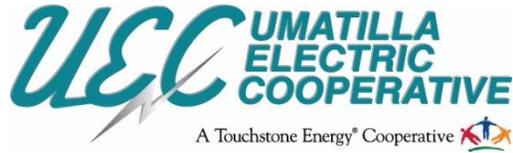


Umatilla County – Upgrade and extend distribution facilities to support the Installation of new pump service North of Southshore Drive in Umatilla.

Good Faith Cost of Service Estimate

UM2 & UM3 – Umatilla Substation Feeders #2 & #3 Distribution Capacity Improvements

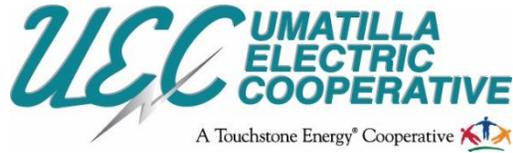
Date 12/21/2021	Amount	Description
Engineering, Procurement, and Construction	\$1,900,000.00	As shown on Exhibit A: Starting at Umatilla Substation, upgrade 1.3 miles of underground, on feeders UM2 and UM3, to 11000 MCM to Highway 730. Continue feeder UM3 overhead across Highway 730 and Southshore Drive, upgrading circuit to 556 AAC approximately 0.25 miles to new pump station site. Install new facilities at pump station.
Total	\$1,900,000.00	



Ordinance Project – Upgrade and extend distribution facilities to support the installation of new pump service North of Southshore Drive in Umatilla.

Proposed Construction Schedule

Date	Duration	Description
10/4/22 - 10/18/22	14 Days	Execute Facilities Service Agreement
10/18/22	1 Day	Member Provide Notice to Proceed
Mon 11/14/22 - Mon 2/27/23	119 Days	Construction (Feeder Upgrade)
Tue 2/28/23 - Fri 3/1/24	367 Days	Construction (Service to Pump Station)
Fri 3/1/24 Mon 5/30/24	90 Days	Contract Closeout & True Up



Ordinance Project – Upgrade and extend distribution facilities to support the installation of new River Station North of Southshore Drive in Umatilla.

Payment Schedule:

Date	Amount	Description
Effective Date of Agreement	\$1,140,000	Sixty percent (60%) of the estimated Facilities Service Costs
Monday January 2, 2023	\$570,000	Thirty percent (30%) of the estimated Facilities Service Costs
Wednesday March 1, 2023	\$190,000	Ten percent (10%) of the estimated Facilities Service Costs
Total:	\$1,900,000	