

## AGREEMENT

This Agreement is entered this \_\_\_\_ day of \_\_\_\_\_, 2005, by and between Safe Pipeline Corporation, a corporation doing business in the State of Washington, and John and Jane Doe, owners of the real property described herein (Does collectively referred to herein as "Owners"). Safe Pipeline and Owners shall be collectively referred to as "Parties."

WHEREAS, John and Jane Doe own the real property described in Exhibit A attached hereto and incorporated herein ("Property"); and

WHEREAS, Safe Pipeline holds a pipeline easement across the Property, attached as Exhibit B and incorporated herein, which contains two pipelines; and

WHEREAS, Safe Pipeline presently agrees to idle and remove its existing 26-inch diameter pipeline on the Property and construct a new 36-inch diameter pipeline and engage in any and all work necessary to facilitate this pipeline replacement ("Project"); and

WHEREAS, construction is currently slated to start in May 2006 and to be completed by December 31, 2006; and

WHEREAS, the Owners and Safe Pipeline now desire to enter into an agreement and settlement of all known claims for compensation associated with the Project and to permanently define the scope of the existing easement; and

WHEREAS, Safe Pipeline agrees herein to restore the Property in all respects to an equal or better condition than existed prior to Project construction; and

WHEREAS, all of the foregoing recitals are a material part of this Agreement;

NOW THEREFORE, IT IS HEREBY AGREED:

**1. Purpose.** The purpose of this Agreement is to: 1) establish the terms of compensation due to Owners for all costs, damages and losses anticipated to result from the Project; 2) to further define the scope, location and rights of the parties under the existing easement; and 3) to establish and agree to the responsibilities and performance standards of Safe Pipeline.

**2. Easement and Project Area Defined.** The Parties shall execute an amended easement for the benefit of the Owners and Safe Pipeline substantially in conformance with Exhibit C herein ("Easement"), which shall be fully incorporated as part of this Agreement. It is the intent of the parties that the Easement shall permanently establish a seventy-five foot (75') wide easement on the Property at the location described. In addition to the Easement, the Parties shall execute a Temporary Construction Workspace Agreement substantially in conformance with Exhibit D, which shall be fully incorporated as part of this Agreement. That portion of the Property described in the Easement and the Temporary Construction Workspace shall be referred to as the "Project Area."

**3. Agreement Documents.** This agreement, together with all exhibits hereto, and all documents incorporated herein, shall be known as “Agreement documents,” and shall be considered the total “Agreement” between the parties:

1. Agreement
2. Exhibit A            Legal Description
3. Exhibit B            Existing Right of Way Contract and Amendment
4. Exhibit C            Second Amendment to Right of Way and Contract
5. Exhibit D            Temporary Construction Workspace Agreement
6. Attachment A        Location of Temporary Construction Workspace
7. Attachment B        Construction Agreement
8. Exhibit E            Timber Sale Agreement

The above list shall constitute and shall collectively be referred to as the “Agreement.”

**4. Payment.**

**4.1 Total Sum.** Safe Pipeline shall pay to Owners the sum of <> DOLLARS (\$<>) plus SEVEN HUNDRED FIFTY DOLLARS (\$750.00)..... toward legal review expenses (together referred to as “Payment”), upon execution of this Agreement. The nature of the Payment is described in Section 4.2 below.

**4.2 Nature of Payment.** The Payment in the amount of <> DOLLARS (\$<>) represents total compensation for Owners agreement to grant the amended easement and define the Easement at seventy five feet (75’) in width as set forth in Exhibit C, plus reimbursement for those costs, losses and damages anticipated to result from the Project, plus SEVEN HUNDRED FIFTY DOLLARS (\$750.00)..... toward legal review expenses.

**4.3 Payment Nonrefundable.** The Payment shall be wholly nonrefundable. Project delay or abandonment shall not under any circumstances entitle Safe Pipeline to a refund of all or part of the Payment.

**5. Performance Standards.** The Project shall be undertaken and completed entirely within the Project Area on the Property in conformance with the Second Amendment, the Right-of-Way Contract (Exhibit C), the Temporary Construction Workspace Agreement (Exhibit D), the Timber Sale Agreement (Exhibit E) and the terms, conditions and performance standards established herein. All Agreement documents and provisions therein shall be applicable to the Project and shall be construed together as supplementary to one another; provided that, in the event of any inconsistency, the most stringent term, condition or performance standard shall apply.

**A. Presence of Children on Property.** Safe Pipeline is aware that a toddler resides on the Property. Project construction shall be performed with due care and diligence to ensure the safety and security of any children on the Property, including without limitation installing a safety fence or other barrier to protect small children from access to the Project Area and any Project-related equipment.

**B. Removal of Existing Pipeline.** Safe Pipeline shall remove its existing 26-inch diameter pipeline from the Property during replacement by the new 36-inch diameter pipeline. Said removal of the 26-inch diameter pipeline shall be performed in a safe and secure manner. The new 36" diameter pipeline shall be installed in the old 26" pipeline bed.

**C. Soil Replacement.** Safe Pipeline shall segregate topsoil from the subsoils in connection with all trenching and excavation conducted on the Property. Topsoil shall be separated from all subsoil and backfilled subsoil shall be filled in the trench or excavation first, followed by topsoil. Safe Pipeline shall restore all topsoil on the Property to its depth and condition as existed pre-Project construction.

**D. Field Grades.** Finish grade will be contoured back to "original grade" on the Property. For purposes of this requirement the "original grade" shall mean the grade in existence on the Property prior to commencement of work. Safe Pipeline shall haul in sandy loam screened topsoil to match grades if necessary to restore Property to pre-Project construction depth and condition. Manufactured soils shall not be acceptable for these purposes.

**E. Tree Removal/Trimming/Losses.** Safe Pipeline and Owners shall enter into the Timber Sale Agreement (Exhibit E). Upon execution, said Timber Sale Agreement shall be fully incorporated as part of this Agreement.

Safe Pipeline shall pay Owners THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00) for the trees marked for harvest. No trees other than those marked for harvest shall be removed from Project Area without the prior express written consent of the Owners. No other trees on the Property shall be harvested. Safe Pipeline may trim, up to fifteen feet (15') in height, limbs from certain trees not to be harvested, to the extent that they encroach into the air space above the Project Area. Such trees shall be identified with a special marking (distinct from the mark for trees to be harvested) and shall be trimmed in a balanced manner consistent with maintaining the health of the tree in accordance with recognized arborist standards. The Owners shall have a reasonable opportunity to review all marks for consistency with this Agreement before any tree cutting, tree removal or the trimming of tree limbs begins. Safe Pipeline specifically acknowledges that two adjoining cedar trees presently marked with blue tape and located in the Temporary Construction Workspace shall not be harvested.

**F. Protected Trees.** If any trees not authorized for harvest ("non-harvest trees") are damaged or killed during Project construction or if damage or death of such trees occurs within two (2) years of the completion of the Project and no other cause is evident, Safe Pipeline will pay associated replacement costs regardless of tree size or species. Any damage to non-harvest trees shall be compensated, as negotiated at the time, based upon costs of replacing the size and species of tree damaged or killed. For purposes of this section, tree damage shall be deemed to have occurred if, within two (2) years following completion of Project construction, there is more than fifteen percent (15%) damage showing in foliage and canopy, or if any portions of the trunk or root system die or show substantial damage.

**G. Protection of Water Supply/Stream Flow.** Safe Pipeline shall take all necessary precautions during Project construction to ensure that no alteration, reduction, or diversion occur in the hydrologic flows of the creek. Safe Pipeline guarantees and warrants for a period of two (2) years that there shall be no measurable net loss of stream flow attributable to its work. Should additional water rights be necessary as a result of diminished stream flows, Safe Pipeline shall be responsible for obtaining such water rights for the Property at its sole cost and expense.

**H. Governmental Requirements.** Safe Pipeline shall at minimum comply with all applicable mitigation measures and construction practices identified in the Final Environmental Impact Statement for the Capacity Replacement Project and with any other conditions or requirements placed on or made applicable to the Project by local, state, or federal governmental agencies (“Governmental Requirements”). Said Governmental Requirements are hereby fully incorporated herein. In the event of an inconsistency between Governmental Requirements and a specifically stated requirement of this Agreement, the most stringent requirement shall apply.

**I. Access Limitation.** Safe Pipeline shall only access the Project Area through the Easement for this Project, except as authorized pursuant to Exhibit E. Safe Pipeline shall ensure at all times during Project construction that the residence located on the Property is fully accessible by both vehicle and by foot.

**J. Construction Hours.** Project construction and any Project construction-related activities conducted on the Property shall be limited in accordance with the FERC certificate.

**K. Restoration of Property.** Safe Pipeline shall restore any and all parts of the Property disturbed by construction to a condition equal to or better than existed prior to construction. Restoration shall be complete within two (2) years following the completion of construction on the Property. Safe Pipeline shall provide Owner with written notification of its completion of restoration within thirty (30) days of said completion.

**6. Construction Stipulations.** Safe Pipeline shall, and shall ensure that their employees, agents and contractors, perform and abide by all construction stipulations set forth in Exhibit D, which shall be fully incorporated herein. To extent said construction stipulations are inconsistent with more specific provisions of this Agreement or any other Exhibit hereto, said more specific provisions shall control.

**7. Liquidated Damages.** In the event Project construction is not complete on the Property before December 31, 2006, Safe Pipeline shall pay Owners ONE THOUSAND DOLLARS (\$1,000.00) per day in liquidated damages for each day Project construction on the Property remains incomplete.

**8. Inspectors.** Safe Pipeline shall provide copies of the Agreement documents to its Chief Inspector and its Environmental Inspector and the Agreement documents shall be available on-site during Project construction.

**9. Excise Tax.** Safe Pipeline shall pay any and all real estate excise taxes, taxes on timber sale or other taxes (not including Owners' personal income taxes) that may be due as a result of the Agreement between the Parties.

**10. Nonwaiver of Breach.** Failure of either Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or a waiver of such provision itself.

**11. Expenses and Attorneys Fees.** The prevailing Party in any action brought to enforce any terms and conditions of this Agreement shall be entitled to the recovery of their reasonable attorney's fees, costs and expenses.

**12. Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

**13. Arbitration.** Disputes over damages arising under a right or alleged breach of right(s) under this Agreement only shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association. In the event the parties are unable to agree upon an arbitrator, at the request of either party an arbitrator may be appointed by a Whatcom County Superior Court judge, sitting in chambers. The cost of the arbitrator shall be shared equally by the parties, provided that each party shall be responsible for its own costs in arbitration, except as provided in Section 11 herein. The decision of the arbitrator shall be final and binding on both parties.

**14. Insurance.** Safe Pipeline and any prime contractor shall maintain adequate insurance to cover all property and injury losses in connection with work on the Project. Owner shall be provided with a certificate of insurance naming Owners as an additional insured on all such policies.

**15. Pipeline-Related Test Results.** Safe Pipeline shall provide, upon Owners request, complete results and reports produced from any pipeline-related testing and/or repairs conducted within five (5) miles of the Property. This provision shall be effective for fifteen (15) years from the date of this Agreement.

**16. Complete Agreement – Modification Must be in Writing.** This Agreement constitutes the entire agreement between the Parties as to the matters contained herein. No oral or written statements made by either Party prior to or following entry of this Agreement shall be considered a part of this Agreement unless expressly incorporated herein in writing. This Agreement may be modified in writing only, upon mutual agreement of the Parties.

**17. Construction of Agreement.** Each Party has had ample opportunity to study the terms of this Agreement and review same with legal counsel. It is expressly agreed and understood that this Agreement and any terms herein shall not be construed against the Party drafting the Agreement, but rather shall be construed in accordance with the intent of the Parties as evidenced by the terms herein.

**OWNERS:**

\_\_\_\_\_  
Jane Doe

\_\_\_\_\_  
John Doe

**SAFE PIPELINE, INC.**

\_\_\_\_\_  
By: Jeff Brown  
Its: Attorney-in-Fact

STATE OF WASHINGTON )  
  )§  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that **Jane Doe** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing in \_\_\_\_\_.  
My appointment expires \_\_\_/\_\_\_/\_\_\_.

STATE OF WASHINGTON )  
 )§  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that **John Doe** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument and to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing in \_\_\_\_\_.  
My appointment expires \_\_\_/\_\_\_/\_\_\_.

STATE OF WASHINGTON )  
 )§  
COUNTY OF WHATCOM )

I certify that I know or have satisfactory evidence that **Jeff Brown** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Attorney-in-Fact of **Safe Pipeline Inc.** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
residing in \_\_\_\_\_.  
My appointment expires \_\_\_/\_\_\_/\_\_\_.